VETERANS OF FOREIGN WARS®

Special Monthly Compensation

Course Topics

- SMC (K)
- SMC criteria for Housebound and A&A
- SMC for extremity losses at all levels (L thru O)
- (P) elevations
- The multiple ways to get to (O)
- SMC (R) and (T)

What is Special Monthly Compensation?

Special Monthly Compensation (SMC) is an additional level of compensation to Veterans (above the basic levels of compensation payable based on disability ratings of 0 to 100 percent) for various types of anatomical losses or levels of impairment due solely to service-connected (SC) disabilities.

SMC – How to Apply

- File a new claim
- File an increase
- SMC is available for spouses surviving spouses (A&A only)
- Don’t forget about ancillary benefits! (adapted housing, SAH, adaptive equipment, auto allowance, clothing allowance)

References

- 38 CFR 3.350
- 38 CFR 3.352
- 38 CFR 3.552
- 38 USC 1114
- M21-1 MR VIII, Subpart iv, Chapter 4, Section A

SMC – Major Changes

VETERANS OF FOREIGN WARS.

There are very few changes to SMC:

- The rating activity must include “SMC Calculator Worksheet” as the subject of the document uploaded into VBMS
- A single disability evaluated as 100-percent disabling under a schedular evaluation is *generally* a prerequisite for entitlement to A&A. There is not a statutory or regulatory requirement for a 100-percent disability to qualify for A&A. However, any lesser disability would typically be incompatible with the requirements of 38 CFR 3.352(a).
- The VA Office of General Counsel concluded in VAOPGCPREC 66-1991 that, based on the specific statutory and regulatory language used in 38 U.S.C. 1114(s) and 38 CFR 3.350(i), there must be *one* single disability rated at 100-percent disabling to establish entitlement at the SMC (s) rate. Multiple disabilities that combine to 100 percent, even if from a common etiology, do *not* satisfy the requirement for “a single SC disability rated as 100 percent” for the purpose of SMC housebound benefits.

Selected SMC Rates

(Single Veteran no Children)

(K)	$136.06 per month, added on
(S)	$4,288.45 per month
(L)	$4,767.34 per month
(O)	$6,689.81 per month
(R1)	$9,559.22 per month
(R2/T)	$10,964.66 per month

- Effective December 1, 2024

SMC (K)

Generally, SMC at the (K) rate is payable for loss or loss of use of a single body part or loss of a single body function.

The current rate (effective 12/1/2024) is $ 136.06; this is ***added*** to the basic compensation rate.

38 CFR 3.350(a) and 38 USC 1114(k)

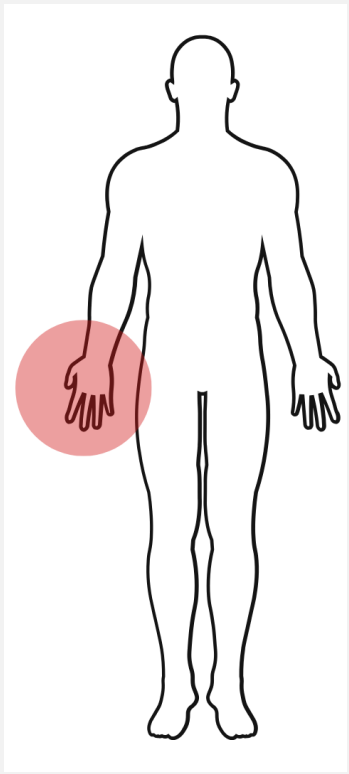
SMC (K)

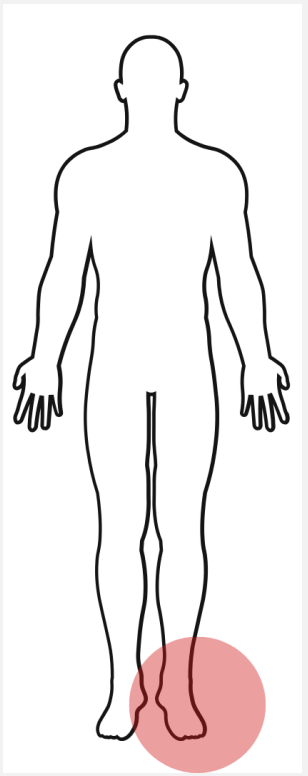
SMC (K) is payable for:

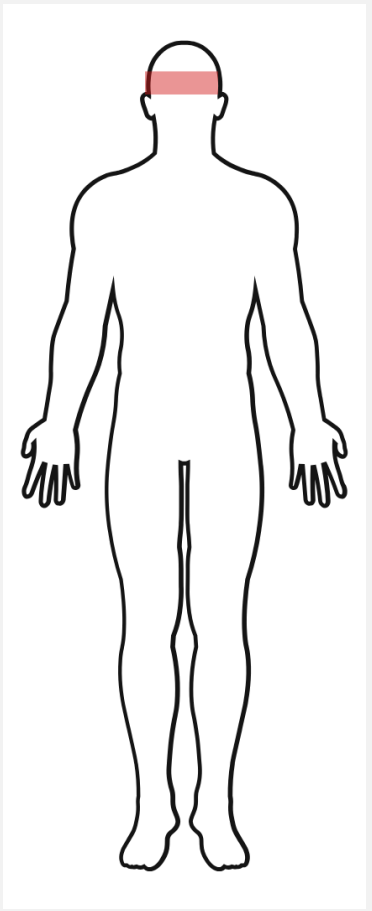
- Loss or loss of use of one hand
- Loss or loss of use of one foot
- Blindness of one eye, having only light perception
- Loss of use of both buttocks
- Bilateral Deafness
- Complete organic aphonia
- Loss or loss of use of a creative organ
- Loss of breast tissue > 25% (limited to female Veterans)

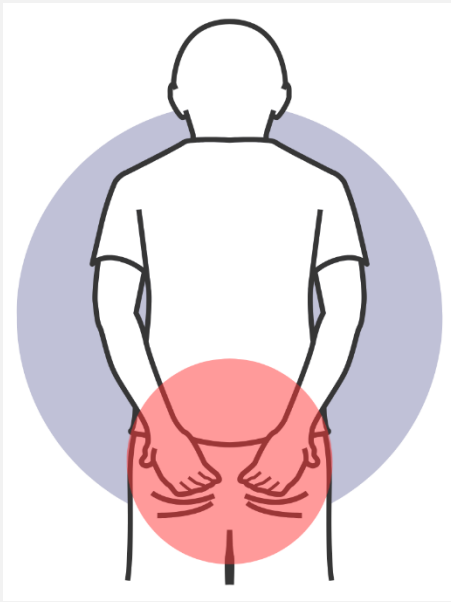
38 CFR 3.350(a)

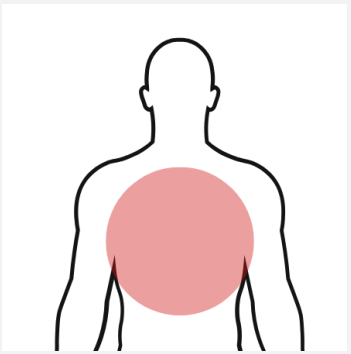
SMC (K)

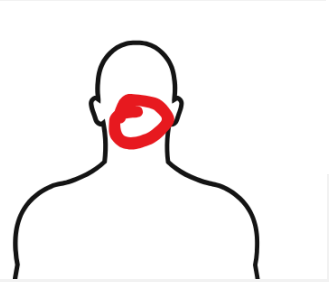


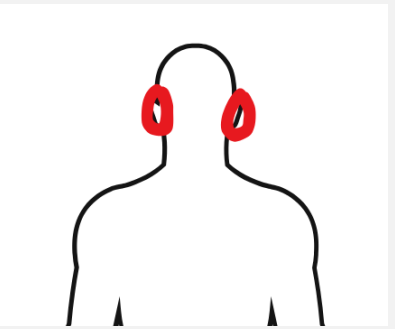


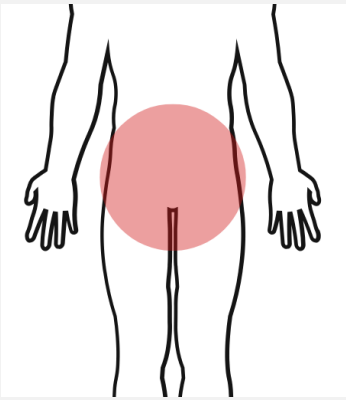










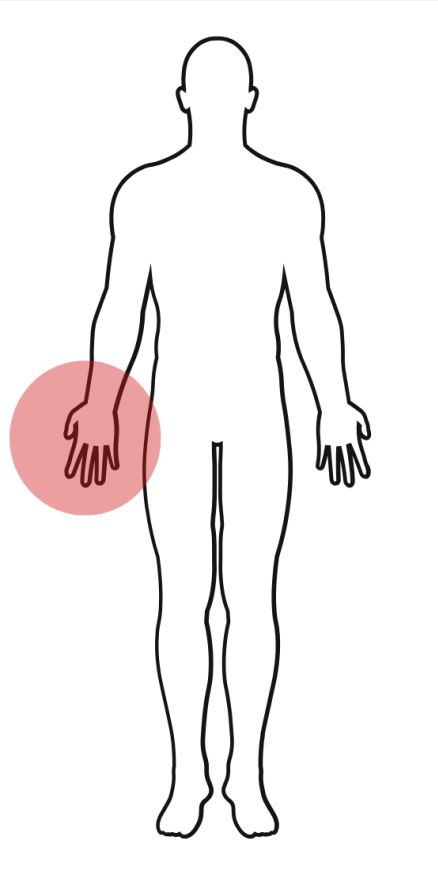


Loss of Use (LOU)

Special Note about Loss of Use (LOU)

- Responsibility for determining LOU rests solely with the rating activity
- Cannot be delegated to the examiner
- LOU can be organic loss or functional loss
- Mandatory use of the SMC Calculator by the rating activity (results must be uploaded into VBMS)

Loss of Use (LOU) of a Hand



Loss of use of a hand or a foot will be held to exist when no effective function remains other than that which would be equally well served by an amputation stump at the site of election below elbow or knee with use of a suitable prosthetic appliance. The determination will be made on the basis of the actual remaining function, whether the acts of grasping, manipulation, etc., in the case of the hand, or of balance, propulsion, etc., in the case of the foot, could be accomplished equally well by an amputation stump with prosthesis

38 CFR 3.350(a)(2)(i)

Loss of Use (LOU) of a Hand

Effective remaining function is assessed on the basis of grasping and manipulation.

Can the Veteran pick up small objects such as paper clips or coins? Can the Veteran oppose the index finger to the thumb? Can the Veteran button clothing, open an envelope, or use a screwdriver?



Loss of Use (LOU) of a Hand

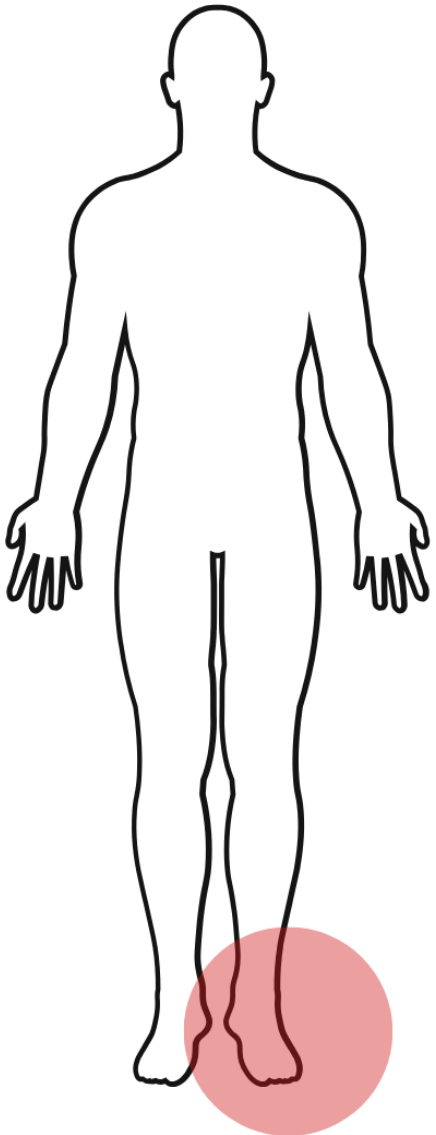
Loss of use of a hand could also be established by a clinical finding of complete ankylosis of two major joints of an upper extremity.

What is ankylosis?

Can a Veteran receive SMC K for LOU of the arm and LOU of the hand?

3.350(a)(2)(i)(a)

Loss of Use (LOU) of a Foot



Similar criteria as for hand. No effective function remains other than that which would be equally well served by an amputation stump at the site of election below the knee, with the use of a suitable prosthesis.

3.350(a)(2)

Loss of Use (LOU) of a Foot

Effective remaining function is assessed with respect to the elements of balance and propulsion.

Can the Veteran raise the heel off the floor? Can they push off with the ball of the foot?



3.350(a)(2)(i)

Loss of Use (LOU) of a Foot

Loss of use of a foot could also be established by a clinical finding of:

- Complete ankylosis of two major joints of a lower extremity
- Shortening of a lower extremity by 3 ½ inches
- Extremely unfavorable ankylosis of the knee
- Complete paralysis of the external popliteal nerve (common peroneal) and consequent **foot drop** with characteristic organic changes.

3.350(a)(2)(i)(a)and (b)

SMC (K)

- The SMC (K) rate is added to any other SMC entitlement until the SMC level reaches SMC (O).

- Question: Can a Veteran have more than one SMC (K) rating at the same time?

SMC (K)

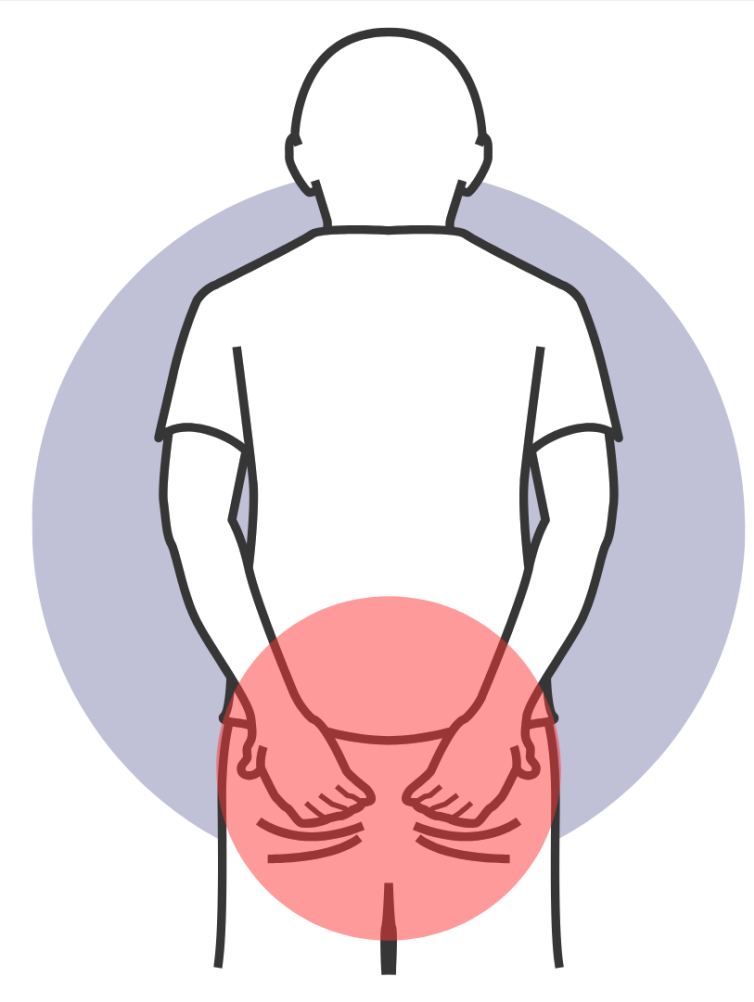
- SMC (K) is payable for loss or loss of use of a single extremity.
- If another extremity also has loss or loss of use, the SMC for the pair of extremities is SMC (L) or higher.
- The (K) no longer applies.

SMC (K)

Example:

Veteran is rated for loss of one foot and receives SMC (K). If she later loses the other foot due to a service-connected disability, she is entitled to SMC (L) instead of two SMC (K)’s.

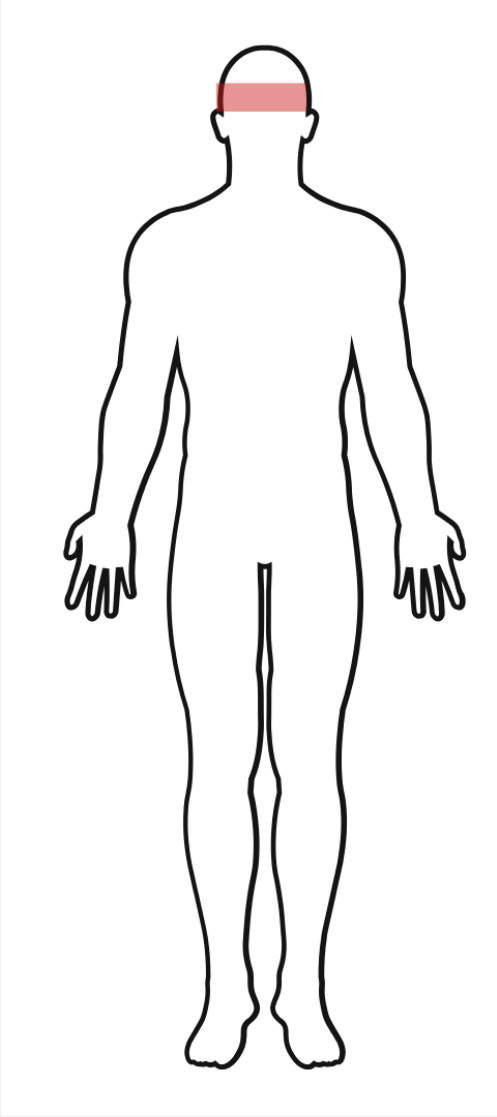
SMC (K) – less common considerations



Both Buttocks – without assistance, can the Veteran rise from a seated or stooped position?

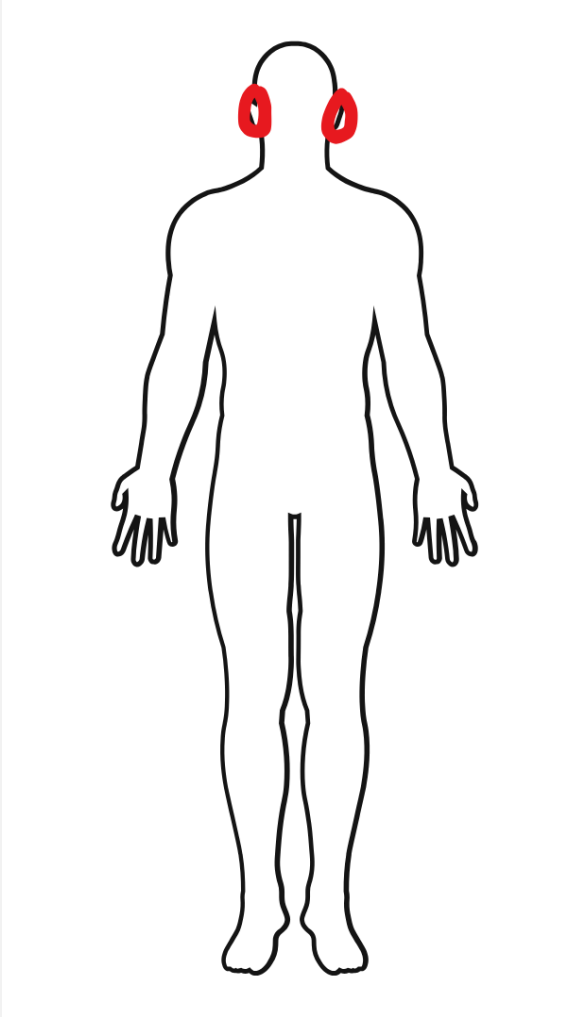
- K can be added to L in certain circumstances

SMC (K) – less common considerations



Blindness (one eye) – cannot view test letters at 1 foot, or objects/ hand movements at 3 feet

SMC (K) – less common considerations



Deafness – both ears for air and bone conduction greater than the maximum hearing rating schedule

SMC (K) – let’s review

Practical Exercise #1

SMC (K) – let's review

What level of SMC would a Veteran receive who has:

- Deafness in one ear
- Loss of one buttocks
- Anatomical loss of the left hand

SMC (K) – let's review

What level of SMC would a Veteran receive who has:

- Deafness in both ears
- Loss of both buttocks
- Anatomical loss of the left hand

SMC (K) – let's review

What level of SMC would a Veteran receive who has:

- Deafness in both ears
- Loss of both buttocks
- Anatomical loss of the left hand
- Loss of use of the right foot

SMC (S): Housebound



Requires a single SC disability rated at 100%

and either:

An additional SC disability or combined disabilities independently ratable at 60 percent or more

or

The Veteran is permanently housebound as a result of SC disabilities.

38 CFR 3.350 (i)

SMC (S): Housebound

The “single disability” must be one condition rated 100 percent. (TDIU also based on ONE disability can apply).

When a Veteran has multiple conditions that combine to 100 percent, but none is rated 100 percent by itself, housebound is not payable.

SMC (S): Housebound



Example (100 percent plus 60 percent):

PTSD rated at 100 percent and Hearing Loss rated at 60 percent would qualify for SMC (S).

Example (Housebound “in fact”) – must be permanent

The Veteran is rated 100 percent for lung disease. He is on home oxygen and cannot leave home except to go to the doctor. He is medically confined to his home and therefore entitled to SMC (S).

SMC (S): Housebound

Example

70% PTSD
60% Type 2 Diabetes Mellitus
20% Peripheral Neuropathy – Left Upper
20% Peripheral Neuropathy – Right Upper
20% Peripheral Neuropathy – Left Lower
20% Peripheral Neuropathy – Right Lower
10% Diabetic Retinopathy
10% Tinnitus

The Veteran is not confined to their home.

Should SMC(S) be applied?

SMC (S): Housebound

How about now?

70% PTSD –TDIU granted solely on this condition
60% Type 2 Diabetes Mellitus
20% Peripheral Neuropathy – Left Upper
20% Peripheral Neuropathy – Right Upper
20% Peripheral Neuropathy – Left Lower
20% Peripheral Neuropathy – Right Lower
10% Diabetic Retinopathy
10% Tinnitus

The Veteran is not confined to their home.

Should SMC(S) be applied?

SMC (S): Housebound

The 100% for SMC (S) can be based on individual unemployability, provided the TDIU rating is based on a single disability.

SMC (S): Housebound

SMC (S) can also be assigned based on a temporary total evaluation under paragraph 28, 29 or 30.

