



TDIU is not decided by unemployment alone. The record must show that service-connected disabilities prevent securing and following substantially gainful employment.

START

ARE SERVICE-CONNECTED DISABILITIES LIMITING YOUR ABILITY TO WORK?

Focus on functional limits caused by service-connected conditions, not age or non-service-connected conditions.

1

FOUNDATION

1 CONFIRM THE DISABILITIES ARE SERVICE CONNECTED

List every service-connected condition that affects attendance, reliability, pace, interaction, sitting, standing, lifting, travel, or workplace safety.

NOT YET

DEVELOP THE UNDERLYING CLAIM OR INCREASE

TDIU can be raised with a pending rating claim, but the unemployability analysis depends on service-connected limitations.

2

CORE QUESTION

2 DO THE LIMITATIONS PREVENT SUBSTANTIALLY GAINFUL EMPLOYMENT?

Compare the combined physical and mental limits with the veteran's education, training, skills, and work history.

DO NOT STOP AT JOB TITLE

ADDRESS PHYSICAL AND SEDENTARY WORK

Explain why the veteran cannot reliably perform the actual tasks, schedule, pace, interaction, and attendance demands of realistic work.

3

EMPLOYMENT SCREEN

3 IS CURRENT WORK SUBSTANTIALLY GAINFUL, MARGINAL, OR PROTECTED?

Income is one part of the analysis. Document hours, earnings, accommodations, family employment, reduced productivity, absences, and whether the job resembles competitive employment.

NO CURRENT WORK

Unemployment supports context but does not prove unemployability.

MARGINAL WORK

Income below the applicable threshold may be marginal.

PROTECTED SETTING

Exceptional accommodations may matter even when earnings exceed the threshold.

4

ROUTE

4 DO THE PERCENTAGE RATINGS MEET 38 CFR 4.16(A)?

One disability at 60 percent, or a combined 70 percent with at least one disability at 40 percent. Apply the regulation's count-as-one rules when supported.

YES: SCHEDULAR ROUTE

VA may decide TDIU directly under 4.16(a). The threshold is an entry route, not an automatic grant.

NO: REFERRAL ROUTE

Develop the same unemployability evidence for extraschedular referral under 4.16(b).

5

BUILD THE RECORD

5 MAKE EVERY SOURCE DESCRIBE THE SAME WORK BARRIERS

Use VA Form 21-8940, employer information, medical records, DBQ functional-impact findings, work history, lay evidence, medication effects, and vocational evidence when useful.

01 SERVICE-CONNECTED RATINGS

02 WORK AND EDUCATION HISTORY

03 FUNCTIONAL MEDICAL EVIDENCE

04 EMPLOYER AND LAY EVIDENCE

6

EXAMINATION

6 DESCRIBE FREQUENCY, DURATION, AND WORKPLACE CONSEQUENCE

At each condition examination, explain missed days, unscheduled breaks, pace loss, interaction problems, flare limits, safety risks, and failed work attempts. Examiners describe function; the rater decides TDIU.

7

DECISION AUDIT

7 DID VA ANALYZE THE WHOLE SERVICE-CONNECTED DISABILITY PICTURE?

Check whether VA addressed combined effects, realistic work history, marginal or protected employment, and both physical and mental job demands without relying on age.

VA OUTCOME AND NEXT REVIEW

GRANTED

Review the effective date, permanence findings, and whether a single-disability TDIU theory raises SMC-S.

DEFERRED OR REFERRED

Track requested forms, employer development, examinations, and any 4.16(b) referral.

DENIED

Identify the disputed point: service-connected cause, work capacity, threshold route, employment status, or evidence weight.

38 CFR 4.16(A)

Schedular percentage route and marginal-employment rule

38 CFR 4.16(B)

Referral route below the percentage thresholds

RAY V. WILKIE

Economic and noneconomic work-capacity analysis

RICE V. SHINSEKI

TDIU may be part of a pending rating claim

KEEP THE ANALYSIS DISCIPLINED

The question is not whether the veteran can do anything. It is whether service-connected limitations permit substantially gainful work the veteran is realistically qualified to perform.

