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Hearing Loss and Tinnitus

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Purpose

The purpose of this policy is to provide guidance on how to determine eligibility for a hearing loss disability benefit and/or a Tinnitus disability benefit.

Policy

Definitions

1. For the purposes of policy application, the following definitions apply:
    a. **Normal Hearing**: As based on widely accepted standards, the range of normal hearing is considered to be between 0 and 25 decibels (dB) at all frequencies between 250 and 8000 hertz (inclusively).
    b. **Hearing Loss**: For VAC purposes, a decibel loss greater than 25 dB at frequencies between 250 and 8000 Hz (inclusively), where the losses are not sufficient to meet VAC’s definition of hearing loss disability.
    c. **Hearing Loss Disability**: For Veterans Affairs Canada (VAC) purposes, a hearing loss disability exists when there is a total Decibel Sum Hearing Loss of 100 dB or greater at the frequencies of 500, 1000, 2000, and 3000 Hz in either ear, or 50 dB or more in **both** ears at 4000 Hz.
    d. **Mixed Service**: For purposes of this policy, Veterans/members who have either Regular/Reserve/Royal Canadian Mounted Police (RCMP) and Active/Special Duty Service; or Canadian Armed Forces (CAF) and RCMP service; or Regular and Reserve Force service, are

considered to have mixed service.

e. **Partial Entitlement and Full Entitlement:** A definition of partial entitlement and full entitlement for determining the extent of service relationship, is included in the policy entitled "Disability Resulting from a Non-Service Related Injury or Disease.

General

2. In order to consider whether hearing loss is related to service, the Veteran/member must have a current hearing loss disability.
3. In the case of Veterans/members having presented with permanent service-related hearing loss in service or on discharge, the Veterans/members must demonstrate that they now suffer from a hearing loss disability.
4. Where it is determined that hearing loss was documented during service or at the time of discharge and/or service is reasonably found to be the initiating factor causing the current hearing loss disability, then full entitlement to disability benefits may be awarded.
5. In the case of normal hearing during service, any hearing loss that occurs after service is considered post-discharge in origin and is not considered related to service.
6. If there is evidence of a hearing loss disability prior to service (pre-enlistment) partial entitlement, may be considered for any further service-related aggravation. There would be no need to consider other possible contributing factors.
7. Although noise is the most common factor, it is not the only possible service-related factor which could cause a permanent service-related hearing loss or service-related hearing loss disability. A number of factors can contribute to hearing loss; for example physical injury, diseases including infections, obstructions in the ear canal and middle ear, taking certain medications and exposure to certain chemicals. (For more information regarding hearing loss factors/considerations, please see Entitlement Eligibility Guidelines (EEGs) for Hearing Loss.
8. The maximum award a Veteran/member can receive is full entitlement.

Determining Eligibility

Insurance Principle service

9. For a hearing loss disability to be considered as related to service during World War I, World War II (excluding militia and reserve army service), the Korean War, and SDS it only has to be demonstrated that the decibel loss (greater than 25 dB) was incurred during, or attributable to that service. (For more information on these types of services, please see the policy entitled Disability Benefits in Respect of Wartime and Special Duty Service – The Insurance Principle

Compensation Principle service

10. For hearing loss disability to be directly connected to or have arisen out of the non-permanent active militia, or reserve army during World War II, military service in peace time, (including Regular Force and Reserve Force), and RCMP service, it must be demonstrated that the decibel loss (greater than 25 dB) is the result of a service factor (e.g. noise, blast injury, etc.)
11. If the basis of the claim is noise exposure, only the frequencies between 2000 and 6000 Hz will be considered. (For more information on these types of services, please see the policy entitled Disability Benefits in Respect of Peacetime Military Service - The Compensation Principle).
12. During Service:

a. If the first injury/event/factor to cause a hearing loss disability is not service related, then entitlement is not awarded unless this is followed by a permanent service-related worsening of the condition. This would be considered Partial Entitlement for the aggravation of a disability. Entitlement for that portion of a disability which was aggravated by service factors is awarded as Partial Entitlement. For more information on when to award partial entitlement for service-related aggravation, see the policy, "Disability Resulting from a Non-Service-Related Injury or Disease".
b. If the first injury/event/factor to cause a hearing loss is service-related, then causation is considered and full entitlement is awarded. There would be no need to consider other possible contributing factors.

Determining Entitlement where there is Mixed Service

13. Due to the difficulty in determining medically the precise impact of different service types on the progression or development of a hearing loss disability, the following direction is being provided to ensure that hearing loss claims with mixed services (when no pre-enlistment hearing loss disability) are administered as simply and as efficiently as possible.

Regular and Reserve Force Service

If a Veteran/member has a permanent service-related hearing loss following their last period of Regular or Reserve Force service, and has a current hearing loss disability, entitlement may be granted to the first period of service

SDS, Regular and Reserve Force Service

If a Veteran/member has a permanent hearing loss following the SDS, and a current hearing loss disability, entitlement may be granted to the period of SDS.