Example:
A Veteran requires 1 year of post-surgical convalescence for a service-connected disability. If the other disabilities combine to 60% or higher, SMC (S) is payable during the Paragraph 30 time period.

SMC (L) and Higher

SMC (L) and/or higher are awarded for:

- Double extremity loss or loss of use (LOU)
- Need for aid and attendance (A&A)
- Blindness and Deafness

38 CFR 3.350

SMC (L) for Aid and Attendance



SMC (L) is payable when the Veteran requires regular aid and attendance:

- To perform activities of daily living (ADL)
- To protect from the hazards of daily living
- Includes being “bedridden”

38 CFR 3.350(b) and 3.352

SMC (L) for Aid and Attendance

What are some ADL's?

- Dressing and/or Undressing
- Cleaning/Bathing
- Frequent adjustment of prosthetics needing the aid of another person that normally could be adjusted without aid
- Feeding/preparing meals
- Calls of Nature
- Protection from the hazards of daily living

38 CFR 3.352(a)

SMC (L) for Aid and Attendance

For SMC (L) based on need for A&A, a 100 percent rating is generally required**.**

This includes multiple ratings for a “single disease entity” such as Parkinson’s or Multiple Sclerosis.

Example:

MS-related conditions:
- 80% Eye condition
- 70% Depression
- 40% Right upper extremity
- 30% Left upper extremity

Combined is 100%.

If the vet needs A&A, SMC (L) applies

SMC (L) for Aid and Attendance

Example:

100% for Diabetes Mellitus
40% for left below the knee amputation (BKA)
Vet needs A&A due to service-connected disabilities.

SMC level is L plus K
L for A&A
K for BKA

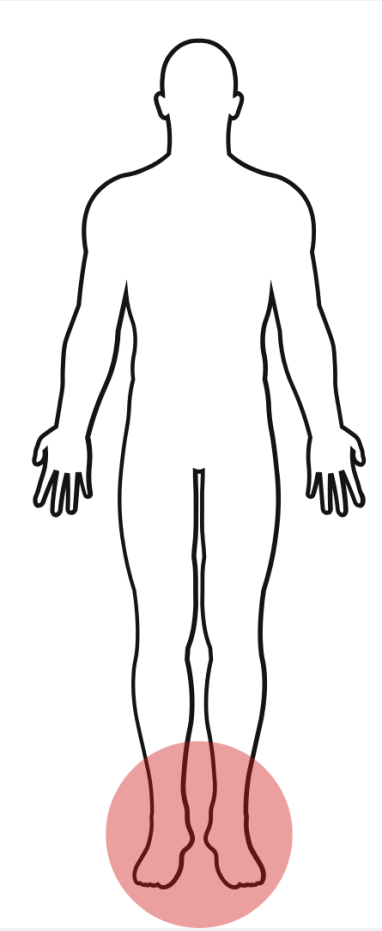
**Note that K entitlement can be used with L for A&A.

Break Time!

Let’s take a break



SMC (L) for Double Extremity Loss

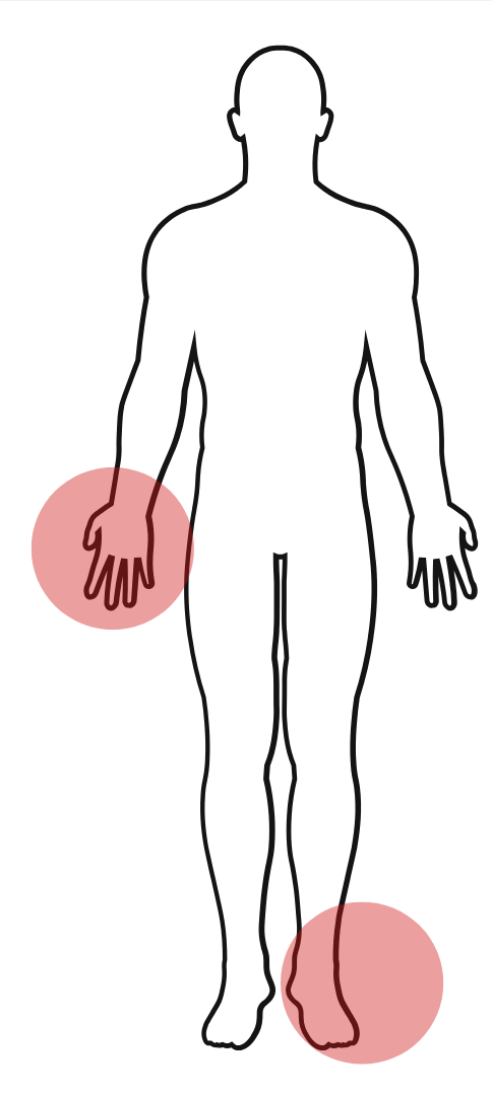


The starting levels for SMC due to multiple extremity loss are as follows:

- SMC (L) is payable for both feet

38 CFR 3.350 (b) and (c)

SMC (L) for Double Extremity Loss

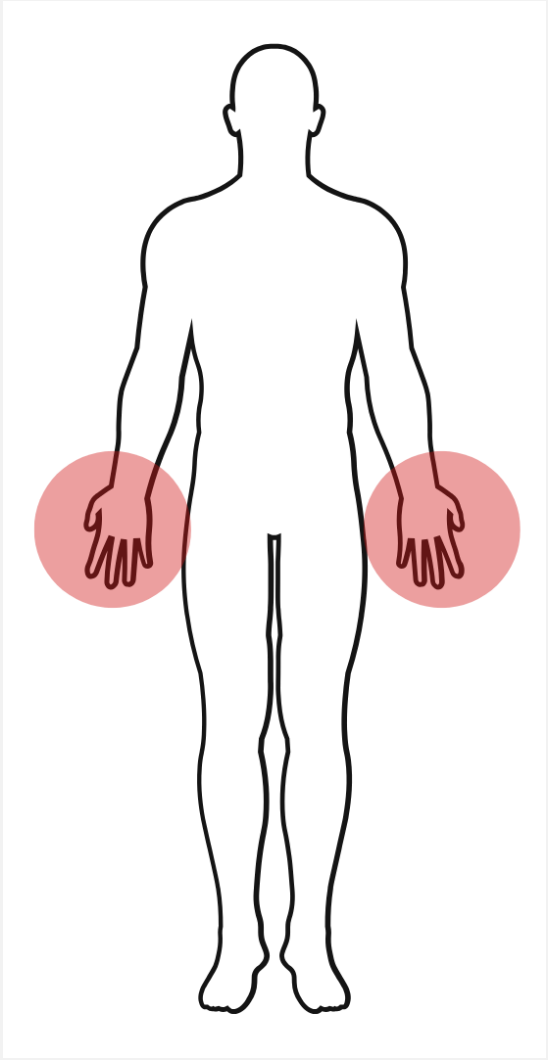


The starting levels for SMC due to multiple extremity loss are as follows:

- SMC (L) is payable for one foot and one hand

38 CFR 3.350 (b) and (c)

SMC (M) for Double Extremity Loss



The starting levels for SMC due to multiple extremity loss are as follows:

- SMC (M) is payable for both hands

38 CFR 3.350 (b) and (c)

SMC (L) for bilateral eyes

For blindness,

- 5/200 or less visual acuity
- Concentric contraction of field of vision beyond 5 degrees

38 CFR 3.350 (b)(2)

SMC for Double Extremity Loss

To understand the concept of building up SMC entitlement for greater losses, we need two ideas:

1. Elevating an SMC level by 1/2 steps

2. Joint Levels

38 CFR 3.350 (b),(c), and (d)

SMC for Double Extremity Loss

A half step elevation means to increase the SMC level to the next higher rate or intermediate rate: e.g. from (L) to (L ½) or from (M ½) to (N).

A full step elevation would be from (L) to (M) or from (M ½) to (N ½).

The principle is that SMC is elevated ½ step per joint level per extremity affected.

38 CFR 3.350 (b)-(f)

SMC for Double Extremity Loss

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Lower Extremity Joint Levels:

Foot: Below knee amputation (BKA) or loss of use

Knee: Above knee amputation (AKA) or loss of natural knee action with prosthesis in place.

Hip: Amputation (only) so high as to prevent prosthesis

Upper Extremity Joint Levels:

Hand: Below elbow amputation (BEA) or loss of use

Elbow: Above elbow amputation (AEA) or loss of natural elbow action with prosthesis in place.

Shoulder: Amputation (only) so high as to prevent prosthesis

SMC for Double Extremity Loss

Loss of Natural elbow or knee action

This means that the Veteran does not have natural use of the joint, to the point that muscles affecting joint motion, if not already atrophied, will become so. Ankylosis or paralysis of the joint is entitling.

38 CFR 3.350(c)(2)

SMC for Double Extremity Loss

Examples of elevations based on multiple extremity loss:

For a BKA on one side and an AKA on the other, the SMC (L) for both feet would be elevated ½ step for the knee level to SMC (L ½).

For loss of a hand on one side and above elbow amputation on the other side, the starting level of SMC (M) would be elevated to (M ½) for the elbow level.

SMC – let’s review

Practical Exercise #2

SMC – let's review

What level of SMC would apply for the following:

- Anatomical loss at the mid-calf of the left leg
- Loss of use of the right leg at mid-thigh

SMC – let's review

What level of SMC would apply for the following:

- Anatomical loss at the mid-thigh of the left leg
  - Loss of use of the right leg at mid-thigh

SMC – let's review

What level of SMC would apply for the following:

- Anatomical loss at the hip area of the left leg
  - Loss of use of the right leg at mid-thigh

SMC (P) Elevations

Elevation of SMC level under (P)

For a Veteran already rated at SMC (L) or higher, the following factors permit elevation of the SMC level.

- Additional independent 50% disabilities= Half step
- Additional independent 100% single disability = Full step
- Triple extremity loss = Half step

38 CFR 3.350(f)(3), (f)(4) and (f)(5)

SMC (P) Elevations

Additional independent 50% disabilities

A **half step elevation** is provided for an additional single disability or combination of disabilities independently ratable as 50 percent or more.

38 CFR 3.350 (f)(3)

SMC (P) Elevations

Additional independent 100 percent disability

A full step elevation is provided if the Veteran has an additional single disability independently ratable as 100 percent.

Whole Step Example:

100 percent both hands	SMC (M)
100 percent heart disease	Full step to SMC (N)
0 percent creative organ	Add SMC (K)
SMC Entitlement is now	SMC (N) + (K)

38 CFR 3.350(f)(4)

SMC (P) Elevations

The 50% (P) elevation permits a **combination** of disabilities but the 100% (P) elevation requires a **single** disability.

SMC (P) Elevations

A Veteran may only receive either the 50% or 100% (P) elevation **NOT BOTH**

Example:

100% for both hands (LOU)	SMC (M)
100 % heart disease	Full step to SMC (N)
50% PTSD	(No Change)
0% creative organ	Add SMC (K)
SMC entitlement is now	SMC (N) plus (K)

SMC (P) Elevations

(P) elevation for triple extremity

Anatomical loss or loss of use, or a combination of loss and loss of use, of three extremities is entitled to a ½ step elevation.

This elevation is in addition to SMC (K) entitlement and can be used with the 50 or 100 percent elevations.

38 CFR 3.350(f)(5)

SMC (P) Elevations

Triple Extremity Example:

Both feet	SMC (L)
One hand (60%)	½ for triple plus ½ for 50% (P) plus (K)
SMC entitlement is now	SMC (M)+(K)

NOTE: Loss or loss of use of a hand is ALWAYS rated at least 60 percent.

SMC (P) Elevations

Triple Extremity Example:

1. Both hands (M)
   One foot (40%) ½ for triple plus (K)

SMC entitlement is now SMC (M ½) + (K)

2. Both hands (M)
   One foot (40%) ½ for triple plus (K)
   100% Heart Disease Full step (P) elevation

SMC entitlement is now SMC (N ½) + (K)

SMC (P) Elevations

(P) Elevations with Aid and Attendance

For SMC (L) based on A&A, the (P) elevations under 3.350 (f)(3) and (f)(4) are permitted.

The (L) can be elevated a half step for an additional 50 percent evaluation.

The (L) can be elevated a full step for an additional, single 100% disability.

SMC (P) Elevations

A&A Example with P Elevation:

100% for Diabetes Mellitus
50% for Migraines
40% for left BKA
Vet needs A&A due to diabetes.

100% with A&A	(L)
½ for additional 50% condition	(L½)
BKA	(K)

SMC entitlement is SMC (L ½)+(K)

SMC (O)

There are multiple ways to get to SMC (O):

- Both arms, shoulder level amputation
- Paraplegia with loss of bowel and bladder sphincter
- Conditions entitling to two SMC codes rated (L) to (N)
- Elevations under (P)
- Blindness and deafness

SMC (O)

SMC (O): Paraplegia with loss of bowel and bladder sphincter control

Paraplegia (paralysis of both lower extremities) together with loss of anal and sphincter control entitles the Veteran to SMC (O), even though incontinence has been overcome under a strict regimen of rehabilitation of bowel and bladder training and other auxiliary measures such as a bowel management program.

Bowel management program: Overcoming the inability to void the bowel using medical or artificial means such as laxatives & digital stimulation.

38 CFR 3.350(e)(2)

SMC (O)

SMC (O): Conditions entitling to two SMC codes rated (L) to (N).

Must be separate and distinct disabilities but can be losses resulting from a common etiological agent, for example, one injury or rheumatoid arthritis.

38CFR 3.350(e)(1)(ii)

SMC (O)

SMC (O): Conditions entitling to two SMC codes rated (L) to (N).

Examples:

1. 100% LOU Hands SMC (M)
   100% LOU Feet SMC (L)
   SMC entitlement is SMC (O)

2. 100% Hands SMC (M)
   100% Psychosis requiring A&A SMC (L)
   SMC entitlement is SMC (O)

SMC (O)

SMC (O): Elevations under (P) to the (O) level.

Example:

100% Both legs, hip level amputations	SMC (N)
100% PTSD	Full step (P)

SMC entitlement is now SMC (O)

SMC (O)

SMC (O): Blindness and Deafness

Bilateral service connected hearing loss rated at 60% or more disabling in combination with service-connected blindness with bilateral visual acuity 20/200 or less.

Or

Service-connected total deafness in one ear or bilateral deafness rated at 40% or more disabling in combination with service-connected blindness of both eyes having only light perception or less.

38 CFR 3.350(e)(iii) and (iv)

SMC (O)

Once a Veteran is entitled to SMC (O), SMC (K) no longer applies

There is no SMC (O ½) or SMC (O)+(K)

38 CFR 3.350(a)

SMC (R)

Eligibility for SMC (R)

1. Requires A&A

And

2. Meets one of two threshold levels:
   - SMC (O)
   - SMC (N ½) plus (K)

38 CFR 3.350(h)(1) and (2)

SMC (R)

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Eligibility for SMC (R)

Examples:

1. 100% Both legs, hip level amputations SMC (N)
   50% PTSD SMC (N½)
   0% Loss of creative organ SMC (K)
   If the vet needs A&A SMC level will be elevated to SMC (R)

2. 100% Both hands above elbow amputation SMC (N)
   100% Heart Disease SMC (O)
   If the vet needs A&A SMC level will be elevated to SMC (R)

SMC (R)

- SMC (R) is based on a factual need for A&A under 38 CFR 3.352, the same criteria for SMC (L) based on A&A.

- SMC (R) can be payable even if A&A was a partial basis of the rate under SMC (O) or SMC (P).

- In other words, even if the A&A was used to determine SMC (O) entitlement, it can also be used to determine SMC (R) entitlement.

NOTE: SMC (R) is only paid when the Veteran is not hospitalized at the government's expense.

38 CFR 3.350(h)(1) and (2)

SMC (R)

- The SMC (R1) rate is paid unless the Veteran meets the specific requirements for SMC (R2)
- (R2) is only provided when a higher level of care is required to prevent institutionalization.
- If a Veteran who is receiving SMC (R2) is hospitalized, the rate is reduced to SMC (R1).
- If a Veteran is receiving SMC (R1) or (R2) and is hospitalized at the government's expense, the rate will be reduced to SMC (O)

38 CFR 3.352(b)(1) and (2)

SMC (R)

SMC (R2): Higher Level of Care to Prevent Institutionalization

- Entitled to (R1)
- Without higher care, the Veteran would be institutionalized.
- Need must be certified by a physician.

38 CFR 3.352(b)

SMC (R)

SMC (R2) Higher Level of Care Criteria:

- Skilled services (e.g. PT, injections, indwelling catheter, sterile dressing, etc.)
- Performed in the person's home
- Daily
- Performed by a licensed health care provider or by a person under regular supervision of a LHC professional (Can be a relative)

38 CFR 3.352 (b)(2),(3),and (4)

SMC (T)

SMC (T) is equal to the (R2) rate and is payable for Veterans who:

- Need regular A&A for residuals of traumatic brain injury (TBI),

AND

- Would require hospitalization, nursing home, or other residential institutional care in the absence of regular in-home A&A

38 CFR 3.350(j)

SMC (T)

- SMC (T) is not payable if the Veteran is otherwise eligible for SMC (R2)

- If a Veteran receiving SMC (T) is hospitalized the rate is reduced to SMC (S) plus any applicable (K’s)

SMC – How to Appeal

- Supplemental claim (new and relevant evidence)
- Higher-Level Review
- Board Appeals
- Must follow timelines as stated within the decision notification (generally one year from notification)

Final Thoughts

- Special Monthly Compensation is paid to Veterans whose injuries are more severe than the rating schedule reflects
- Remember to look for SMC entitlement when reviewing ratings (especially SMC-K)
- There can be eligibility to multiple SMC-Ks but once the vet reaches SMC-O they no longer apply
- A SMC-P elevation can only be used once per Veteran
- SMC can be applied during temporary rating periods (4.28, 4.29, 4.30)

Break Time!

Questions?



VETERANS OF FOREIGN WARS®

Tap Considerations

Objectives

- TAP and Accredited VSOs
- VSO Responsibilities
- VSO Scheduling Tool/Proxy
- Registration
- 15-min Briefings
- Tips
- Questions

TAP and Accredited VSOs

- VSO’s opportunity to inform active-duty service members early about claim process
- Share how to prepare for filing a VA claim
- Three VSOs allotted 15 minutes each to brief at end of course
- First Come, First Serve

VSO Responsibilities

- Respect and support the prescribed TAP course schedule
- Register for courses via scheduling tool in advance
- Coordinate installation access
- Notify TAP personnel of cancellations in advance
- Provide feedback on briefing experience
- Sign in to classroom using accreditation number

VSO Scheduling Tool/Proxy

- Verifies VSO accreditation against OGC accreditation
- Located on the VA SharePoint landing page
- A VA Personal Identity Verification (PIV) card is required to request access, and a valid VA.gov email account

VSO Scheduling Tool/Proxy

- Proxy Registration for newly accredited VSOs awaiting PIV badges
  - Registration completed by supervisor
  - Notification sent to new VSO
  - Forward email notification
  - Make formal introduction (location, time)

Registration

- Log in to VA system- Desktop (VA LAN, Citrix, Cisco)

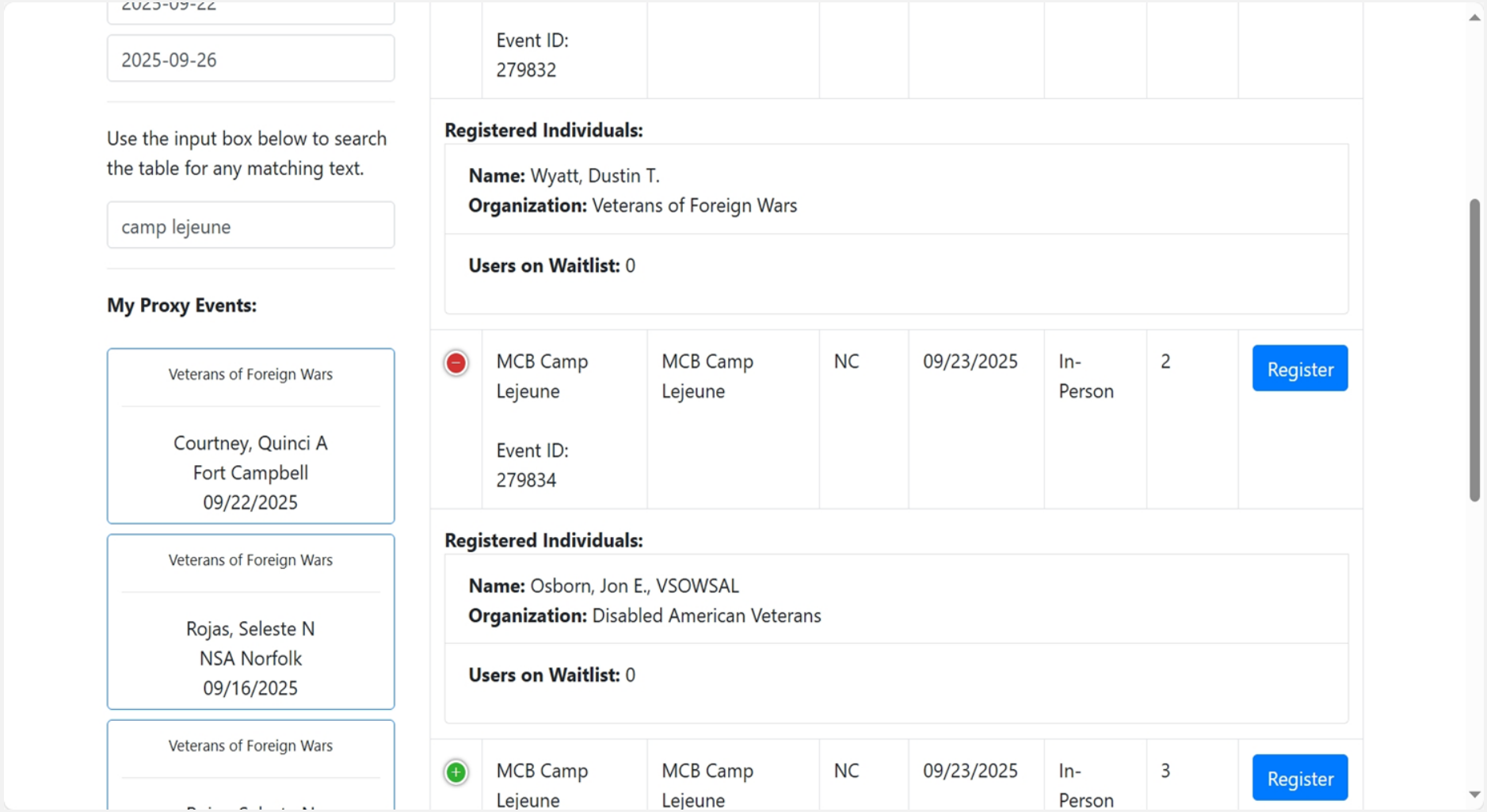
- https://dvagov.sharepoint.com/sites/vbaoted/apps/vsoReg/vsoEventRegistration.aspx

VSO Scheduling Tool

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VSO Scheduling Tool



VSO Scheduling Tool

From: VAVBAWAS/CO/OTED/BUSINESSAPPS <OTEDBUSINESSAPPS.VBACO@VA.GOV>
Sent: Thursday, September 11, 2025 12:29 PM
To: Noel, Cindy, VSOWSAL <Cindy.Noel@va.gov>
Subject: TAP Event Registration

Your registration for the event listed below has been successfully. submitted.

