



**DEPARTMENT OF VETERANS AFFAIRS  
Denver VA Regional Office  
155 Van Gordon St.  
Post Office Box 25126  
Denver, CO 80225**

[REDACTED]

**VA File Number**  
[REDACTED]

**Represented by:  
AGENT OR PVT ATTY-EXCLUSIVE CONTACT NOT REQUESTED**

**Rating Decision  
December 28, 2009**

**INTRODUCTION**

The records reflect that you are a veteran of the Vietnam Era and Gulf War Era. You served in the Army from [REDACTED] and from [REDACTED]. You filed a claim for increased evaluation that was received on May 27, 2009. Based on a review of the evidence listed below, we have made the following decision on your claim.

You also filed a Notice of Disagreement with our denial of entitlement to Nonservice-connected Pension. Because entitlement to Individual Unemployability (IU) is granted in the present rating decision, and because IU is the greater benefit, your Notice of Disagreement is considered moot and will not be followed up.

**DECISION**

Entitlement to individual unemployability is granted effective February 4, 2009.

### EVIDENCE

- Your Claim for Benefits received February 4, 2009
- Your Claim for Benefits received May 27, 2009
- Letter from Dr. [REDACTED], M.D., received May 27, 2009
- Letter from [REDACTED] received May 27, 2009
- VA Form 21-8940 Veteran's Application for Increased Compensation based on Unemployability, received May 27, 2009
- VCAA Letter dated June 3, 2009
- Outpatient and Inpatient Treatment Records, Eastern Colorado HCS, from June 14, 2004 through December 21, 2009
- Notice of Future Court Appearance and Order to Report, dated April 6, 2009
- Private Medical Evidence, Centura Health, dated May 1, 2009
- VA Form 21-4138 Statement in Support of Claim, received with letter from you June 23, 2009
- VCAA Notice Response received June 23, 2009
- VA Form 21-8940 Veteran's Application for Increased Compensation based on Unemployability, received June 23, 2009
- VA Form 21-4192 Request for Employment Information in Connection with Claim for Disability Benefits received from [REDACTED] dated July 17, 2009
- VA Form 21-4192 Request for Employment Information in Connection with Claim for Disability Benefits received from [REDACTED] dated July 17, 2009
- Private Medical Evidence, [REDACTED], Ph.D., from December 11, 2008 through September 7, 2009
- Rating decisions dated March 17, 2009 and September 30, 2009 and all supporting evidence
- Letter on your behalf from Spencer & Spencer, P.C., Attorneys at Law, received November 27, 2009

### REASONS FOR DECISION

#### Entitlement to individual unemployability.

Entitlement to individual unemployability is granted because the evidence shows that you are unable to secure or follow a substantially gainful occupation as a result of service-connected disabilities. Entitlement to individual unemployability is granted effective February 4, 2009, the date schedular requirements for individual unemployability were met.

This claim is rated as an unadjudicated issue from your claim received May 27, 2009, which was brought to our attention by the Notice of Disagreement received November

27, 2009. Because there was no prior decision rendered on the issue of Individual Unemployability, the Notice of Disagreement is moot.

Letter signed by Dr. [REDACTED] M.D. and [REDACTED] L.C.S.W. received May 27, 2009 states that the severity of your PTSD symptoms creates deficiencies in employment, family relationships, judgment, thinking, and mood, and that it is felt that you meet the criteria for permanent unemployability. A review of treatment records from Eastern Colorado Healthcare System shows repeated statements from Dr. [REDACTED] and Mr. [REDACTED] confirming that you are incapable of obtaining and retaining employment, most recently on October 14, 2009. The examiner at your VA exam dated June 16, 2009 noted that prior recent overwhelming stresses related to your divorce and ensuing legal and financial issues, strained relationships with your children, legal issues with domestic violence involving your current wife, and conflict with your current wife due to her making unilateral decisions regarding the business, you seemed to be progressing sufficiently that the business was growing. The examiner opined that that there is not total occupational impairment due to PTSD, and that employment is moderately impaired, in that you were still successful to the point that you had helped two of your sons, and noted that you had a long career in the ministry business, where you were a pastor, a teacher, and held other positions in a rather successful manner. The examiner further opined that once you get your alcohol under control, you are capable of gainful employment, whether it be in a diminished capacity at your own business, or in a different career separate from that of the business currently being operated by your wife. Although the VA examiner stated that you are not unemployable because you are capable of employment "once you get your alcohol under control," this is taken as evidence that you are currently unable to work, whether or not that level of disability is permanent. As such, and when considered together with the evidence from Dr. [REDACTED] and Mr. [REDACTED] and a review of your claims file, it is determined that the evidence shows that you are currently incapable of employment. Entitlement to individual unemployability is granted because the evidence shows that you are currently unable to work and because you meet schedular requirements for individual unemployability.

**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](http://www.va.gov).