RCMP and SDS

If a Veteran/member has a permanent hearing loss following the SDS, and a current hearing loss disability, entitlement may be granted to the period of SDS.

CAF and RCMP Service (dual legislation entitlement - Veterans Well-being Act & Pension Act)

VAC adjudicates disability pension claims for the RCMP. If a Veteran/member has a permanent service-related hearing loss documented on audiograms under both CAF and RCMP service and has a current hearing loss disability, entitlement is granted. Entitlement must be awarded in a manner to properly reflect the contribution related to each period of service. (For more information on dual entitlement claims, please see the policy Dual Entitlement – Disability Benefits).

i. For example, if a Veteran/member has a permanent service-related hearing loss during Reserve Force service, then develops additional permanent service-related hearing loss during RCMP service, the Veteran/member will be eligible for a full entitlement award apportioned between the two periods of service. How it is apportioned will be determined at the discretion of the decision-maker with the goal of recognizing the contribution where it occurred in each period of service.

Absence of Audiograms

14. Audiogram(s) Unavailable
    a. In certain cases, such as claims made posthumously or for World War II service, service audiograms may not be available. In such circumstances, other credible information such as statements regarding the Veteran/member's ability to hear from the service period or post discharge, and/or clinical assessments, along with a current medical opinion, may be used to substantiate that a long-standing service-related hearing loss disability existed.
    b. Information that could be considered under these circumstances includes, but is not limited to:
        i. evidence of service-related noise exposure
        ii. evidence that the Veteran/member wore hearing aids
        iii. physician or other documented medical evidence stating that the Veteran/member had a hearing loss disability
        iv. Conversational Voice Testing during World War II service
15. Exceptional Medical Circumstances
    a. In cases where a current audiogram is unobtainable due to the exceptional medical circumstances of the Veteran/member, the above information can also be used to substantiate the presence of a service-related hearing loss.
16. NOTE: This information cannot override evidence clearly established through available audiograms.

Departmental Reviews vs. First Applications for Pension Act Claims

17. For awards under the *Pension Act*, the entitlement effective date for Hearing Loss cannot predate the establishment of a hearing loss disability.
18. Absence of Hearing Loss Disability at the Time of First Application
    a. Cases where a Veteran/member was denied entitlement for hearing loss due to the absence of a hearing loss disability and subsequently applies for a Departmental Review with an audiogram, or other credible evidence, demonstrating that a hearing loss disability has developed after the initial decision are treated as First Applications.
        i. In these circumstances, the effective date is determined in accordance with subsection 39(1) of the *Pension Act*. The new date of application is the date the Veteran/member approached the Department, requesting the Departmental Review.
        ii. It should be noted that although the period of service being applied for may now be a service period eligible under the *Veterans Well-being Act* (VWA) the new application is ruled on under the *Pension Act*, as per the provisions set out in sections 42 and 56.5 of the VWA.
    b. Cases where a Veteran/member was denied entitlement for hearing loss due to the absence of a hearing loss disability and subsequently applies for a Departmental Review with an audiogram, or other credible evidence, demonstrating that a hearing loss disability has existed since before the initial decision are treated as Departmental Reviews.
    c. Note: The timing, circumstances and events that are addressed in the new evidence are important indicators of a Departmental Review or new First Application decision.
19. Presence of a Hearing Loss Disability at the Time of First Application but only Hearing Loss on Discharge
    a. Cases where a Veteran/member who had a hearing disability at the time of application was denied entitlement because they only had a permanent service-related hearing loss on discharge are treated as a Departmental Review, based on error in law.
    b. In these circumstances, the effective date is determined in accordance with subsection 39(1) of the *Pension Act*, where the original date of application or three years from the date of the Departmental Review decision apply.

Departmental Reviews vs. First Applications for VWA Claims

20. Absence of Hearing Loss Disability at the Time of First Application
    a. Cases where a Veteran/member was denied entitlement for hearing loss due to the absence of a hearing loss disability and subsequently applies for a Departmental Review with an audiogram, or other credible evidence, demonstrating that a hearing loss disability has developed after the initial decision are treated as First Applications.
    b. Cases where a Veteran/member was denied entitlement for hearing loss due to the absence of a hearing loss disability and subsequently applies for a Departmental Review with an audiogram, or other credible evidence, demonstrating that a hearing loss disability has existed since before the initial decision are treated as Departmental Reviews.
    c. Note: The timing, circumstances and events that are addressed in the new evidence are important indicators of a Departmental Review or new First Application decision.
21. Presence of a Hearing Loss Disability at the Time of First Application but only Hearing Loss on Discharge
    a. Cases where a Veteran/member who had a hearing disability at the time of application was denied entitlement because they did not have a hearing loss disability on discharge are treated as a Departmental Review, based on error in law.