Event Type:	VA Benefits and Services
Registered User Name:	Rojas, Seleste N
Event Name:	VA Benefits and Services
Event Date:	09/23/2025
Service Component:	NAVY
Event Date:	09/23/2025
Installation:	NSA Norfolk
Bulding/Room:	1731 Gilbert st, Bldg C9, Rm 2
Event Times:	Start Time: 08:00 End Time: 15:30
Event State	VA

For any inquiries regarding this event, please contact the event's POC:
TAP Operations Region Manager, VATAPRM.vbaco@va.gov

15-Minute Briefings

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- Who are you?
- Where are you located?
- Best way to reach you? Phone/email?
- What do you do? How long?
- Why file a BDD claim?
- What is VA looking for in your medical records?
- What to expect once claim is submitted?
- What happens after rating decision?

Tips

- Dress and Appearance
- Business Casual- No jeans, shorts, t-shirts, wrinkles
- You are representing the VFW organization
- No Slides
- Recommended:
- 9 mins of how to prepare for VA claim submission
- 6 mins of questions
- This is not a membership drive

VETERANS OF FOREIGN WARS®

Questions?



Veterans Benefits Management System (VBMS)

Lesson Objectives

- What is VBMS
- How to gain access to VBMS
- How filters work in VBMS
- Navigating VBMS
- The life of a claim in VBMS
- VA Employees and duties in VBMS
- Checking the status of a claim
- Navigating VBMS and helpful tips (Live Demo)

What is VBMS?

The Veterans Benefits Management System (VBMS) is an electronic database that contains claims that are submitted to VA.

VBMS allows representatives to see a claim folder in real time; access includes rating decisions, exams, medical evidence, appeals correspondence with VA, and more.

How to gain access to VBMS

In order for a representative to be granted access to VBMS, they must complete VA sponsored TRIP training and be issued a PIV Card.

To obtain a PIV card contact your VA Regional Office (VARO) Change Management Agent (CMA)

It is **against the law** for representatives to share their PIV cards with others.

If you share your PIV card it will lead to **your accreditation being removed and/or legal action.**

Logging into VBMS

To log onto VBMS you must be behind the VA Firewall. For those who are located in a VARO, this is automatic.

Remote representatives will need to use either Citrix or Cisco to connect to VA's intranet and access VBMS. If VA imaged your laptop, you will be using Cisco, if not you will be using Citrix

Remote access must be requested from your CMA and should be done when obtaining your initial PIV Card

Logging into VBMS

To log into VBMS visit VBMS.VBA.VA.gov while behind the VA firewall or ask your VA IT department for assistance by having them place the VBMS Icon on your desktop.

After entering your PIV card information, you will need to enter your Station ID, which is the three-digit number of your assigned Regional office.

A complete list of all VARO station IDs can be found in the VFW-provided job aid section of the OLP Resources.

First time in VBMS

The first time you log into VBMS, it will take a few minutes to load as the software is loading over 1,500 claims into your All Claims Queue.

To expedite how quickly VBMS loads, you can use VBMS Filters to only show claims for veterans in your state.

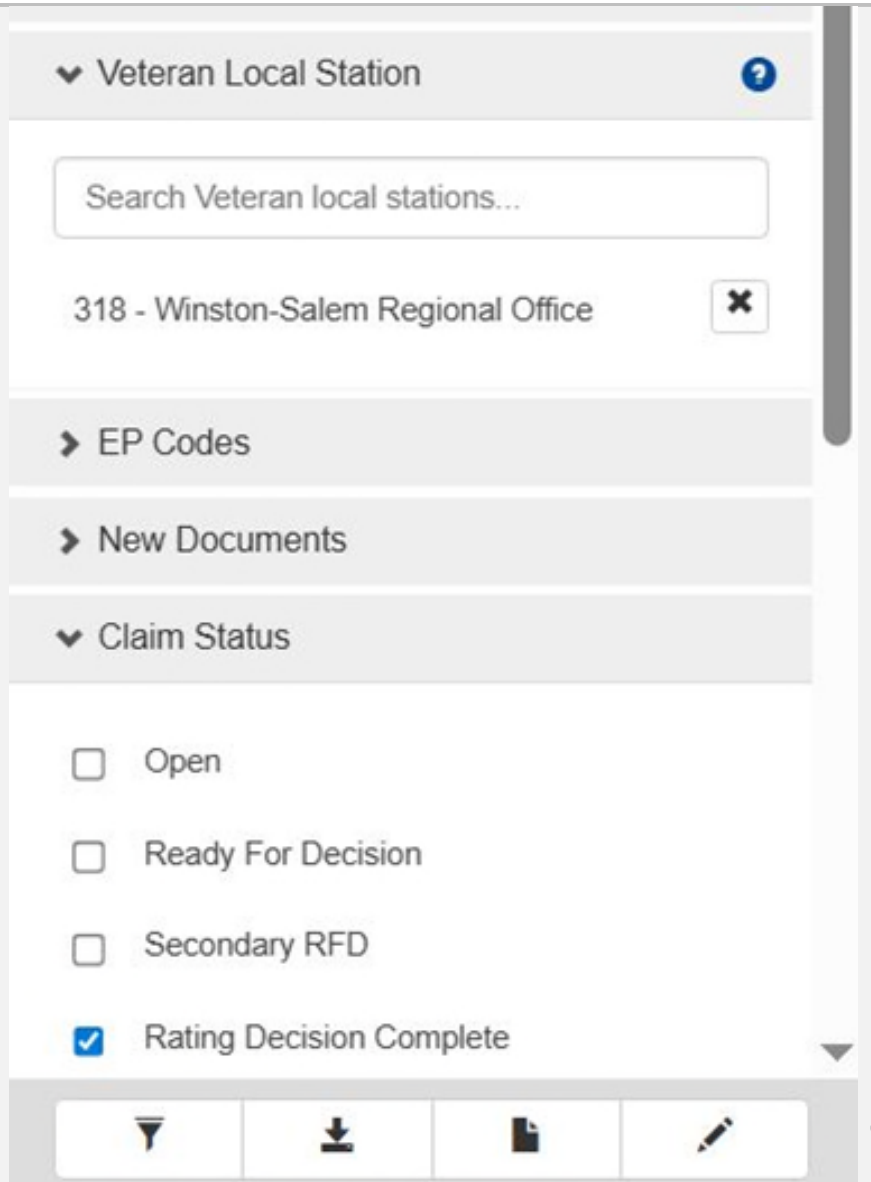
Setting up the All Claims Queue Filters

To filter the results of the All Claims Queue to only show claims in your state make sure these boxes are checked in the VBMS Column:

POA: VFW

Veteran Local Station: Your State RO

Claim Status: Rating Decision Complete



How filters work in VBMS

Without filters, VBMS will display all claims associated with your POA.

- Each Filter helps sort your listing into a smaller category
- More filters = Fewer results in the listing
- Only filters with an entry are in use, blank entries do nothing

Claim Station vs Local Station

Claim Station: The VARO that the claim has been assigned to.

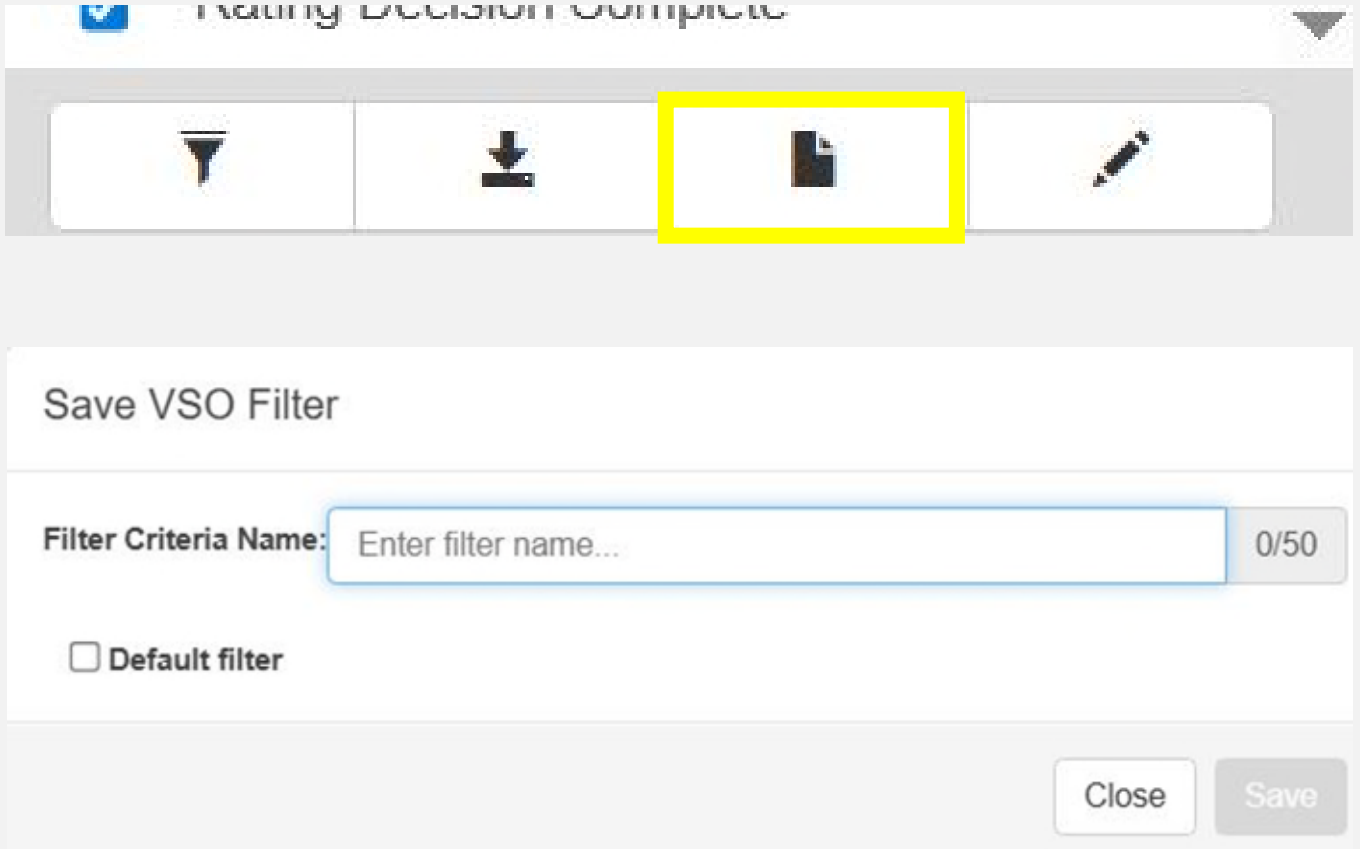
Local Station: The VARO located in the area the veteran resides in.

National Work Queue: If a claim has not been assigned to a claim station, it defaults to the National Work Queue (NWQ - Claim Station 499)

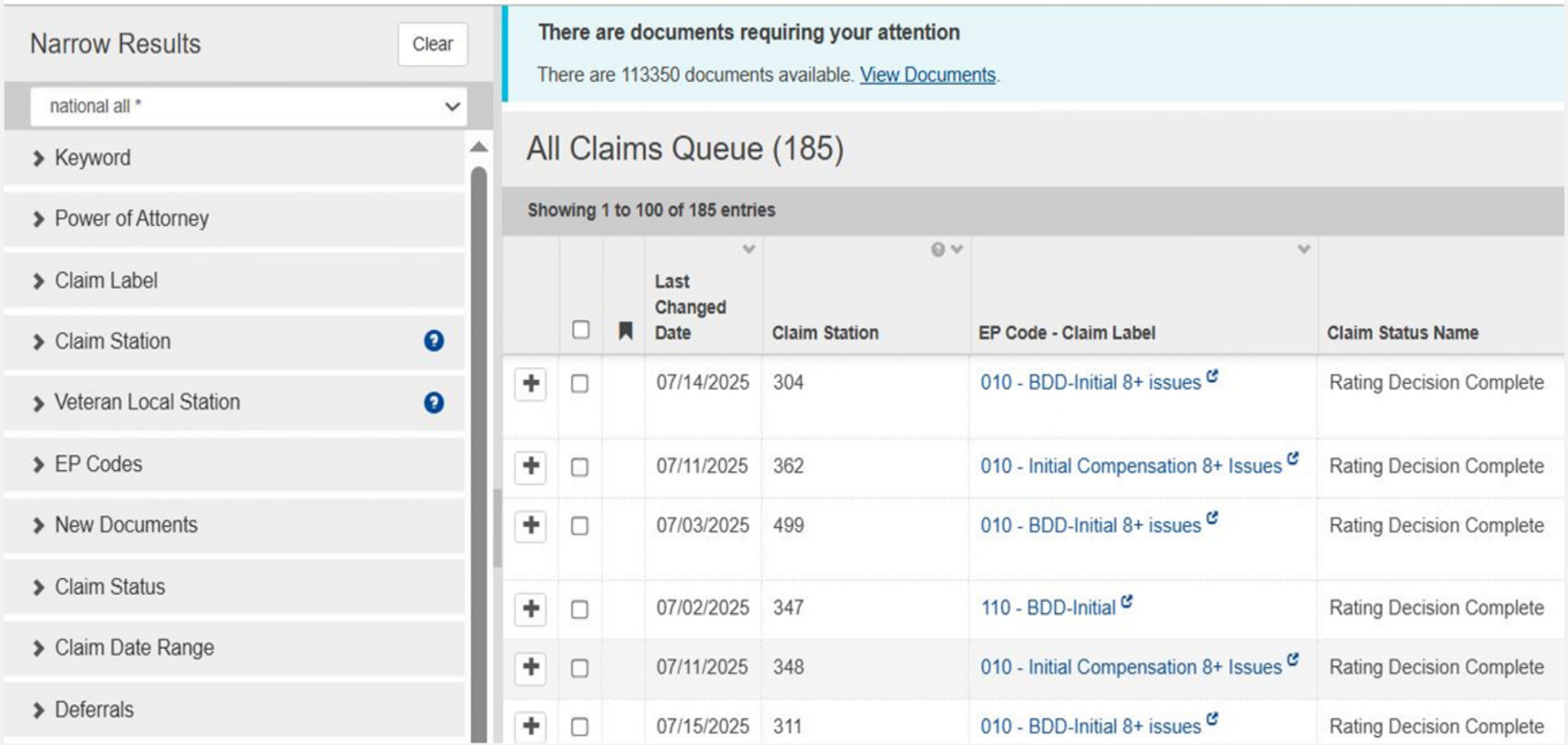
Setting up the All Claims Queue Filters

Once your filters have been added Click the “Save New Filter Button” at the bottom.

This will allow you to name the new filter and make it your Default Filter. With that option set VBMS will now display in the All Claims Queue with only the filtered results each time it is opened.

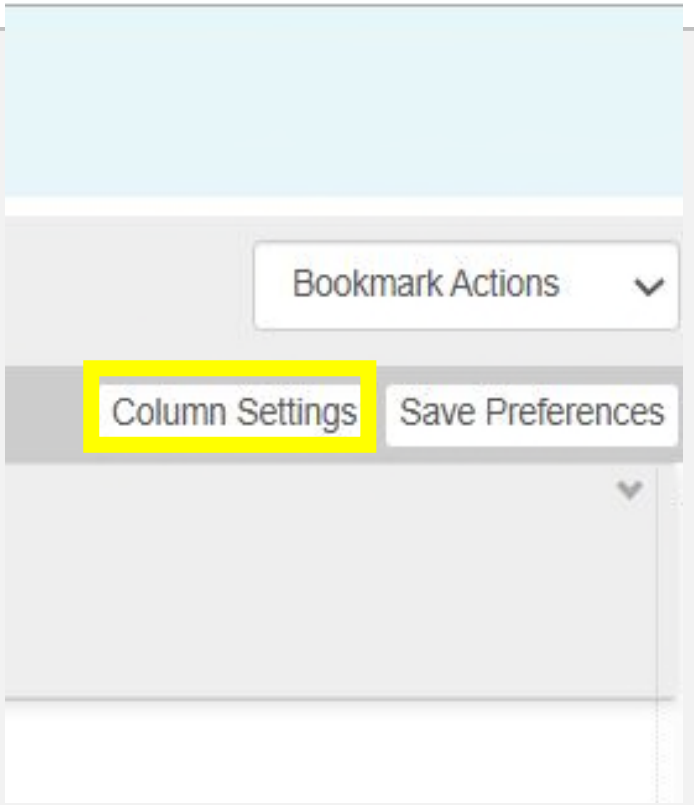


The VBMS Home Page



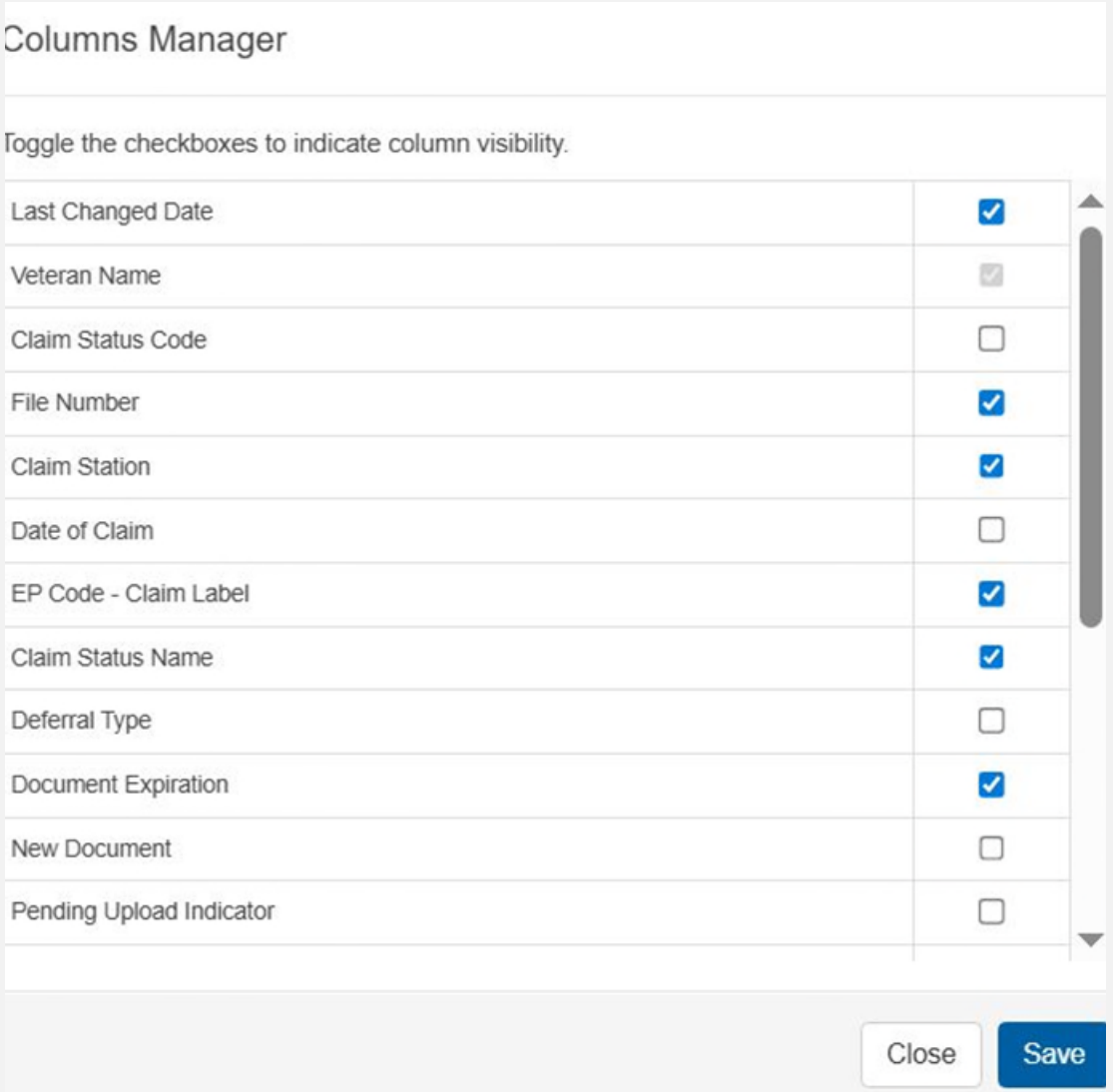
VBMS Home Page Personalization

The VBMS Home Screen can be personalized to show only columns that you want to be displayed. To edit the displayed columns click on “Column Settings to be taken to the Column Manager Screen



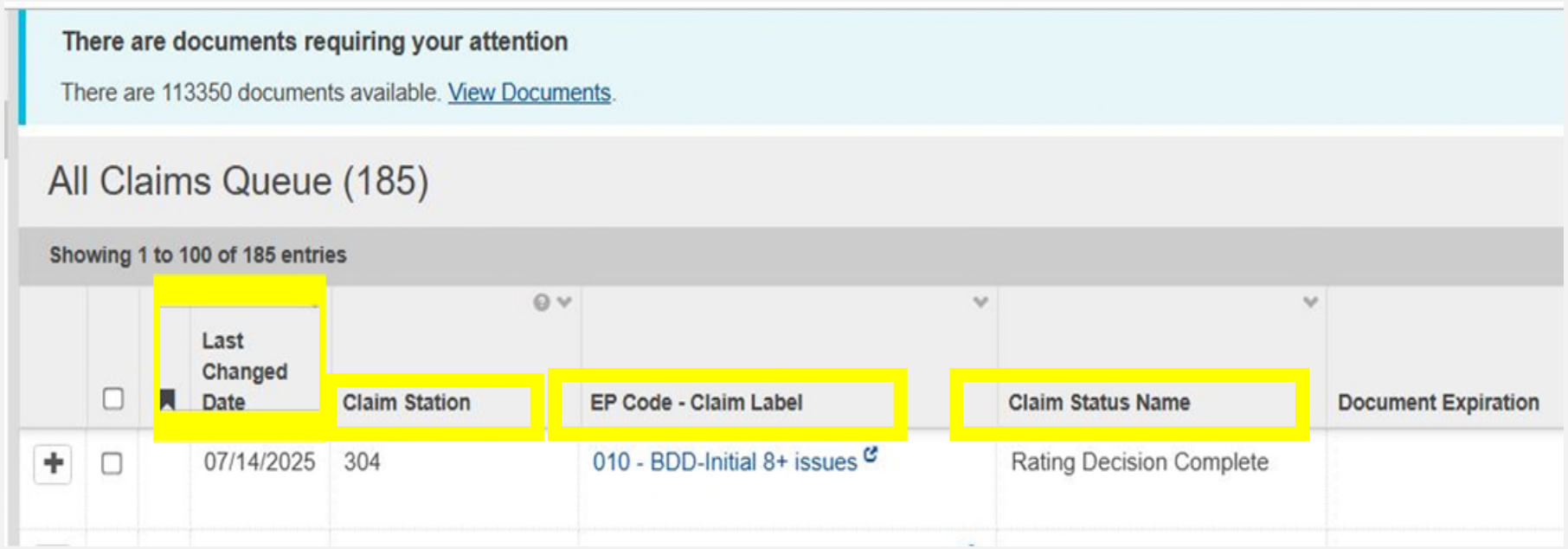
VBMS Home Page Personalization

Users now have the ability to select what columns are displayed from the Column Manager list by selecting the item and clicking save.

