

38 CFR 4.19 - Age in Service-Connected Claims

Did you know that age is not a consideration in service-connected disability and unemployability?

38 CFR 4.19 states:

“Age may not be considered as a factor in evaluating service-connected disability; and unemployability, in service-connected claims, associated with advancing age or intercurrent disability, may not be used as a basis for a total disability rating. Age, as such, is a factor only in evaluations of disability not resulting from service, i.e., for the purposes of pension.”¹

In terms of total unemployability, VA regulations do not provide a definition of the term “substantial gainful occupation.” The VA has defined “substantial gainful occupation” in its Adjudication and Procedural Manual as “that which is ordinarily followed by the nondisabled to earn their livelihood with earnings common to the particular occupation in the community where the veteran resides.”² Again, nowhere is age mentioned as a determining factor.

What matters most are the three elements of a service-connected claim:

- An injury, illness, or event acquired while you were serving in the military.
- A current diagnosis or disability, or recurring or persistent symptoms of a disability.
- Competent and credible evidence that shows the injury is related to the current diagnosis.

These three elements may have restrictions on presumptive conditions or other diagnostic factors. In this regard it will be determined case by case as specified by the appropriate regulation or VA guidelines.

¹ 38 CFR 4.19 [29 FR 6718, May 22, 1964, as amended at 43 FR 45349, Oct. 2, 1978]

² Manual M21-1, Part VI, ¶ 7.09(7)