Tinnitus

Determining Eligibility for Tinnitus

22. Although noise is a common factor, it is not the only possible service-related factor which could cause permanent Tinnitus. A number of factors can cause or contribute to Tinnitus, for example: acoustic trauma; head injury or concussion, the use of certain drugs/medications, barotrauma, chronic middle ear disease, etc. Please see the Entitlement Eligibility Guidelines for more information regarding the factors to consider towards eligibility in Tinnitus claims.
23. When adjudicating claims for Tinnitus:

    a. If a factor listed in the EEG's is referenced as one that caused the Veteran/member's Tinnitus, there should be evidence that this factor was also related to the Veteran's/member's service.

    b. If there is evidence that a service-related factor caused or contributed to the Veteran/member's Tinnitus condition, then full entitlement is awarded.

24. Since April 1, 2006, there have been entitlement and assessment criteria for "tinnitus" as a disability separate and distinct from hearing loss.
25. Applications with respect to hearing loss and/or tinnitus received by the Department after April 1, 2006, if ruled upon favourably, are assessed under the provisions of the 2006 TOD. Applications received by the Department before this date are assessed under the provisions of the 1995 TOD, as amended, and the 1988 French edition, as amended, of the 1995 TOD.
26. Grandfathering Provision
    a. Effective April 1, 2006, all Veterans/members in receipt of a disability pension on that date for "hearing loss", "hearing loss and/with tinnitus" and "tinnitus" were grandfathered at the existing assessment rates for these conditions. In other words, these conditions are protected from any reduction in assessment related to the introduction of the 2006 TOD. This grandfathering provision, however, did not protect "interim/conditional assessments."
27. The following statements provide policy direction on how the Department applies the 2006 TOD for existing clients in receipt of pension for "hearing loss", "hearing loss and/with tinnitus" and "tinnitus" on April 1, 2006.

a. Veterans/members pensioned for “hearing loss” and assessed under the 1995 TOD:
    i. When a Veteran/member who is pensioned for “hearing loss” applies for and is granted a separate entitlement for “tinnitus”, and a separate assessment for tinnitus is provided based on the 2006 TOD.
    ii. When a Veteran/member requests a reassessment of a “hearing loss” condition, it is reassessed using the 2006 TOD. An increase in assessment occurs when the assessment exceeds the rate which has been grandfathered for the “hearing loss” condition. If the assessment is lower than the rate which has been grandfathered, the assessment remains the same.
b. Veterans/members pensioned for “hearing loss and/with tinnitus” and assessed under the 1995 TOD:
    i. These Veterans/members are not eligible to claim tinnitus as a separate and distinct condition;
    ii. When a Veteran/member requests a reassessment of the “hearing loss and/with tinnitus” condition, and the assessment exceeds the rate which has been grandfathered for the “hearing loss and/with tinnitus” condition, these conditions are then separated for assessment purposes only. If the assessment is lower than the rate which has been grandfathered, the assessment remains the same.
    iii. Cases where hearing loss have been ruled on favorably, and the tinnitus has been discussed in the body of the decision letter as “part and parcel of the hearing loss” will be looked at on an individual basis.
c. Veterans/members currently pensioned for “tinnitus” and assessed under the 1995 TOD:
    i. When a Veteran/member who is pensioned for “tinnitus” applies for and is granted entitlement for “hearing loss”, this condition is not bracketed with the “tinnitus” condition. Separate assessments for “tinnitus” and “hearing loss” are provided using the 2006 TOD.
    ii. When a Veteran/member requests a reassessment of a “tinnitus” condition, it is reassessed using the 2006 TOD. An increase in assessment occurs when the assessment exceeds the rate which has been grandfathered for the “tinnitus” condition. If the assessment is lower than the rate which has been grandfathered, the assessment remains the same.

References

Pension Act, subsections 5(3), 21(1), 21(2), 35(1), and 82(1)

Veterans Well-being Act, sections 43, 51 and 84; subsections 2(1), 45(1), 45(2), 46(1) and 46(2)

Veterans Well-being Regulations, sections 51, 52, 56.5, 70, 71 and 72

Royal Canadian Mounted Police Superannuation Act, sections 32, 32.1 and 32.2

Royal Canadian Mounted Police Pension Continuation Act, section 5

Tables of Disabilities - 1995 edition

Tables of Disabilities - 2006 edition

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Assessment and Reassessment of a Disability

Date Payable – Disability Benefits, Allowances, and Prisoner of War/Detention Benefit Compensation

Disability Benefits in Respect of Peacetime Military Service – The Compensation Principle

Disability Benefits in Respect of Wartime and Special Duty Service – The Insurance Principle

Disability Resulting From a Non-Service Related Injury or Disease

Review of Decisions

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Entitlement Eligibility Guidelines - Hearing Loss

Entitlement Eligibility Guidelines - Tinnitus