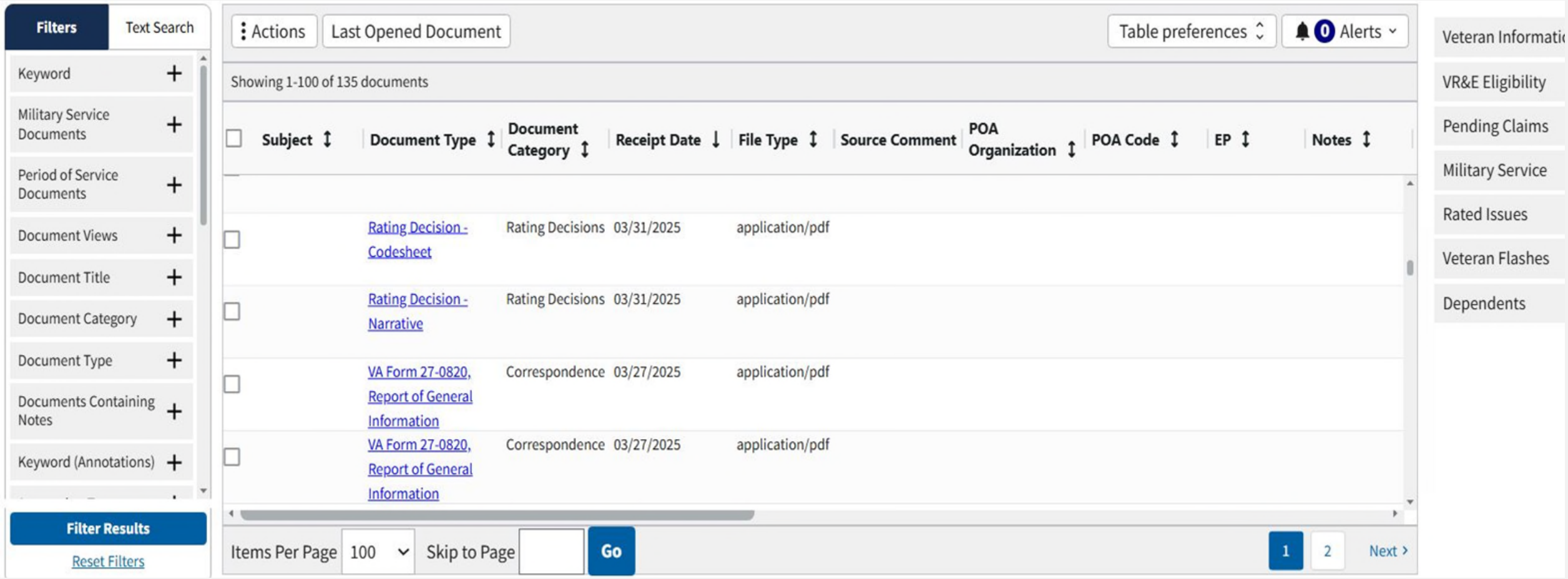


The VBMS Home Page

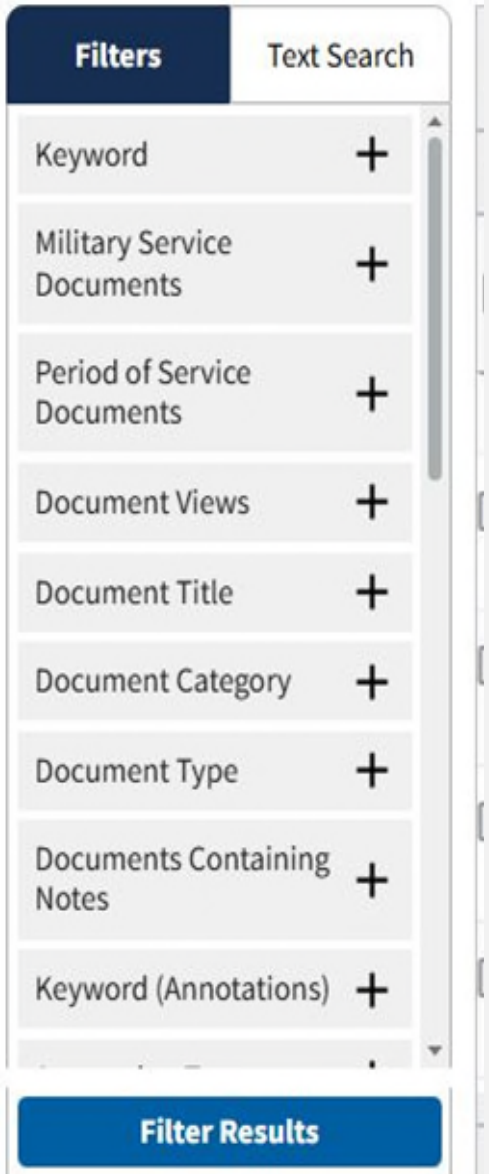
The Columns that users have added can be placed in whatever order the users would like by clicking and holding on the column and dragging it into position.



The Veteran Home Page



The Veteran Home Page- Searching



Users have the ability to filter the results in the Veteran's folder by searching for Keyword of documents such as Narrative or C&P Exam.

Users can also search the contents of all documents through a Text Search by typing in a word and if it is contained in a document in the veteran's folder it will be displayed.

The Veteran Home Page- Personalizing

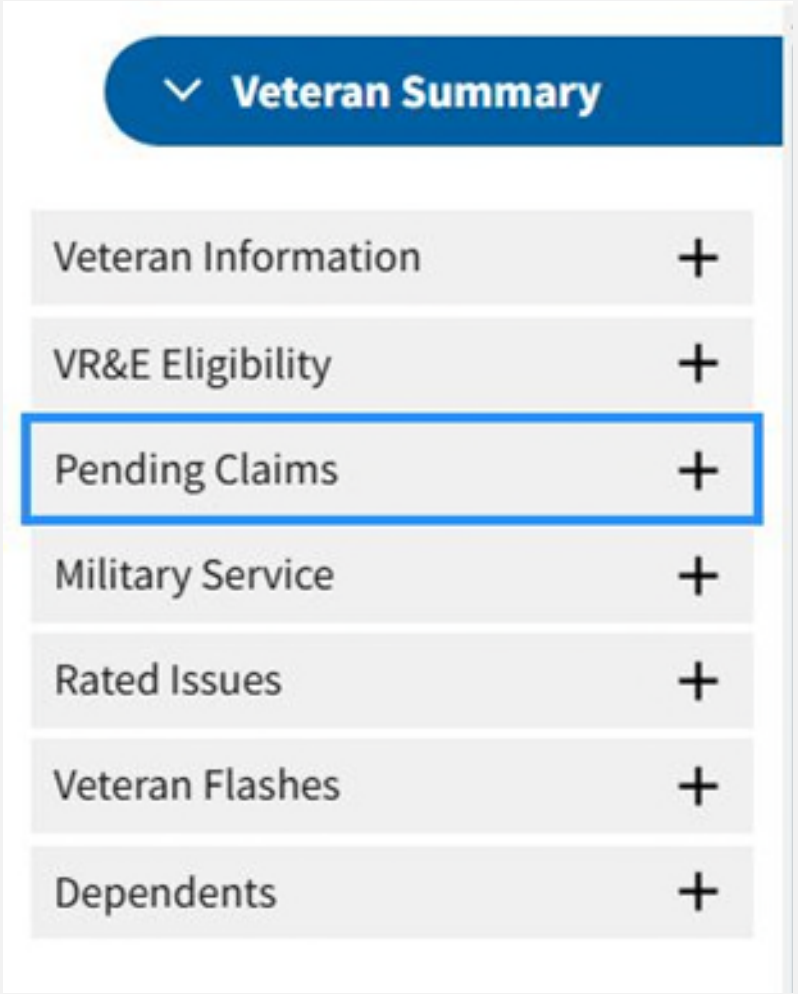


Columns in the Veteran Folder can also be personalized by clicking on Table Preferences and dragged into position like in the VBMS Home Screen.

Clicking on the headers of a column such as the “Receipt Date” will filter all results to show the most recent or the earliest documents received into the veteran folder.

The Veteran Home Page- Extra Info

The Veteran Summary section contains an overview of useful information about the veteran's military service, rated issues and lists any dependents claimed already.



The life of a claim in VBMS

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The life of a claim in VBMS

1. Claim is submitted to VA
2. VA scan site in Janesville, WI receives the claim and uploads it into VBMS, this creates an End Product code (EP). This may take a few hours but can take several days or weeks
3. Claim and submitted evidence is uploaded into VBMS; the claim is placed in the National Work Queue (Station 499) until it is assigned to be worked at a VARO
4. Claim is assigned to a team who will develop the claim by soliciting evidence, requesting records, and scheduling exams. The VSR handles the development of the claim

The life of a claim in VBMS

The life of a claim in VBMS continued

5. Veteran attends C&P Exams if needed. C&P exams may be conducted by VA or a 3rd party contractor typically QTC, VES, or LHI.

6. Exams are reviewed by the contract examiner quality team then released to VA.

7. RVSR reviews the totality of the evidence and generates a rating

8. The rating is reviewed by a VA awards/promulgation team who activates the benefit and sends a notification letter to the veteran.

VA Employees and duties in VBMS

VA Employees and their responsibilities

VSR:	Developments the claim, solicits evidence, and schedules exams.
RVSR:	Reviews all evidence and determines the claim's outcome. If your VARO allows, the RVSR is your go-to person if you have questions about a claim.
Assistant Coach:	Assistant supervisor of a team of RVSRs and VSRs. Can perform all roles of VSR and RVSR in addition to pulling ratings from other stations

VA Employees and duties in VBMS

VA Employees and their responsibilities

Coach: Supervisor of a team of RVSRs and VSRs. Can perform all roles of VSR and RVSR in addition to pulling ratings from other stations

DRO: An appeals specialist. When a Higher-Level Review is submitted, it is reviewed by a DRO. DROs are great sources of information

CMA: Your default POC within the VA

Checking the Status of a Claim in VBMS

VBMS provides insight into what is happening with a veteran's claim in multiple different ways including:

1. Veteran Documents to see the latest documents regarding the claim

2. Claim EP and its Chevrons like Contentions, Development, and Exams which show what VA is tracking and the actions they need to work on

3. Claim Notes showing behind the scenes actions with the claim and who the claim is currently assigned to

Using VBMS Documents to check Claim Status

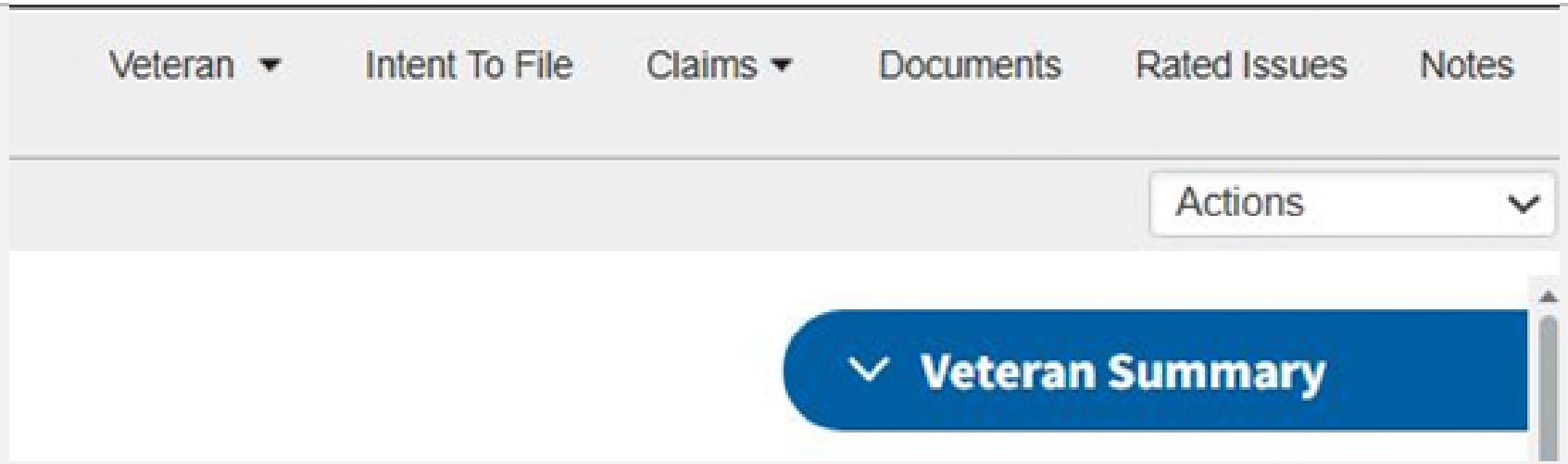
Using VBMS Documents to check a claim status is the first step in understanding what is happening; to do this follow these steps:

1. Open the veteran folder in VBMS by typing in their SSN in the search bar and clicking Open **eFolder**
2. Update your **Table Preferences** to show Subject, Document Type, and Receipt Date
3. View most recent document and work backwards to understand the latest actions with the veteran's claim and what VA is working on.

For example, if a recent document is a notification letter to the veteran asking them to send in a document regarding their claim; the claim is paused until this document is received.

Claim EP's and their Chevrons

At the top of the Veteran's folder you will see tabs to different pages within the veteran folder including:



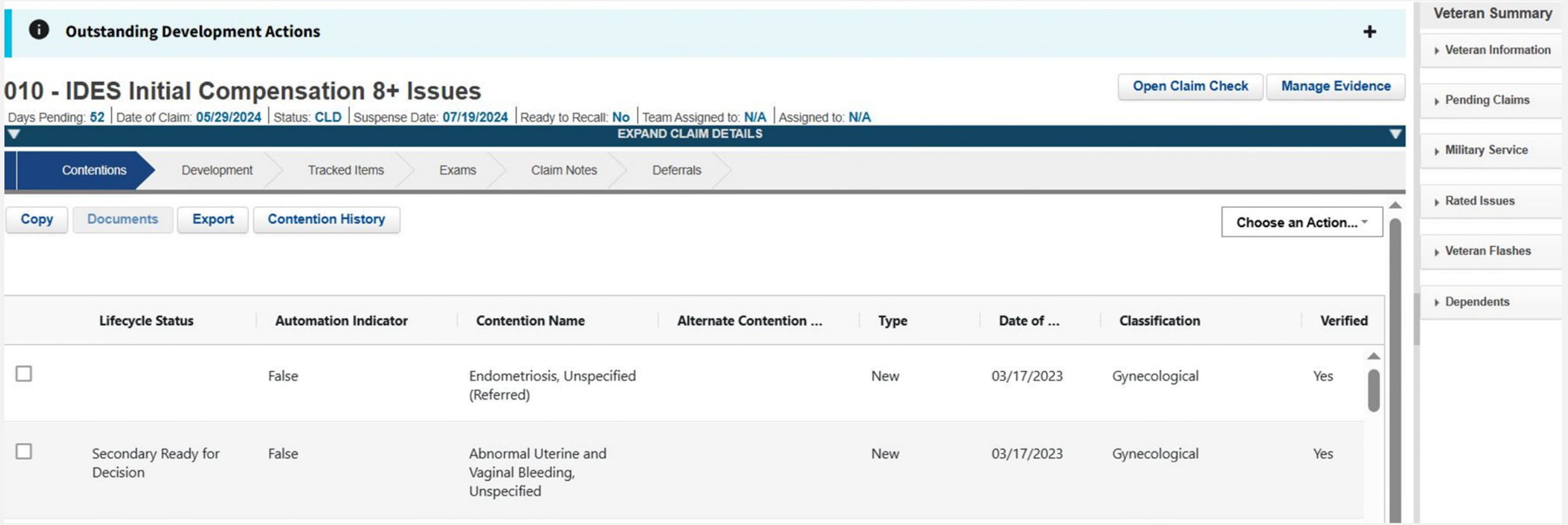
Veteran: Shows additional information such as dependents and military service

Intent to File: Shows if there is an active ITF

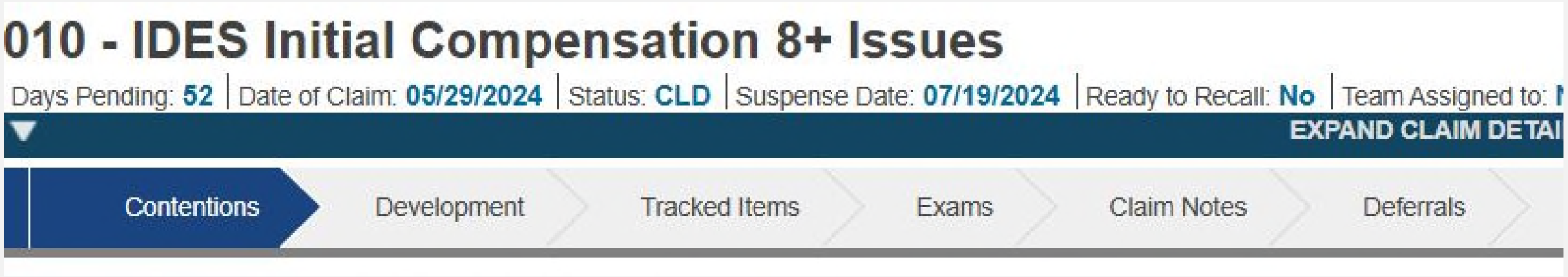
Claims: Shows Active EP and legacy Ep codes for the veteran's claim

Claim EP's and their Chevrons

Clicking on the Claims section and selecting the active EP takes the user to the claim details page as seen below:



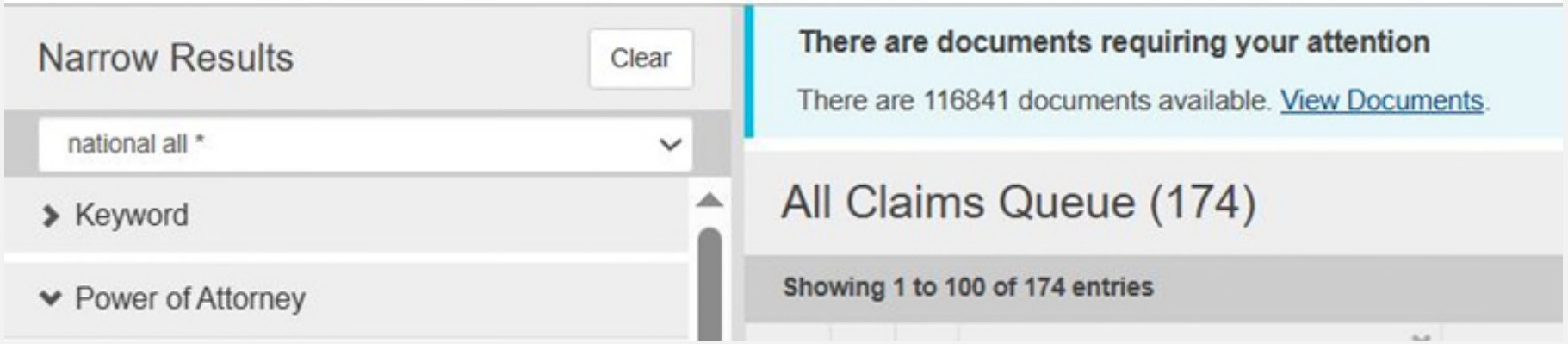
Claim EP's and their Chevrons



Each Chevron inside the Claim Detail page takes the user to that Chevron's page within the veteran's folder.

We've Notified your POA…

When a veteran receives a notification letter at the bottom the letter states that VA has "notified" the veteran's VSO of their decision; this "notification" is then sent into our VSO Notification queue which can be found on the VBMS Home Screen.



Clicking on "View Documents" takes you to the **VBMS Notification page**.

The VBMS Notification Page

The Notification page displays **all VFW notifications** and must be filtered to show notifications only for your office.

The filtering process works the same here as it does on the main page of VBMS.

VBMS Notification filter Categories

VBMS Notifications filter into 6 Categories:

- Appeal
- Development
- Due Process
- General
- Notification
- Medical Records

VBMS Notification Filter Descriptions

Each of the six categories governs another filter called “Descriptions”

Descriptions are more refined filter results of the chosen category.

For example, the Appeal Category governs the following Descriptions/Documents:

- BVA Decision
- CAVC Decision
- Appeal Notification Letter
- BVA General
- Appeal Satisfaction Notice

A complete list of Category and Description/Documents can be found at the end of this presentation.

Common VBMS Filters

3 MOST COMMON FILTER SETTINGS

- Notifications
- BVA/CAVC Decisions
- Correspondences

VBMS Filters For Notifications

- Document Status – Default is new documents
- Power of Attorney – VFW
- Date of Document – Date or dates you want to search
- Categories – Choose Notification and Correspondence
- Descriptions – Leave Blank
- Local Station – This is your RO
- Zip Code – Leave Blank
- File number – Leave Blank
- Award Station – Leave Blank
- System Source – Choose VBMS and VBMS-UI

With these filters in place, the vast majority of the results will be decision letters that you can review for errors and use for reports

VBMS Filters For BVA/CAVC Decisions

- Document Status – Default is New Documents
- Power of Attorney – VFW
- Date of Document – Date or dates you want to search
- Categories – Leave Blank
- Descriptions – Choose BVA Decision and CAVC Decision
- Local Station – This is your RO
- Zip Code – Leave Blank
- File number – Leave Blank
- Award Station – Leave Blank
- System Source – Leave blank

With these filters in place, only BVA/CAVC letters will populate for review.

VBMS Filters For Correspondences

- Document Status – Default is New Documents, Acknowledged should be reviewed as well
- Power of Attorney – VFW
- Date of Document upload – Date or dates you want to search
- Categories – Leave blank
- Descriptions – Choose correspondence
- Local Station – This is your RO
- Zip Code – Leave Blank
- File number – Leave blank
- Award Station – Leave blank
- System Source – VBMS-UI

With these filters in place, you can look at letters to see if something needs to be corrected, i.e.: claim on the wrong form, missing signature

TVB Veteran Intake Queue

In 2025 the VFW partnered with MyVetBenefits (MVB) to allow their users to request VFW assistance with VA claims. These referrals come directly to TVB and are placed in the Veteran Intake Queue. To accept these referrals and have a TVB folder created, for the referral please follow these steps:

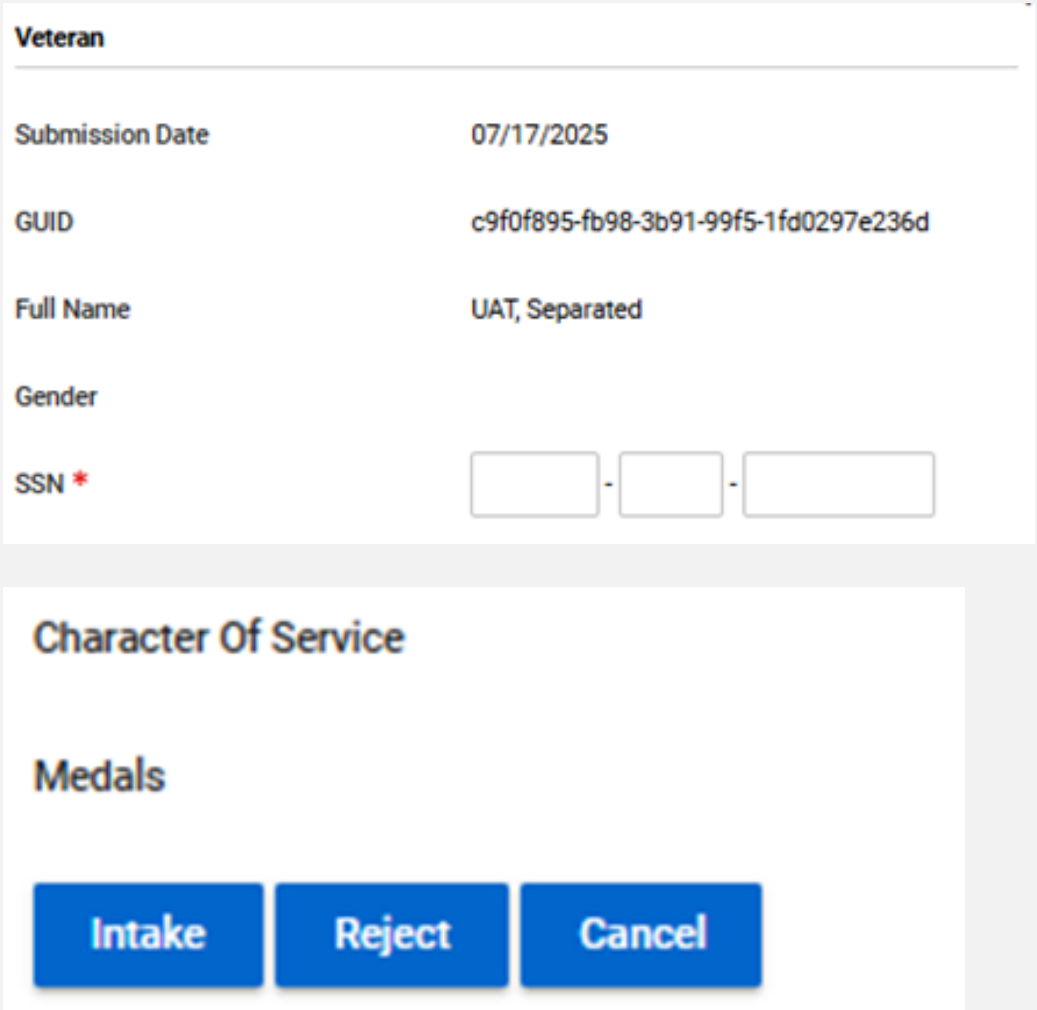
Step 1 From the TVB Column, go to Queues and Select Veteran Intake.

Step 2 The Veteran Intake Queue will appear and users will need to select referrals from their state

TVB Veteran Intake Queue

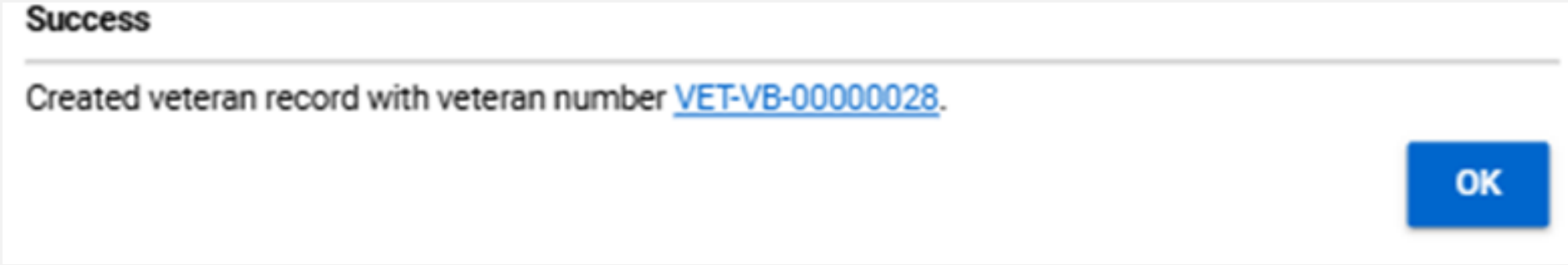
Step 3 Once a referral is clicked, contact will need to be made with the veteran to obtain the Required Social Security Number to complete creating the TVB

Step 4 With the SSN captured users will scroll to the bottom of the referral and click **Intake**



TVB Veteran Intake Queue

Step 5 Clicking Intake shows that the referral was successful and provides the user with the TVB Number for the newly created veteran folder.



Some referrals might come in from active-duty service members wanting to file a BDD claim. These referrals **Are Still Handled By Your Office** but are marked as BDD to provide insight into their claim needs.

Accredited Representative Portal

The Accredited Representative Portal (ARP) is a secure, user-friendly system that streamlines the power of attorney and claims process for representatives and the Veterans they support

How to set up your account

1. Before using the Accredited Representative Portal, you will need to set up a Login.gov account and associate it with your email on file with the VA's Office of General Counsel (OGC). Here are instructions to walk you through this process.

2. Identify the email you have on file with the Office of General Counsel (OGC) If you're unsure which email you have on file with OGC, look yourself up using the Find a Representative tool on VA.gov to see which email is on file.

3. Create a Login.gov account

4. Login.gov is a secure way to sign into many government websites using just one account. Follow the instructions on Login.gov for creating an account. Login.gov recommends that you use a personal email that you will always be able to access. However, it is also appropriate to use your work email address.

How to set up your account

5. Associate your OGC email with your Login.gov account

6. If you did not use your email on file with OGC as your primary email for Login.gov, you will need to add the OGC email to your account. While signed in to Login.gov, go to the account page and select “Add email address” from the menu of options under “Your Account.” Enter your OGC email address and follow the prompts to confirm the address.

7. Once the Accredited Representative Portal officially launches, you can sign in

8. Sign into the portal at va.gov/representative. If you have trouble signing in, refer to the troubleshooting section for next steps.

Frequently Asked Questions

Can I use ID.me instead of login.gov?

- The portal does not currently support sign in using ID.me during this pilot phase. We will be adding this functionality in the future.

In the past, I used ID.me to log into SEP (Stakeholder Enterprise Portal). Will the same sign in method work for ARP?

- Once we support ID.me as a sign in method, you will be able to use the same ID.me account for signing into the portal. Make sure to add your email on file with OGC to your ID.me account, either as a primary or secondary email.

Frequently Asked Questions

Can I use my PIV card to log into the portal?

- Yes, you can set this up using Login.gov. After creating your Login.gov account and associating it with the email on file with OGC, add your PIV card as an authentication method under “Add your government employee ID”. Next time you sign in, select the “Sign in with your government ID” option on the sign in screen. In the future, we may consider adding functionality to allow direct PIV login.

ARP TIMELINE

VETERANS OF FOREIGN WARS.

September 2025 ARP Launch

- Accept or decline requests for representation (VA Form 21-22) RQAS completes this for you
- Submit VA Forms 21-686C/21-674 currently does not give 24-hour approval
- Submit VA Form 21-526EZ

ARP TIMELINE

VETERANS OF FOREIGN WARS.

October 2025 Transition to ARP

- New applications must be initiated through ARP

- Requests of representation pending in SEP can be accepted or declined until early December 2025 (RQAS will handle).

ARP Timeline

November 2025 Decommission eBenefits

- Veterans will need to use VA.gov fully by early November 2025

December 2025 Decommission SEP

- Accredited representatives will need to use ARP fully by early December 2025

VBMS Live Demonstration

For this live Demo we will be using VBMS's testing website which doesn't contain PII.

In this demo we will show you:

- How to set up VBMS Filters
- How to set up and clear VBMS Notifications
- Ways to navigate the veteran folder including VBMS Notes and Chevrons
- How to check the status of the claim and who to contact if there is an issue with a claim
- Tips and Tricks to VBMS

All Description/ Document types and Categories

Description/ Document Type	Category
BVA Decision	Appeal
CAVC Decision	Appeal
Appeal Notification Letter	Appeal
BVA- General Correspondence	Appeal
Appeal Satisfaction Notice	Appeal
MAP-D Development Letter	Development
Standard 5103 Notice	Development
Custom 5103 Notice	Development
Subsequent Development Letter	Development
Federal Third-Party Reserve or Guard Unit Records	Development
Federal Letter PTSD Request of Vet Center Records	Development
Federal Letter PTSD Obtain Investigative Reports	Development
Federal Letter PTSD diagnosed, Confirm Stressor, to MC	Development
Initial Private 3rd Party Letter	Development

All Description/ Document types and Categories

Description/ Document Type	Category
Informal Claim Letter	Development
Initial Private 3rd Party Letter, 21-4192	Development
Final Attempt Letter	Development
Request final hospitalization and autopsy findings	Development
Request report of accident investigation- CPD	Development
Public Record- request for certified copy	Development
Prison Development- 21-4193 Needed	Development
1151 Development to VAMC	Development
IDES Return to Duty Letter	Due Process
Proposed Incompetency Letter	Due Process
Proposal to Reduce Service-Connected Compensation	Due Process
Proposal to Reduce Failure to Report for an Exam Letter	Due Process
Proposal to Reduce School Child Verification Letter	Due Process
Character of Discharge Letter	Due Process

All Description/ Document types and Categories

Description/ Document Type	Category
Drill Pay Letter	Development
Proposal to Reduce Failure to Submit Dependency Questionnaire	Development
DIC Dep Questionnaire not submitted	Development
Proposal to Reduce Pension Claimant in Medicaid Approved Nursing Home	Development
Apportionment Notice to Claimant	Development
Apportionment Notice to Veteran	Development
Proposal to Remove A&A, Discharge from Nursing Home	Development
Proposal to Reduce improved Pension, Claimant in Domiciliary/Nursing Home	Development
Proposal to Reduce Claimant No Longer P&T	Due Process
Proposal to Stop A/A for VAMC Admission and Restore	Due Process
Proposal to Stop A/A for VAMC Admission and Reduce for Domiciliary/Nursing Home	Due Process

All Description/ Document types and Categories

Description/ Document Type	Category
Correspondence	General
Returned Mail	General
Apportionment Decision	Notification
Notification Letter e.g. VA 20-8993, VA 21-0290, PCGL	Notification
Burial Letter	Notification
C&P Exam	Medical Records
Exam Request	Medical Records
VA 21-2507a Request for Physical Examination	Medical Records

2025 Skill Level Training Conference: VBMS

Please scan the QR Code or click on the link below to take an anonymous survey about your experience during the 2025 Skill Level Training Conference.

https://www.research.net/r/DNVCZ5Poutdated

VETERANS OF FOREIGN WARS®

Veteran Communication

What’s to come

- 3 Basic parts to all communication
- Tips to ensure clear communication
- The storytelling veteran…
- The emotional veteran
- Setting boundaries
- Following up with the veteran

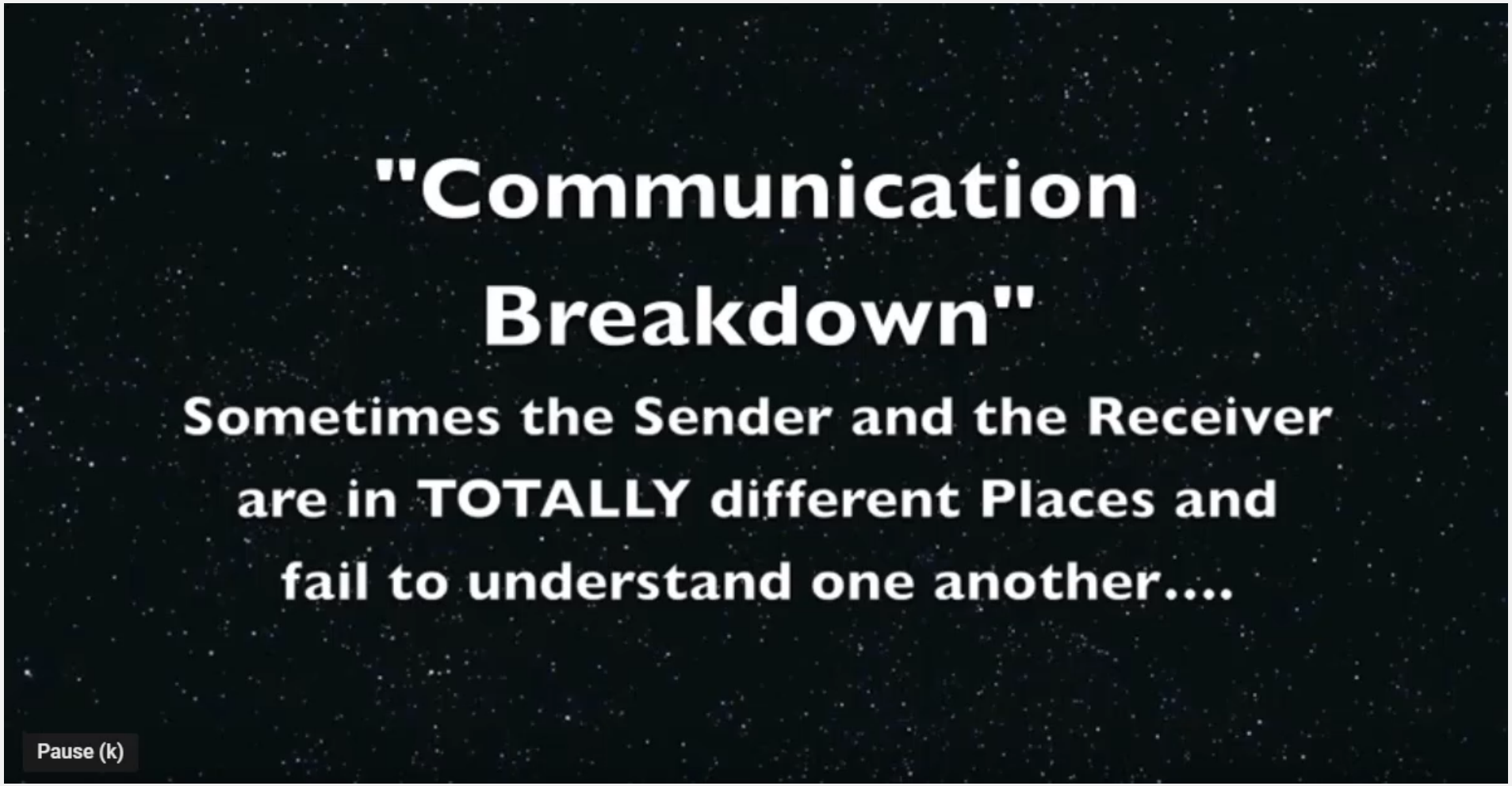
VETERANS OF FOREIGN WARS.

You can always tell a veteran…. You just can’t tell them much…..

3 Basic parts to all communication

- The sender of the information
  - Generally, the accredited representative for our purposes
- The message to be sent
  - Processes (Claims, Appeals, Reviews, etc)
  - Background
  - Evidence needs
- The receiver of the information
  - The veteran or spouse or both….

Communicating with Veterans



https://www.youtube.com/watch?v=7di5zAMMxaI&t=46s

Tips to clear communication

- Assume nothing about the person sitting across from you, other than he/she served in the United States military.
- Spouse may or may not have any grasp of the military or the VA.
- Unknown factors can include:
  - Innate intellectual level (were they Army…..)
  - Level of education
  - Cultural/regional/religious differences
  - Background and life experiences

Tips for clear communication

- Be precise
- Give examples
- Be careful about using acronyms (e.g., DIC, VSO, etc.)
- Be careful about using pronouns that have no reference (e.g., “he” said, “they” don’t want you to do this or that, etc.).
- Does the client exhibit non-verbal behavior that suggests he/she is puzzled or confused?

Tips for clear communication

- What is the method of communication? (Phone, Zoom, In-Person)
  - Different methods have different challenges
- Know your goal for the meeting/session
- At the beginning of the session, provide a brief outline of the agenda. (e.g., Today I thought we could go over your written trauma account and then check to make sure you covered all the criteria and information asked for.)
- Review relevant policies
- Be organized; have handouts and other written material available, or know where to access the material on the internet for easy distribution.
  - Bookmarking common websites (PACT Act, Agent Orange, Pension, ECFR)

Tips for clear communication

- *** Ensure meetings/sessions are not too lengthy. The average person’s attention span is seconds to minutes, not hours.

- ***Discussing emotionally-laden material can add to a person’s level of fatigue and distractibility.

Tips to ensure receiver understands

- This is harder to do because the sender (that’s you!) has much less control over how the receiver (that’s the other guy or gal) interprets what you say

Tips to ensure receiver understands

- Be a good listener!!!!!!!
  - We have to allow the veteran/spouse/family member to talk
- Notice his/her body language and facial expressions
- Have him/her summarize what he/she just heard you say
- Encourage him/her to ask questions

Chatty veterans

- Try to steer conversation back to topic at hand
  - Look for natural breaks in the story to bring it back on track
- Ask more closed-ended questions (yes or no)
- Remind the veteran of time constraints
- Re-direct veteran/spouse or family member to topic and re-direct again and again
- Comment on the process in the room
  - e.g., you seem to have a lot to talk about today, but unless we stay on track, we won’t accomplish our goal

Emotional veteran or others

- Identify what the emotion is from
  - PTSD
  - Death of the veteran
  - Frustration with VA or the situation
  - Others
- Descalate
  - Calm yourself
  - Lower your voice/use non-threatening tone
  - Encourage veteran to take a slow, deep breath
  - Remind yourself to take a slow, deep breath
  - Offer a break to the veteran
  - Offer to re-schedule
  - Offer yourself a break!!

Setting boundaries

- VSOs, DSOs, Claims Consultants, and Accredited Representatives are not there for anyone to mistreat or walk all over.
- NVS Policy and procedure provides guidance on what is and what is not acceptable conduct.
  - Revocation of POA is possible; DSO can revoke if warranted
  - Contact your RQAS for clarification on procedures to revoke
- Tough love may be required with any of our clients and should be utilized with tact and empathy.

Setting boundaries

- Manage expectations
  - Provide realistic timelines for contact
  - Explain when the veteran may hear from a VFW representative again.

- Set the veteran/client up for success by explaining what to expect next
  - Letters from VA (Claim has been filed, ITF acknowledgement, Development letters)
  - Contracted exams (Possible names of vendors, methods of contact, what happens if they don’t report)
  - Other examples?

Following up with the veteran

- When should an accredited representative reach out?
- How often?
  - Depends in many cases on the client load and availability
  - How much is too much…?
- If a veteran calls, can you email them instead of calling back?
  - Is the client computer savvy?
  - Can the question be answered effectively via email?
  - Will this satisfy the veteran?

Final thoughts

- Communication is key to the success of our veterans and their families
- Remember to listen as well as talk
- Boundaries are important!
- Taking a few minutes early in the process to explain what to expect can save you hours down the road

VETERANS OF FOREIGN WARS®

QUESTIONS?

VETERANS OF FOREIGN WARS®

Getting to know Medicare

A guided tour and introduction for veterans and their families



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Y0040_GHHK9YGEN_C

Today we'll cover:

- Medicare eligibility and enrollment options
- Medicare options
- VA healthcare and Medicare
- How Medicare works alongside your veteran coverage
- Helpful resources



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Are you eligible for Medicare?

You're eligible for Original Medicare (Parts A and B) if:



You're at least 65 years of age (even if you still work)

OR



You're under 65 and qualify due to a disability or other special circumstance

AND



You're a U.S. citizen or a legal resident who has lived in the U.S. for at least 5 consecutive years

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Medicare enrollment periods, explained

Initial Enrollment Period

If you're enrolling in Medicare for the first time, you have an Initial Enrollment Period (IEP) that begins 3 months before and ends 3 months after you turn 65. It begins and ends 1 month earlier if your birthday is on the first of the month.

Annual Enrollment Period

Oct. 15 – Dec. 7

During the Annual Enrollment Period (AEP), you can add, drop or switch your Medicare coverage.

Open Enrollment Period

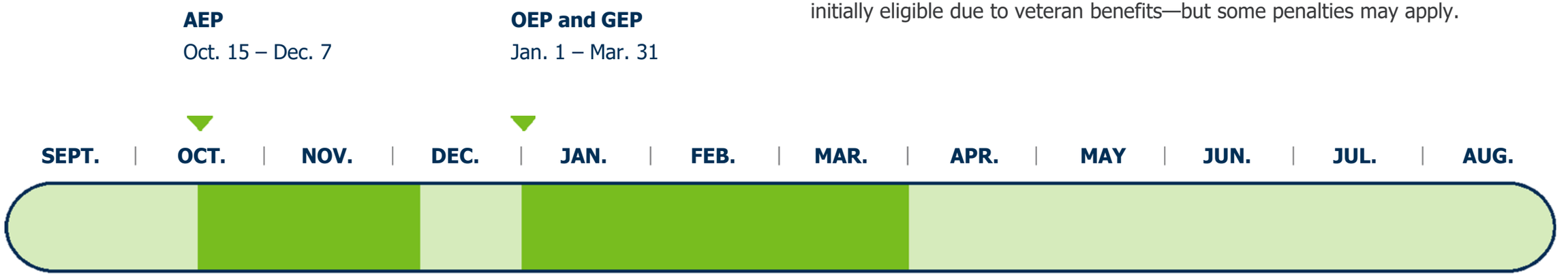
Jan. 1 – March 31

If you already have a Medicare Advantage (MA) plan, you may enroll in another MA plan or go back to Original Medicare during the Open Enrollment Period (OEP). You may only make 1 change within the period.

General Enrollment Period

Jan. 1 – March 31

If you didn't sign up for Original Medicare during your IEP, you get another chance during the General Enrollment Period (GEP). You may not face a fee or penalty due to VA coverage—for example, if you didn't take Medicare when you were initially eligible due to veteran benefits—but some penalties may apply.

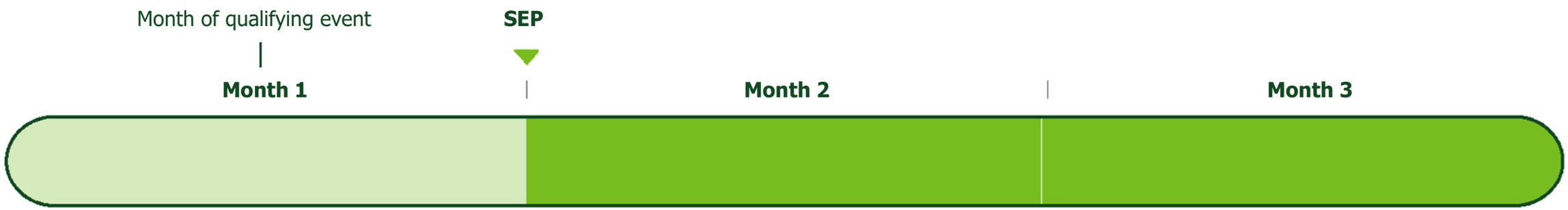


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Special Election Period

A Special Election Period (SEP) is an opportunity to enroll in, change or drop your Medicare Advantage or Part D prescription drug plan (PDP) outside of the AEP due to a qualifying life event—without penalty. You generally have 2 months after the month of the qualifying event to make a switch, though specific dates will vary for each person's situation. Qualifying life events may include:

- You've been diagnosed with a qualifying chronic health condition.
- You've moved to a permanent residence outside of your current MA plan service area.
- You qualify for Extra Help.
- You're retiring and losing employer coverage.
- Your plan is not renewing its contract with the Centers for Medicare & Medicaid Services (CMS) or intends to stop providing benefits in your area at the end of the year.



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Understanding your Medicare options

To help you decide the best fit for you, here is an overview of the Medicare options and what each one covers.

Step 1 **Enroll in Original Medicare—offered by the federal government.**



Part A helps pay for hospital stays and inpatient care.



Part B helps pay for doctor visits and outpatient care.

- If you don't enroll in Part B when first eligible, you'll pay a penalty if you sign up later. The penalty increases yearly and is for life.
- If you cancel Part B coverage, you won't be able to re-enroll until the next January—and re-enrollment may come with a penalty.
- The late-enrollment or re-enrollment penalty still applies if you have VA healthcare, which does not count as creditable coverage for Part B.

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Understanding your Medicare plan options

To help you decide the best fit for you, here is an overview of the Medicare options and what each one covers.

Step 2

After enrolling in Original Medicare, you can explore additional coverage—offered by private companies.

Option 1: Switch to a Medicare Advantage plan.

OR

Option 2: Add one or both of the following to Original Medicare.



Medicare Part C (Medicare Advantage) is made up of Part A, Part B and can include Part D (prescription drug coverage) as well as additional coverage.



Medicare Part D is a stand-alone prescription drug plan.



Medicare Supplement insurance (Medigap) plans help pay for some of Original Medicare's out-of-pocket costs.

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Benefits not available through Original Medicare (Parts A and B):



Most prescription drugs



Long-term care



Most care outside of the U.S.



Eye exams, glasses and contact lenses



Gym memberships and wellness benefits



Hearing exams and hearing aids



Help with activities of daily living, like eating and bathing



Routine dental exams, cleanings and X-rays



Personal expenses during hospitalization, like a phone and TV



Hospital and psychiatric hospital stays (beyond a set number of days)

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MEDICARE ADVANTAGE

A few advantages of Medicare Part C for veterans with VA healthcare

- Remains separate from VA healthcare and will not impact a veteran's ability to go to the VA
- Provides additional options to see doctors in the plan network outside of the VA
- Offers emergency coverage outside of the VA
- Offers the same coverage as Original Medicare and may feature additional coverage
- Includes medical and prescription drug coverage in one plan, also known as Medicare Advantage prescription drug (MAPD) plans



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Types of MA plans

HMO

Health maintenance organization

With a health maintenance organization (HMO), you have a large network of providers and generally have to stay within the network, which helps keep your out-of-pocket costs in check.

PPO

Preferred provider organization

A preferred provider organization (PPO) offers a large network of healthcare providers and the flexibility of going out of network for care, although you may pay more.

PFFS

Private fee-for-service

You may have more freedom to choose providers with a private fee-for-service (PFFS) plan, but a network arrangement may still apply. Providers who accept Medicare must bill the plan per its terms and conditions.

PRESCRIPTION DRUG PLAN

Medicare Part D and VA healthcare

A Medicare Part D plan helps pay for your prescription drugs. You can choose:

An MAPD plan, which has both medical and prescription drug coverage with one monthly premium

OR

A stand-alone PDP with Original Medicare

If you have VA healthcare:

You already have creditable prescription drug coverage.

You can use the drug coverage that is cheaper or more convenient for you.

Drug coverage from an MAPD plan or PDP will be separate from your VA drug coverage.

Every plan with prescription coverage has a formulary—a list of drugs it covers.

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PRESCRIPTION DRUG PLAN

Understanding the Part D stages

Most Medicare prescription drug plans have three stages.
(Note that the information below only pertains to Part D prescription drug costs.)



STAGE 1

Deductible—you pay 100%

- You pay all costs until the deductible is met.
- A deductible is the amount you pay of your medication costs before this plan pays its share.
- Deductible amounts and exclusions vary across plans—some plans may exclude commonly used medications from the deductible phase.



STAGE 2

Initial Coverage—shared cost with insurance company

- During the Initial Coverage Stage, the plan pays its share of the cost of your covered prescription drugs, and you pay your share (your copayment or a coinsurance).
- Both you and your insurance plan pay medication costs until your Part D out-of-pocket costs reach $2,000.



STAGE 3

Catastrophic Coverage—insurance plan pays 100%

- During this stage you pay nothing for the remainder of the calendar year.
- The plan pays full cost for your covered Part D prescription drugs.

How Original Medicare works with your TRICARE for Life or CHAMPVA coverage

- You must maintain Parts A and B of Medicare (Original Medicare) to keep TRICARE or CHAMPVA as secondary coverage.
- Coordination of billing is not required.
- You have the flexibility to see any provider who accepts Original Medicare.
- Creditable drug coverage is included with TRICARE and CHAMPVA—copays may apply.

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Medicare Advantage and your TRICARE for Life or CHAMPVA coverage[1]

- If you're only looking for additional coverage, consider a stand-alone dental/vision plan or Federal Employees Dental and Vision Insurance Program (FEDVIP).[2]
- If you decide to enroll in an MA plan, the MA plan will become your primary coverage, and you must see providers in network for that MA plan.
- Accordingly, TRICARE and CHAMPVA beneficiaries should only consider enrolling in an MA or MAPD plan if they can coordinate billing and plan to stay within the MA plan's network for their provider.
- TRICARE and CHAMPVA may help cover copays for in-network providers, **but unlike Original Medicare, coordination of billing will need to be coordinated by you and your providers.**[3]

Note: If you enroll in a Medicare Advantage plan, it will impact the claims process between Medicare and TRICARE for Life. Please reach out to a TRICARE for Life or CHAMPVA representative for more information.

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Sources

1. "Using TRICARE for Life at Veterans Affairs Facilities," U.S. Department of Defense, last accessed March 7, 2024, www.tricare.mil/Plans/HealthPlans/TFL/TFL VA.
2. "Dental Benefits for Retirees and Survivors," U.S. Department of Defense, last accessed March 7, 2024, www.tricare.mil/CoveredServices/Dental/RetireeSurvivorBenefit.
3. "TRICARE For Life Handbook," U.S. Department of Defense, January 2021, last accessed March 7, 2024, www.tricare.mil/-/media/Files/TRICARE/Publications/Handbooks/TFL_HBK.pdf.

Factors to consider when choosing coverage	
Cost	How much will you pay for premiums, deductibles, coinsurance and copayments?
Coverage	Does the plan include prescription drug coverage or other additional coverage?
Network	How does the plan affect other coverage you may have, such as VA healthcare?
Convenience	Are you required to submit claim forms and other paperwork? Can you get prescriptions by mail?
Health history	How often have you needed care in recent years? Do you have a chronic condition requiring ongoing care?
Health future	Your health may change. Consider what your future medical needs may be.

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Helpful resources

VA Healthcare

VA health benefits hotline: 877-222-8387 (TTY: 711)
Monday – Friday, 8 a.m. – 8 p.m., Eastern time
General information: **www.va.gov/health-care/**

CHAMPVA

CHAMPVA Help Line: 800-733-8387 (TTY: 711)
Monday – Friday, 8:05 a.m. – 7:30 p.m., Eastern time General information:
www.va.gov/health-care/family-caregiver-benefits/champva/

TRICARE/TRICARE for Life

TRICARE for Life (Wisconsin Physician Services): 866-773-0404
(TTY: 711) Monday – Friday, 5 a.m. – 10 p.m., Central time
TRICARE for Life website: **www.tricare.mil/Plans/HealthPlans/TFL**

TRICARE East (prior to Medicare): 800-444-5445 (TTY: 711) Monday – Friday, 8 a.m. – 5 p.m., Eastern time, excluding holidays

TRICARE West (prior to Medicare): 844-866-9378 (TTY: 711)
Monday – Friday, 5 a.m. – 9 p.m., Pacific time
TRICARE (prior to Medicare) website: **www.tricare.mil/**

Medicare

- Medicare customer service: 1-800-MEDICARE (1-800-633-4227) 24 hours a day, 7 days a week. If you use a TTY, call 1-877-486-2048.
- General information: **www.medicare.gov**

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Veteran Service Officers

Visit **nvf.org/veteran-service-officers/**

Or **scan the QR code** with your phone or tablet's camera to find an accredited Veteran Service Officer in your area.

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Thank you for your time and attention

For more information, please visit
Huma.na/Medicare101

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This presentation will not address every individual's Medicare needs. We encourage you to continue the conversation about your Medicare needs with a licensed sales agent.

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Important

At Humana, it is important you are treated fairly.

Humana Inc. and its subsidiaries comply with applicable Federal civil rights laws and do not discriminate on the basis of race, color, national origin, ancestry, ethnicity, sex, sexual orientation, gender, gender identity, disability, age, marital status, religion, or language in their programs and activities, including in admission or access to, or treatment or employment in, their programs and activities.

- The following department has been designated to handle inquiries regarding Humana's non-discrimination policies: Discrimination Grievances, P.O. Box 14618, Lexington, KY 40512-4618, **877-320-1235 (TTY: 711)**.

Auxiliary aids and services, free of charge, are available to you. 877-320-1235 (TTY: 711)

Humana provides free auxiliary aids and services, such as qualified sign language interpreters, video remote interpretation, and written information in other formats to people with disabilities when such auxiliary aids and services are necessary to ensure an equal opportunity to participate.

This information is available for free in other languages. Please call our customer service number at 877-320-1235 (TTY: 711). Hours of operation: 8 a.m. – 8 p.m., Eastern time.

Español (Spanish): Llame al número indicado para recibir servicios gratuitos de asistencia lingüística. **877-320-1235 (TTY: 711)**. Horas de operación: 8 a.m. a 8 p.m. hora del este.

繁體中文 (Chinese): *資訊也有其他語言版*可供免費索取.請致電客戶服務A13:**877-320-1235(聽障專線:711)。**辦公FIV間:東部Hv間±午 8 H4至晚 ± 8 時.

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English: ATTENTION: If you do not speak English, language assistance services, free of charge, are available to you. Call **877-320-1235 (TTY: 711)**.
Español (Spanish): ATENCIÓN: Si habla español, tiene a su disposición servicios gratuitos de asistencia lingüística. Llame al **877-320-1235 (TTY: 711)**.**繁體中文 (Chinese):** 注意：如果您使用繁體中文 ，您可以免費獲得語言援助服務 。請致電 **877- 320-1235 (TTY: 711)**。

Sources

1. "VA health care and other insurance," Department of Veterans Affairs, last accessed March 7, 2024, www.va.gov/health-care/about-va-health-benefits/va-health-care-and-other-insurance.
2. "TRICARE® For Life Handbook," Department of Defense, accessed March 7, 2024, www.tricare.mil/~/media/Files/TRICARE/Publications/Handbooks/TFL_HBK.ashx.
3. "Important Notice from VA About Your Prescription Drug Benefit and Medicare," Department of Veterans Affairs, accessed March 7, 2024, www.va.gov/healtheligibility/costs/medicarednotice.pdf.

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Humana® A more human way to healthcare®

Y0040_GNHH2ZTHH_25_C

2025 **MEDICARE 101** VETERANS



How Medicare works alongside your veteran coverage

Are you eligible for Medicare?
It's time to explore your coverage options.

Humana®

Better understand Medicare—and the plan options available

We're here to help you understand your Medicare options and what impact a Medicare plan might have on other coverage like VA benefits, TRICARE, or CHAMPVA. In this brochure, we'll cover:

- Your Medicare eligibility
- When you can enroll
- Your Medicare plan options
- How Medicare works alongside veteran coverage like VA healthcare, TRICARE for Life and CHAMPVA

Answers at your fingertips

For more Medicare information and resources, visit www.medicare.gov or call **1-800-MEDICARE (1-800-633-4227)**, 24 hours a day, 7 days a week.
If you use a TTY, call **1-877-486-2048**.

Let's talk



Call to RSVP for a meeting with a licensed Humana sales agent

LEAH VICENTE
202-803-0158 (TTY: 711)
Monday – Friday
9 a.m. – 5 p.m.
LVICENTE3@HUMANA.COM
humana.sunfirematrix.com/app/consumer/humcareer/19414172/

For more information, scan this QR code using your smartphone or tablet's camera or visit **Huma.na/Medicare101**

Are you eligible for Medicare?

You're eligible for Original Medicare (Parts A and B) if:

- You are turning or have turned 65 (even if you still work) **OR** you're under 65 and qualify due to a disability or other special circumstance
- You're a U.S. citizen or a legal resident who has lived in the U.S. for at least five consecutive years

When can you enroll in a Medicare plan?

Initial Enrollment Period

If you're enrolling in Medicare for the first time, you have an Initial Enrollment Period (IEP) that begins three months before and ends three months after you turn 65. It begins and ends one month earlier if your birthday is on the first of the month.

Annual Enrollment Period

Oct. 15 – Dec. 7
During the Annual Enrollment Period (AEP), you can add, drop or switch your Medicare coverage.

Open Enrollment Period

Jan. 1 – March 31 If you already have a Medicare Advantage (MA) plan, you may enroll in another MA plan or go back to Original Medicare during the Open Enrollment Period (OEP). You may only make one change within the period.

Special Election Period

A Special Election Period (SEP) is an opportunity to change your MA plan outside of the AEP due to a qualifying life event—without penalty. You generally have two months after the month the qualifying event occurs to make a switch. Examples of qualifying life events are:

- Certain chronic diagnoses
- Moving
- Qualifying for Extra Help
- Losing employer coverage

Understanding your Medicare options

Step 1: Original Medicare—offered by the federal government



MEDICARE PARTS A & B

Original Medicare and VA healthcare

- Medicare Part A helps cover hospital, skilled nursing, home health and hospice care.
- Medicare Part B helps cover doctor visits, and outpatient and preventive care.
- Original Medicare covers services at non-VA facilities.
- The late-enrollment or reenrollment penalty still applies if you have VA healthcare, which does not count as creditable coverage for Part B.
- VA healthcare covers services at VA facilities and with VA-contracted providers.[1]

Original Medicare with TRICARE for Life and CHAMPVA

- Coordination of billing of TRICARE for Life and CHAMPVA is not required with Original Medicare.
- You have the flexibility to see any provider who accepts Original Medicare.

Step 2: Explore additional coverage—offered by private companies

Option 1: Switch to a Medicare Advantage plan.



MEDICARE PART C

Medicare Advantage and VA healthcare

- MA—or Part C—covers everything Original Medicare covers, and may offer additional coverage.
- MA will remain separate from VA healthcare and will not impact a veteran's ability to go to the VA.
- Your VA healthcare covers services at VA facilities, while MA may cover services at non-VA providers.[1]
- MA provides additional options to see doctors outside of the VA.

Medicare Advantage and TRICARE for Life, CHAMPVA*

- TRICARE for Life and CHAMPVA may help cover in-network copays, but billing must be coordinated by you and your providers.
- If you enroll in an MA plan, it will become your primary coverage, TRICARE for Life or CHAMPVA will be secondary and you must see providers in the MA plan network.[2]
- An MA plan may only be an option if TRICARE for Life and CHAMPVA beneficiaries can coordinate billing and plan to stay in the MA plan's network for their care. If billing cannot be coordinated, those on TRICARE for Life or CHAMPVA may not want to switch to an MA plan since coverage may be more robust under those programs.

* If you enroll in an MA plan, it will impact the claims process between Medicare and TRICARE for Life. Please reach out to a TRICARE for Life or CHAMPVA representative for more information.

Types of Special Needs Plans

- There are Special Needs Plans available and, unrelated to veteran status, you may be eligible if you have Medicare and Medicaid (Dual-eligible Special Needs Plan), a chronic condition (Chronic Condition Special Needs Plan) or need the level of care provided in an institutional setting (Institutional Special Needs Plan).

Option 2: Add Medicare Part D and/or a Medicare Supplement plan to Original Medicare.



MEDICARE PART D

Medicare Part D, TRICARE for Life, CHAMPVA and VA healthcare

- Prescription drug plans (PDPs) are offered by private companies like Humana.
- Once you meet your deductible, you only pay your share for covered Part D drugs (your copay or coinsurance).
- With VA healthcare, TRICARE for Life or CHAMPVA, you already have prescription medication coverage.[3]
- If you have VA healthcare and don't sign up for a PDP, you can enroll later without a penalty.
- TRICARE for Life and CHAMPVA are more comprehensive options than a PDP or Medicare Advantage prescription drug (MAPD) plan.

VETERANS OF FOREIGN WARS®

What's New at VA?

Introduction

- Crystal M. Trulove
  - crystal.trulove@gmail.com
- Air Force
  - Weather Specialist
- NOAA/National Weather Service
  - Weather Forecaster
- Brandeis University
- Department of Veterans Affairs
  - RVSR (Rating Veteran Service Representative)
  - DRO (Decision Review Officer)
- Veterans of Foreign Wars

Course Objectives

You will leave with a better understanding of:

- Recent updates to M21-1
- Six new court cases
- Where to find more Rudisill GI Bill information
- Definitions of legal terms (fun!)

Court Cases

- Rudisill v McDonough update
- Perkins v Collins
- Loomis v Collins
- Adams v Collins
- Bilharz & Pinto, Jr. v Collins
- Bufkin (& Thornton) v Collins
- Frantzis v McDonough
- Saunders v Wilkie
- Allen v Brown

URL links and M21-1 References

- https://benefits.va.gov/GIBILL/rudisill.asp
- https://benefits.va.gov/GIBILL/rudisill-decision-tree.asp
- https://www.va.gov/education/about-gi-bill-benefits/post-9-11/
- M21-1 XI.ii.3.B.1.c. – Substitution for DIC with PACT Act
- M21-1 XI.ii.3.A.1.b. – Accrued benefits for DIC with PACT Act
- M21-1 X.i.2.A.2.a., g. – 21P-530EZ added to FDC and notice

Update to DIC substitution claim

- M21-1 (XI.ii.3.B.1.c) A claimant seeking substitution may only continue a claim for Dependency and Indemnity Compensation (DIC) reevaluation under Section 204 of Public Law (PL) 117-168, Sergeant First Class Heath Robinson Honoring our Promise to Address Comprehensive Toxics (PACT) Act of 2022 if an election for reevaluation of a previously denied DIC claim was pending at the time of the original claimant's death.

Update to DIC accrued claims

- M21-1 (XI.ii.3.A.1.b) A claimant seeking accrued benefits or substitution may only continue a claim for Dependency and Indemnity Compensation (DIC) reevaluation under Section 204 of Public Law (PL) 117-168, Sergeant First Class Heath Robinson Honoring our Promise to Address Comprehensive Toxics (PACT) Act of 2022 if an election for reevaluation of a previously denied DIC claim was pending at the time of the original claimant's death.

Updates to VA Form 21P-530EZ

- M21-1 X.i.2.A.2.a. Adds the form 21P-530EZ, Application for Burial Benefits (Under 38 U.S.C. Chapter 23) to list of forms used to participate in the Fully Developed Program.

- M21-1 X.i.2.A.2.g. The form includes 38 U.S.C. 5103 notice for claims for the following burial benefits:
  - Non-service connected burial allowance
  - Service connected burial allowance
  - Plot or internment allowance
  - Transportation benefit, and
  - Burial benefits for the unclaimed remains of a veteran

Rudisill v McDonough

- Updates – BUT only until they hear about Perkins
- April 16, 2024 Rudisill v McDonough SCOTUS
  - Veterans who qualify for both Montgomery GI Bill and Post 9/11 GI Bill can use both
    - Must have sufficient length of service and not use time twice
  - Additional 12 months granted for total of 48 months
    - Vet chooses how and when to use benefits (36 month limit)
- January 3, 2025 VA updated process
  - VA will automatically adjudicate claims for 660,000
  - Remaining Veterans will receive a letter to file a claim

Rudisill v McDonough

That is a rude seal



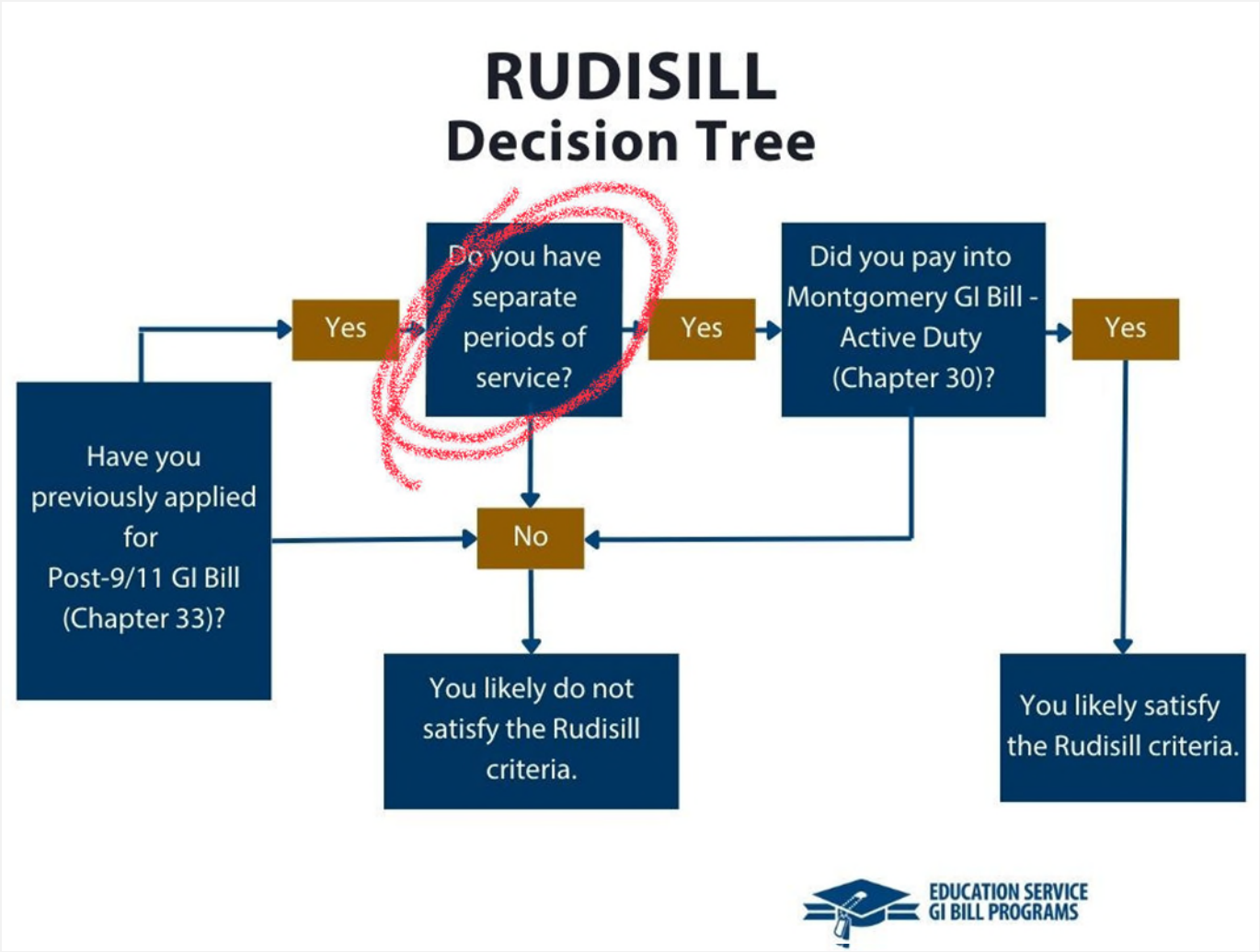
Rudisill v McDonough

Rudisill Webpage

https://benefits.va.gov/GIBILL/rudisill.asp

Rudisill Decision Tree

https://benefits.va.gov/GIBILL/rudisill-decision-tree.asp



Perkins v Collins CAVC May 16, 2025

All that Rudisill gave us, but more

- Question: Does the opportunity to use 48 months of education benefits (see slide 9) apply to veterans who had only one period of service?

- Answer: Yes. A veteran whose single period of service is long enough to qualify for both is entitled to both.

Perkins v Collins CAVC May 16, 2025

★AIR FORCE★

- Perkins served in the Air Force from 2014 to 2020
  - Veteran argues that these six years entitle her to both the Montgomery GI Bill and to the Post 9/11 GI Bill
  - VA said yes, but only 36 months of educational benefits, and she must choose one
- CAVC used Rudisill as a guide and found that Perkins' period of service was long enough
  - A person must serve 2 years honorably to qualify for Montgomery GI Bill, and a person must serve 3 years honorably to qualify for the Post 9/11 GI Bill
  - The same years cannot be used to support both benefits

Perkins v Collins CAVC May 16, 2025

- VA argued that entitlement to Montgomery GI Bill benefits was no longer allowed for any veteran whose service began after August 1, 2011

- CAVC found that 38 USC 3322(h)(1) does not state that veterans no longer can earn the Montgomery GI Bill
  - August 1, 2011 is the date that 38 USC 3322(h)(1) became effective
  - This regulation states that an individual cannot receive double credit for a single period of service

Perkins v Collins CAVC May 16, 2025

VETERANS OF FOREIGN WARS.

Post-9/11 GI Bill (Chapter 33)

The Post-9/11 GI Bill (PGIB), or Chapter 33, helps you pay for school or cover expenses while you're training for a job. If you've served on active duty after September 10, 2001, you may qualify for the Post-9/11 GI Bill. Find out if you can get this education benefit.

You may qualify for additional entitlement under the Rudisill decision

If you have 2 or more qualifying periods of active duty, you may now qualify for up to 48 months of entitlement. You must be eligible for the Post-9/11 GI Bill and the Montgomery GI Bill Active Duty (MGIB-AD).

Note: Even if you gave up your right to use MGIB-AD benefits in the past (we call this "relinquishing" your benefits), you may now qualify to use some of that entitlement.

Find out if you can use more than 1 education benefit

For a period of active duty that started on or after August 1, 2011 —

You can use only 1 education benefit. You'll have to choose which education benefit you'd like to use. Once you make that choice, you give up the right to use the other benefit. You can use up to a maximum of 36 months of education benefits.

If you choose to use the Post-9/11 GI Bill, you can't switch at a later date to use one of these other education benefits instead:

- Montgomery GI Bill Active Duty (MGIB-AD or Chapter 30)
- Montgomery GI Bill Selected Reserve (MGIB-SR or Chapter 1606)

Note: It's also true that if you choose to use MGIB-AD or MGIB-SR, you can't switch at a later date to use Post-9/11 Bill benefits.

If you decide to use Post-9/11 GI Bill benefits and you use up all your entitlement for that benefit, we'll refund you part or all of the payments you made into MGIB-AD. The maximum amount you can get for a refund is $1,200.
Learn more about Montgomery GI Bill refunds

VA must update website information.

Perkins v Collins CAVC May 16, 2025

That is a perky, educated seal



Loomis v Collins CAVC July 15, 2025

Some educational benefits are treated differently

- Question: Does a private flight training school need to meet criteria to be considered an Institute of Higher Learning before a student can receive GI Bill benefits for attending?

- Answer: Yes. The veteran must prove flight training is part of a degree program or it cannot be covered by GI Bill benefits.

Loomis v Collins CAVC July 15, 2025

- Loomis served 20 years in AF as JTAC on ground
- Now employed by a civilian company with a very similar position offered – but requires pilot's license
- VA laws governing GI Bill assistance for flight training
  - Must be approved by a State or by VA
  - Otherwise, if FAA accredited, can be constructively approved
- Loomis chose the latter
  - Veteran not interested in degree program
  - College courses offered during daytime work hours

Loomis v Collins CAVC July 15, 2025

- VA argued that law governing this exception applies only to students who already have a pilot's license
  - For additional certification, like commercial license
  - VA states that without a pilot's license already, then the training must be given by IHL for degree credit
- Loomis argued that makes the guidance redundant
- CAVC agrees with VA – the law is clear

Loomis v Collins CAVC July 15, 2025



A *wire loom*, more commonly known today as a *wiring harness*, is a bundle of electrical cables and wires that transmits power, signals, and data throughout an aircraft to connect and control systems like engines, landing gear, and communications.

Adams v Collins CAVC July 8, 2025

A case with potentially wide impact

- Question: Does obesity need to be a disability or disease in order to be subject to secondary service connection?
- Answer: No. Entitlement to secondary service connection requires only functional impairment of earning capacity resulting from the service connected disease or injury.

Adams v Collins CAVC July 8, 2025

- Adams served in the Air Force in the Vietnam Era
- SC for PTSD and claims obesity secondary
  - Veteran had weight gain from 125 to 230 on active duty
- Current BMI of 38 results in functional impairment due to fatigability, core weakness and postural changes
- Veteran argues that, similar to the case of *Saunders v Wilkie* wherein pain can be a disability if it causes functional impairment, so too should be obesity

Adams v Collins CAVC July 8, 2025

- VA relies on historical treatment of obesity
  - Not a disease or disability, therefore doesn't qualify
  - Does not cause functional impairment for everyone
- CAVC find this is a "but-for" case, i.e. aggravation
  - Natural progression of a non-SC condition, *but* would have been less severe were it not *for* the SC disability
  - *Allen v Brown* (1995) decided that any additional impairment resulting from an already SC disability shall be compensated, whether or not the additional impairment is itself a separate disease or injury

Adams v Collins CAVC July 8, 2025

Morticia and Gomez have a chance for service connection on a secondary basis.



Bilharz & Pinto v Collins CAVC August 14, 2025

VETERANS OF FOREIGN WARS.

The Pope is still with us

- Question: Under AMA, is it a failure of fair process or due process if the Board judge who held the hearing is not the judge who makes the next decision?
- Answer: No. Neither the Due Process Clause nor the fair process doctrine (if different) categorically prohibits the practice of having different Board members conduct a hearing and render a decision on a claim for benefits.

Bilharz & Pinto v Collins CAVC August 14, 2025

- Bilharz served in Marine Corps and Pinto, Jr. served in the Army
  - Both claims argue BVA judges who preside over hearings must also be the judges who make the next decision
  - Both appeals are in the AMA system, not legacy
- With AMA, judges can be different
  - change was upheld in Frantzis v McDonough
- Claimants ask that both “fair process doctrine” and “Due Process Clause” be considered separately
  - These are basically the same

Bilharz & Pinto v Collins CAVC August 14, 2025

- Claimants feel that Board member's role in a hearing is greater than simply collecting evidence, and that these interactions inform the final decision:
  - evaluate credibility
  - clarify factual ambiguities
  - focus on testimony
- A decision made by a different person, they argue, fails to afford adjudicatory consistency and transparency
  - At the least, VA should alert veterans and allow the veteran to submit additional evidence

Bilharz & Pinto v Collins CAVC August 14, 2025

- In response, the VA Secretary recalls Frantzis
  - Fulfilling all lawful obligations
  - Avoid unnecessary burden to adjudication process and lead to inconsistencies in procedure and timing
- CAVC found in VA's favor on this point, stating that appellants' challenge is without merit.
- CAVC remanded for unrelated reasons
  - Bilharz denial had incomplete rationale
  - Pinto, Jr. denial relied on inadequate hearing

Bilharz & Pinto v Collins CAVC August 14, 2025



Bill the ~~Horse~~ Pony with a Pinto Pony

Two ponies but they only want one judge

Bufkin v Collins SCOTUS March 5, 2025

Let's practice some legal terminology

- Question: Does the benefit-of-the-doubt rule require a de novo review to determine "approximate balance?" In other words, is it a legal or factual obligation?
- Answer: "Approximate balance" of evidence is a factual determination reviewed only for clear error, and thus does not require de novo review.

(Claimant Norman Thornton, also included)

Bufkin v Collins SCOTUS March 5, 2025

VETERANS OF FOREIGN WARS.

- Benefit-of-the-doubt rule
  - Tips the scales in a veteran's favor when evidence material to a disability claim is in equipoise, or approximate balance
- Approximate balance (also know as equipoise)
  - whenever there is an approximate balance of positive and negative evidence
- Legal v Factual determination
  - Legal is an issue about the correct application of law, typically decided by a judge
  - Factual is an issue based on evidence, typically decided by a jury. In VA benefits claims, anyone trained to review the file

Bufkin v Collins SCOTUS March 5, 2025

- Veteran Bufkin, Air Force, claimed SC for PTSD
  - Veteran's private physician diagnosed PTSD due to military service
  - VA examiner did not diagnose PTSD, VA denied
- Veteran appealed, asking for benefit-of-the-doubt
  - VA asked for another examination, and that examiner said no diagnosis, VA denied
  - Vet submitted a fourth exam from physician who diagnosed PTSD again, "anxiety disorder at a minimum", VA denied

Bufkin v Collins SCOTUS March 5, 2025

- *De novo* review (Latin for “over again” or “anew”)
  - A review from page one, made as though no previous examination of the file has been done
- SCOTUS held that
  - lower court must review legal issues *de novo* and factual issues for clear error
  - VA’s determination that the evidence is in approximate balance is not a legal issue, but a predominantly factual determination reviewed only for clear error

Bufkin v Collins SCOTUS March 5, 2025

- Clear error review
  - fact findings by a judge in a nonjury trial stand unless clearly erroneous
- Clearly erroneous
  - when although there may be evidence to support a decision, the reviewing court is left with the definite and firm conviction that a mistake has been committed
- SCOTUS affirmed CAFC decision

Bufkin v Collins SCOTUS March 5, 2025

If you have buff kin, it’s not a judgement, it’s a fact



Practice Exercises

- Calvin Freemont
- Sylvia Gallegos

Calvin Freemont

Calvin Freemont served honorably in the Army from July 2008 to September 2010. He paid $100 a month and served more than two consecutive years and therefore has earned entitlement to the Montgomery GI Bill. He served 26 months of consecutive active duty service which entitles him to 80% benefits of the Post 9/11 GI Bill. What educational benefits has he earned and what are the restrictions?

- If he chooses Montgomery GI Bill only?

He has earned full 36 months of benefits, no restrictions

- If he chooses Post 9/11 GI Bill only?

He has earned 80% of the benefits for 36 months because there is a minimum of three years required to receive full benefits.

- If he wants to use a portion of both?

He cannot

Sylvia Gallegos

Sylvia Gallegos served honorably in the Army over two periods of service 1999-2002, in which she contributed to the MGIB, and then again from 2005 to 2011, in which she earned full P9/11GIB. What educational benefits has she earned and what are the restrictions?

- If she chooses to use the Montgomery GI Bill?

She can use full 36 months of benefits, no restrictions

- If she chooses to use the Post 9/11 GI Bill?

She can use full 36 months of benefits, no restrictions

- Sylvia knows she can use both. Which benefit does she have to start with?

Either one.

Sylvia Gallegos

Sylvia Gallegos served honorably in the Army over two periods of service 1999-2002, in which she contributed to the MGIB, and then again from 2005 to 2011, in which she earned full P9/11GIB. What educational benefits has she earned and what are the restrictions?

- What is the maximum number of months she can use for either GI Bill?

36 months.

- What is the maximum number of months she can use total?

48 months.

- If Sylvia's first period of service didn't exist, and all she had was the 2005-2011 period, what are the rules for her in that case?

All exactly the same, as long as she contributed $1200 to MGIB

VETERANS OF FOREIGN WARS®

QUESTIONS?

Crystal M. Trulove
crystal.trulove@gmail.com

VETERANS OF FOREIGN WARS®

WORKLOAD MANAGEMENT

WORKLOAD MANAGEMENT



In this class we are going to discuss ways to help you be successful in your office

These are suggestions, not policy mandates

The Four Core Tasks



Answer requests for assistance



Identify issues and develop evidence



File claims in a timely manner



Review rating decisions

ANSWER REQUESTS FOR ASSISTANCE

- Phone calls and emails - 1-2 business days.
  - #1 issue we hear when veterans call NVS
- Voicemail greets should be concise, current
  - “Hello, you’ve reached the number you are calling. Please leave a message”
  - Phone Message
  - Prepping for Voicemail
    - Name of office/rep, what you need (please leave name/number/message), when to expect a call back
    - Example VoiceMail

ANSWER REQUESTS FOR ASSISTANCE

- Template emails can be very helpful as **follow ups** to calls or in-person meetings, but ensure they are relevant and tailored to the situation

  - Who uses template emails?

Hi (name),
Thank you for the call. Just some reminders of what to bring to the appointment on (date/time):

- Medical records/diagnosis of the disabilities
- Lay statements
- Birth certificates
- Marriage certificates
- Divorce decrees
- Social security numbers of your family members
  - Spouse
  - Children under 18
  - Children 18-23 in school full time

You will need a government issued ID to enter the building

We are located at 406 W. 34th Street, Kansas City, Missouri 64111

We are in Room 372, main office telephone number is 816.756.3390

Looking forward to seeing you then!

MEET WITH VETERANS AND DEVELOP EVIDENCE

Your client is your main focus during the appointment

Be aware of your setting when talking with your client

Eves dropping

MEET WITH VETERANS AND DEVELOP EVIDENCE

- Review all of the evidence prior to submitting it to VA. Why?
  - You may be submitting a PDF of an email instead of evidence
- If the evidence is detrimental to the claim, explain why and offer suggestions on how to obtain better evidence.
  - Sleep study that indicates no sleep apnea

MEET WITH VETERANS AND DEVELOP EVIDENCE

If additional evidence is needed:

- Give the veteran a written list of what to get and how to submit it to you.

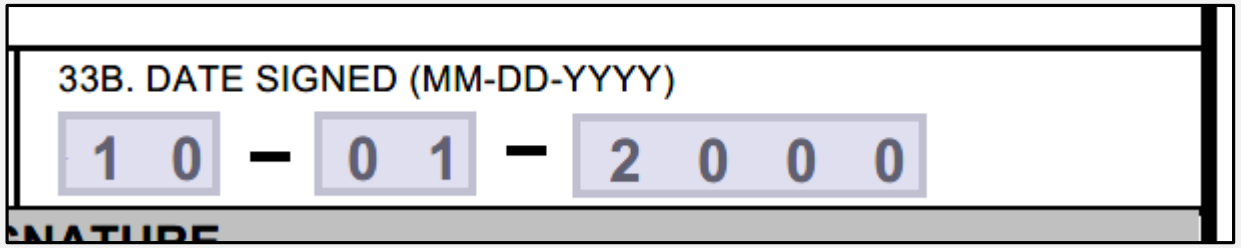
- When it is needed (date)

Question: Should you have a veteran submit evidence directly into Quick Submit?

FILE CLAIMS TIMELY

Here is the big one! The most important task:

- A completed, correct claim
  - What do you look at on the claim before submitting?



Filed in a timely manner

What is timely?

FILE CLAIMS TIMELY

- Don’t hold onto submissions – as soon as it is ready…submit it!

- Use electronic submission methods – Quick Submit is a great way to track

FILE CLAIMS TIMELY

- Let the client know the status.
- Another template email



Hi (name),
I submitted your VA claim! It may take a couple days to show up in VA.gov.

The next step is that VA will process the claim and assign a VA contract examiner.

The contract examiner will either be QTC, Optum, VES or LSGS. They will likely call you to schedule exams. Sometimes they send an email to let you know they will be contacting you, and at times they may send a text.

When you are contacted, they will have a date in mind for the exams. Please be available for exams as they are critical to the outcome of the rating.

If you haven't been contacted by VA in 30 days for exams, please let me know.

I've seen, on average, Fully Developed Claims finalized about 4-5 months after the claim is submitted. It could take longer, depending on VA's workload.

If you receive anything from the VA that doesn't look right or needs explanation, please contact me.

Let's stay in touch as the claim processes and please let me know if you have any questions along the way.

FILE CLAIMS TIMELY

Here are some suggestions to help make sure you don't miss an effective date

- **Structure your day** – What do you do when you first get to the office? Start of Day

- **Have a routine**, be careful of social engagement over tasks.
  - Example: Check your task list first (any outstanding evidence to be sent, then other tasks)

REVIEWING DECISIONS AND ADVOCATING FOR VETERANS

VETERANS OF FOREIGN WARS.

- Set a routine on when to check rating decisions in VBMS
- Don't lead a veteran on, tell it like it is;
  - Don't "VA is The Man and rates to deny!"
  - Do: "This was denied and here are the options"

- If you talk with the VA, be professional, have your facts in order
  - You don't want to get on the secret "bad" list
  - Sometimes VA can issue a correction.
    - It's about relationship-building

OFFICE ESSENTIALS – ACCOUNTABILITY

- Keep a record of who has visited your office
  - Verifying when a veteran received assistance
- Consider **surveying** your clients afterwards
  - Rate service
  - Open-ended feedback
  - Set it so it can only be taken once



TRAINING ESSENTIALS –
Online Learning Portal

- You may want to set aside time at least once a month for training
    - Mandatory Online Training
- Training should include new concepts as well as reinforcement of previously covered topics
- The VFW OLP is a resource that can be used for this purpose

https://vfw.psycharmor.org/

Make sure that you take your breaks

Stress!



Burnout is real

Recognize co-workers accomplishments – Boosts Morale!

- Recognition



Recognize co-workers accomplishments – Boosts Morale!



MANAGING YOUR OFFICE

Avoid Micromanagement…You have enough work to do without taking on other's responsibilities

Distribute the workload based on experience and expertise – remember claims consultants **are** fully trained representatives

Make sure everyone knows when someone is out of office

Don't be this supervisor

VETERANS OF FOREIGN WARS.

Set up clearly defined responsibilities

- Good office management depends on people knowing who is responsible for what –accountable **PEOPLE** get things done.

- When you delegate responsibilities, make sure the task is appropriate to the person, understood, and supervised.
  - Who reviews decisions and when? (who should review decisions?)
  - Who checks VBMS for claims status
  - Who takes out the trash and does the dishes on what days

A FEW HELPFUL HINTS…

- Keep things simple
  - Make sure that you don’t overcomplicate things.
    - Sometimes a basic list of “to do” is a very good option to give veterans
- Learn from your mistakes
  - Everybody makes mistakes.
    - Unsigned POA or wrong SSN?
    - Own it and be vigilant next time
- Ask for help when you need it
  - This job is not a competition.
  - If you don’t know if **ephelides** is VA ratable, ask co-worker or VA



If It Were Only This Simple

Wouldn’t This Be Nice…get what you always ask for

VETERANS OF FOREIGN WARS®

Questions?

VETERANS OF FOREIGN WARS®

ANCILLARY BENEFITS

ANCILLARY BENEFITS

Ancillary benefits are:

- Secondary benefits that are contingent on a veteran's eligibility for compensation or a dependent's eligibility for Dependency and Indemnity Compensation (DIC)

- Eligibility for ancillary benefits is based on the type of disability entitlement the veteran has or the circumstances of the veteran's death.

ANCILLARY BENEFITS

- Ancillary benefits are controlled by different areas of VA depending on their application.

- Being aware of the forms number will aid you in correctly submitting a claim for ancillary benefits

  - Forms beginning with 21 are VBA related
  - Forms beginning with 10 are VHA related
  - Forms beginning with 26 are VBA related through the appropriate Regional Loan Center

AUTOMOBILE ALLOWANCE



38 CFR 3.808

Financial assistance in the purchase of a new or used automobile or other conveyance may be made to a veteran with specific disabilities up to once every 10 years

Prior to January 5, 2023, veterans were only entitled to one auto allowance in their lifetime. If a veteran had already received an automobile allowance prior to 1/05/2023, they may apply immediately for a new auto allowance if more than 30 years have elapsed since they received their most recent auto allowance.

Beginning on January 5, 2023, veterans may apply for an additional auto allowance once 10 years have passed since their previous auto allowance was awarded.

AUTOMOBILE ALLOWANCE

38 CFR 3.808

- Financial assistance, in the form of a grant, is available to purchase a new or used automobile (or other conveyance) to accommodate a veteran or servicemember with certain service-connected disabilities.
- The grant may also be paid if disabilities are a result of medical treatment, examination, vocational rehabilitation, or compensated work therapy provided by the VA.
- The grant is paid directly to the seller of the automobile for the total price (up to $26,417.20 as of 10/1/2024) of the automobile.
- May also be paid for natural disaster or if insurance won’t compensate for loss of vehicle

AUTOMOBILE ALLOWANCE

A veteran or servicemember must have one of the following disabilities to qualify for the automobile grant:

- Loss, or permanent loss of use, of one or both feet
- Loss, or permanent loss of use, of one or both hands
- Impairment of vision 20/200 or less in better eye with correction or peripheral field less than 20 degrees
- Severe burns causing contracture which limits motion of limbs
- Amyotrophic lateral sclerosis (ALS)

AUTOMOBILE ALLOWANCE

The VA Form 21-4502 *"Application for Automobile or Other Conveyance and Adaptive Equipment"* is used to apply for an automobile allowance.

- Only Sections I and II are to be completed when initially submitting the claim, Section III will be completed by VA and then the form is returned to the veteran.
- Once the veteran receives the VAForm 21-4502 back from VA, they can fill out Section IV and purchase their new or used vehicle.
- Once purchased, the seller will need to submit the completed VA Form 21-4502 to VA in order to receive payment.

ADAPTIVE EQUIPMENT ALLOWANCE

38 CFR 3.808(e)

- That equipment which must be part of or added to a vehicle to make it safe for use by the claimant and to assist in meeting the applicable standards of licensure of the proper licensing authority.

38 CFR 17.158

- Adaptive equipment may be certified for the initial vehicle purchased or for subsequent vehicles. This is ***not*** a one-time allowance.

ADAPTIVE EQUIPMENT ALLOWANCE

- Adaptive equipment includes, but not limited to, power steering, power windows, power seats, and special equipment necessary to assist the eligible person into and out of the vehicle.

- Contact should be made with the local VA medical center's Prosthetic Department prior to purchasing any equipment.

- The adaptive equipment grant may be paid more than once and it may be paid to either the seller or the veteran.

ADAPTIVE EQUIPMENT ALLOWANCE

The VA Form 10-1394 "*Application For Adaptive Equipment Motor Vehicle*" is used when applying for adaptive equipment only.

If filing for both an automobile grant and adaptive equipment, only the VA Form 21-4502 needs to be completed.

ADAPTIVE EQUIPMENT ELIGIBILITY

A veteran or servicemember must have one of the following disabilities to qualify for adaptive equipment:

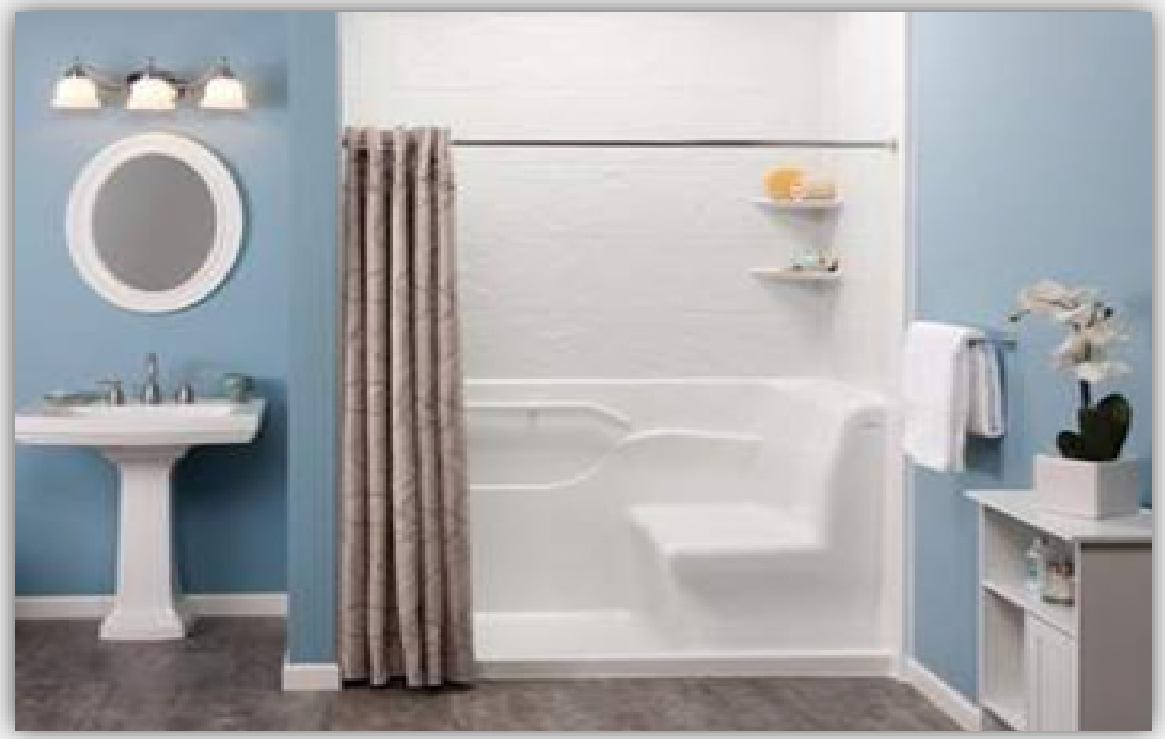
- Loss, or permanent loss of use, of one or both feet
- Loss, or permanent loss of use, of one or both hands
- Impairment of vision 20/200 or less in better eye with correction or peripheral field less than 20 degrees,
- Severe burns causing contracture which limits motion of limbs,
- Amyotrophic lateral sclerosis (ALS)
- Ankyloses of one or both knees or one or both hips

ADAPTIVE EQUIPMENT ELIGIBILITY

- A disability which is acquired as a result of treatment in a VA medical facility **(38 USC 1151)** or as a result of training under 38 USC Chapter 31 (compensated work therapy), even though compensation is payable, does not qualify a veteran for these benefits.

- Even though compensation may be payable under **38 CFR 3.383**, claimants *do not qualify* for adaptive equipment based on a loss of paired SC and NSC organs or extremities. **(38 USC 1160)**

SPECIALLY ADAPTED HOUSING (SAH)



The Specially Adapted Housing (SAH) program offers grants to servicemembers and veterans with severe service-connected disabilities to assist them in building, remodeling, or purchasing an adapted home.

SPECIALLY ADAPTED HOUSING

38 CFR 3.809

- An eligible person may receive a grant of not more than 50 percent of the cost of a specially adapted house.
- SAH maximum is currently $117,014.
- The grant can be awarded six times during the veteran's lifetime not to exceed the maximum dollar amount allowable.

SPECIALLY ADAPTED HOUSING

SAH grants can be used in one of the following ways:

- Construct a specially adapted home on land to be acquired
- Build a home on land already owned if it is suitable for specially adapted housing
- Remodel an existing home if it can be made suitable for specially adapted housing
- Use the grant to help pay the unpaid principal mortgage balance of an adapted home already acquired without the assistance of a VA grant

SPECIALLY ADAPTED HOUSING ELIGIBILITY

VETERANS OF FOREIGN WARS.

The SAH grant is available to veterans and servicemembers who are entitled to VA disability compensation due to:

- Loss or loss of use of both lower extremities, such as to preclude locomotion without the aid of braces, crutches, canes, or a wheelchair
- Blindness in both eyes, plus loss or loss of use of one lower extremity
- Loss or loss of use of one lower extremity together with either
  - residuals of organic disease or injury or
  - the loss or loss of use of one upper extremity, affecting balance or propulsion as to preclude locomotion without the aid of braces, crutches, canes, or a wheelchair
- Loss or loss of use of both upper extremities at or above the elbows
- A severe burn injury

SPECIAL HOME ADAPTATION



An eligible person may receive a grant for the actual cost to adapt a house or for the appraised market value of the necessary features already in a house when it was purchased.

SPECIAL HOME ADAPTATION

38 CFR 3.809a

The SHA grant is available to veterans and servicemembers who are entitled to disability compensation due to:

- Blindness in both eyes with 20/200 visual acuity or less in the better eye with the use of a standard correcting lens
- The anatomical loss or loss of use of both hands or extremities below the elbow,
- A severe burn injury
- Certain severe respiratory conditions

- Current SHA maximum is $23,444
- The grant can be awarded six times not to exceed the maximum dollar amount allowable

TEMPORARY RESIDENCE ASSISTANCE (TRA) GRANT

- Temporary grants may be made to those who are or will be temporarily residing in a home owned by a family member
- SAH maximum is $49,062
- SHA maximum is $8,760
- Temporary grants do count as one of the three usages of SAH/SHA

SAH, SHA, & TRA PROCEDURES

- VA Form 26-4555, "*Veterans Application in Acquiring Specially Adapted Housing or Special Home Adaptation Grant*" is used to apply for SAH, SHA, and TRA
- The VA Regional Loan Center is responsible for determining entitlement to, and payment of, SAH, SHA, and TRA.
- Conditional approval includes consideration of:
    - disability requirements
    - feasibility and suitability, and
    - usage or dollar amounts of assistance available vs. any amounts previously paid.
- Final approval requires consideration of property requirements including
    - details of proposed adaptations
    - ownership
    - certifications
    - insurance
    - geographic limits

SAH, SHA, & TRA PROCEDURES

The veteran will be contacted by the Prosthetics department of VHA to determine:

- Prescription for need of adaptation
- Review of any required cost estimates

HOME IMPROVEMENT AND STRUCTURAL ALTERATIONS (HISA)

- The HISA benefit provides home improvements and structural alterations necessary only to ensure the continuation of treatment and/or to provide access to the home or to essential lavatory and sanitary facilities authorized under **38 USC § 1717**.

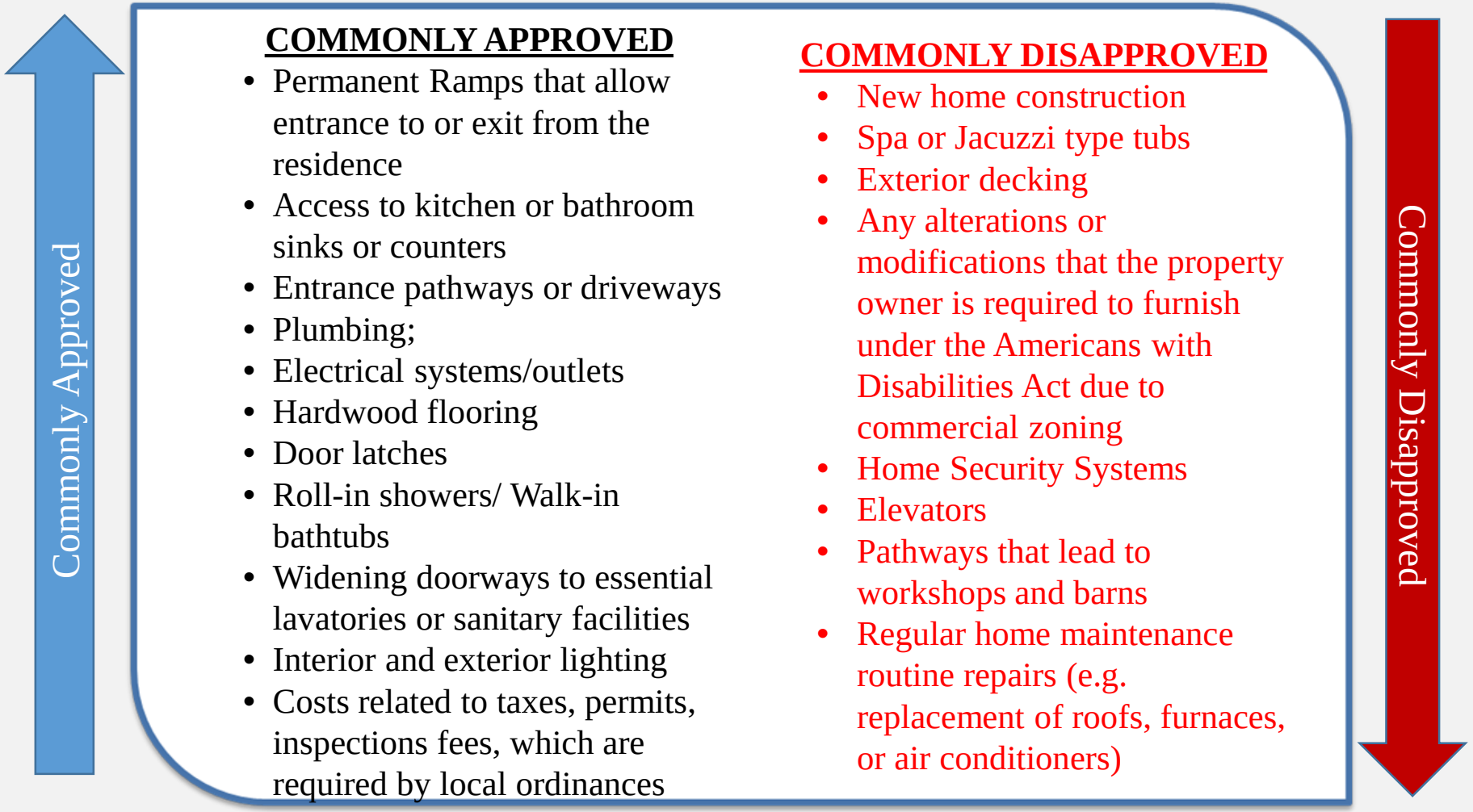
- Lifetime benefit up to $6,800 may be provided for:
  - Veterans and Servicemembers who have a Service-connected condition that requires an adaptation
  - Veteran rated 50% or more and requires an adaptation even if the condition requiring the adaptation is not S/C

- Lifetime benefit up to $2,000 may be provided for:
  - Non-service-connected Veterans

HOME IMPROVEMENT AND STRUCTURAL ALTERATIONS (HISA)

- SAH and SHA eligible Veterans will also likely be eligible for Home Improvements and Structural Alterations (HISA)
- HISA can provide additional funds for needed home modifications
- The HISA grant may be used in conjunction with either the SAH or SHA grants

HOME IMPROVEMENT AND STRUCTURAL ALTERATIONS (HISA)



WHAT IS NEEDED FOR HISA

- A prescription from a VA physician that includes:
  - Beneficiary's name, address, and phone number
  - Description of the prescribed improvement or structural alteration
  - The diagnosis and medical justification for the prescribed improvement or structural alteration
- VA Form 10-0103-HISA application with advance payment request
- Homeowners notarized authorization (if applicant is a renter)
- Written itemized estimate of costs for labor, materials, permits, and inspections
- A color photograph of the unimproved area
- Incomplete applications: if missing documentation is not received within 30 days, VA will notify the beneficiary and close the application
- VA will conduct a pre-award inspection of site no later than 30 days after receiving a complete HISA package

CLOTHING ALLOWANCE



CLOTHING ALLOWANCE

Veterans who utilize certain prosthetics are eligible for a yearly clothing allowance from the VA to help replace articles of clothing that are worn out faster because of their prosthesis or medications used for a skin condition.

CLOTHING ALLOWANCE

38 CFR 3.810

Eligibility:

The veteran must have been prescribed and use either of the following for a service-connected disability:

- Prosthetic or orthopedic appliance, such as a wheelchair, crutches, braces, artificial limb, etc. (Note: soft and flexible devices, such as an elastic stocking or soft brace, are not included)
- Medication prescribed by a physician for a service-connected skin condition that causes permanent stains or otherwise damages outer garments

And this must be true:

- You need this device or skin medicine because of an injury or illness related to your military service (called a service-connected condition).

CLOTHING ALLOWANCE

- Applications are collected throughout the year and held until the closing date of August 1st.
- Applications are processed by the VA prosthetics department and veterans will receive payments between September 1st and October 31st.
- This is an annual payment and will only be made during this time frame.

CLOTHING ALLOWANCE

- As of December 16, 2011, Veterans became eligible to receive multiple clothing allowance benefits, with a limit of two (2) per garment affected and total maximum of four (4) clothing allowances.
- Annual clothing allowance benefit is currently $1024.50

Approved Articles of Clothing:

- **Skirts**
- **Pants**
- **Blouses**
- **Shirts**

Disapproved Articles of Clothing:

- **Hats, Caps**
- **Underwear**
- **Socks, Stockings, Pantyhose**
- **Shoes**
- **Scarves, Ties, Gloves**

CLOTHING ALLOWANCE

VETERANS OF FOREIGN WARS.

How to Apply:

- Have the veteran submit VA Form 10-8678, "*Application for Annual Clothing Allowance*" to the prosthetic representative at their local VA medical center.

- Applications must be submitted by August 1 in order to be processed for that year
- If a veteran received a clothing allowance in 2022 or 2023, they no longer need to submit an application every year.
- If an additional clothing allowance is needed, new application is too.

PROSTHETICS

- Home respiratory therapy
- Artificial limbs
- Orthopedic braces
- Therapeutic shoes
- Wheelchairs
- Powered motility
- Crutches
- Service/Guide dog care
- Canes
- Walkers
- Special aids
- Appliances
- Optical and electronic devices for visual impairment
- Other durable medical equipment/supplies

AUDIOLOGY and EYE CARE SERVICES

- Has compensable service-connected disability
- Former POW/Purple Heart
- Receiving benefits under 38 USC 1151
- In receipt of NSC pension with Special Monthly Pension (Housebound or A&A)
- Has vision/hearing impairment related to disability for which receiving VHA medical care
- Has significant impairment affecting the ability to perform ADLs
- Has vision and/or hearing impairment severe enough to interfere with the ability to actively participate in personal medical treatment

NON-SERVICE-CONNECTED VETERANS

- Eligible for hearing aids/glasses on basis of medical need
- Must be enrolled at VA medical facility where receiving care
- Have hearing/vision loss that interferes/restricts communication to extent it affects active participation in health care as determined by audiologist or eye care provider

- Contact Prosthetics Department for further information or eligibility criteria: www.prosthetics.va.gov

VA HOME LOAN GUARANTY FUNDING FEES

- A veteran wanting to use the VA loan guaranty to purchase a house generally is subject to a funding fee based on the type of loan, their military category (NG, AD etc.) and if they have used their guaranty before.

- The VA loan guarantee amount is typically capped at 25% of the loan amount for borrowers with full entitlement and no down payment.

- The maximum guaranty amount is capped at the county loan limit, which varies by location.

VA HOME LOAN GUARANTY FUNDING FEES

VETERANS OF FOREIGN WARS.

38 CFR 36.4313(e)(5)

The VA Loan Guaranty funding fee can be waived if:

- Veteran is receiving VA compensation
- Veteran would be entitled to receive compensation for an SC disability if he/she were not receiving retirement or active duty pay
- Surviving spouse of a veteran who died of a SC disability
- Veteran rated eligible to receive VA disability comp based on a pre-discharge rating and exam or a rating based on existing medical evidence.
- The veteran received a compensable memorandum rating from VR&E

VA HOME LOAN GUARANTY FUNDING FEES

- If a veteran indicates that they desire to utilize the VA Home Loan Guaranty, ensure that a disability claim is filed before the home closes if possible. (At least an ITF)

- If compensation is awarded after the loan closing but the effective date is before closing, the veteran can request reimbursement of the funding fee – the reimbursement is paid towards the principal loan balance

- Certificates of Eligibility can be obtained from VA.gov

- Married couples who both have eligibility cannot combine their benefit to raise the maximum amount of guaranty, though both are still eligible in their own right. However, if one veteran is not eligible to have the funding fee waived, VA requires that the borrowers pay half of the funding fee if both veterans are on the loan.

VETERANS' GROUP LIFE INSURANCE (VGLI)

- Veterans' Group Life Insurance (VGLI) allows veterans to continue life insurance coverage after service.
- VGLI provides lifetime coverage as long as the premiums are paid. Veterans may enroll for a maximum amount of coverage that is equal to the amount of Servicemembers' Group Life Insurance (SGLI) coverage they had when they separated from service.
- Once enrolled in VGLI, veterans can increase coverage by $25,000 every five years up to the legislated maximum of $500,000, until age 60.
- Veterans have 1 year and 120 days from their date of separation to apply for VGLI. If they apply for coverage within 240 days from separation, no health questionnaire is needed.

VETERANS' GROUP LIFE INSURANCE (VGLI)

Veterans are eligible to apply for VGLI, if they had SGLI, and are within 1 year and 120 days of the following events:

- release from active duty or active duty for training under a call or order to duty that does not specify a period of less than 31 days.
- separation, retirement or release from assignment from the Ready Reserves/National Guard
- assignment to the Individual Ready Reserves (IRR) of a branch of service or to the Inactive National Guard (ING).This includes members of the United States Public Health Service Inactive Reserve Corps (IRC)
- placement on the Temporary Disability Retirement List (TDRL)

VETERANS' GROUP LIFE INSURANCE (VGLI)

- Veterans are also eligible to apply for VGLI if they had part-time SGLI and while performing duty, suffered an injury or disability that rendered them uninsurable at standard premium rates. This includes travel directly to and from duty.

- If the veteran is totally disabled at the time of separation, they can apply for an SGLI Disability Extension which provides free coverage for up to two years from the date of separation. An extension of SGLI due to total disability is not automatic.

- At the end of the extension period, the veteran automatically becomes eligible for VGLI, subject to premium payments.

SERVICE-DISABLED VETERANS INSURANCE (S-DVI)

- S-DVI is an optional life insurance for service-connected veterans only that stopped taking new applications after December 31, 2022.
- If a veteran was already enrolled in S-DVI they can keep it. coverage.
- Veterans who have the basic S-DVI coverage and are 100% P&T service-connected can have their premiums waived.
- If a premium waiver is granted, policyholders may apply for additional coverage of up to $30,000 under the Supplemental S-DVI program.
- Premiums for Supplemental S-DVI coverage cannot be waived.

SERVICE-DISABLED VETERANS INSURANCE (S-DVI)

To be eligible for S-DVI the veteran must meet all of the following requirements:

- Released from service under other than dishonorable conditions on or after April 25, 1951
- Must have a service-connected disability (even one rated 0%)
- Healthy except for the service-related disability
- Must apply within two years of being notified of a service-connected disability (can apply any time veteran receives a new disability award, even one rated 0%)

SERVICE-DISABLED VETERANS INSURANCE (S-DVI)

The cost of the premium (the amount you will pay for coverage) is:

- Your age, **and**
- The amount of insurance you have **and**
- The coverage plan requested **and**
- Whether you pay once each month or once each year

VETERANS AFFAIRS LIFE INSURANCE (VALIFE)

In January 2023, VA launched Veterans Affairs Life Insurance (VALife), which provides guaranteed acceptance whole life insurance coverage to service-connected veterans aged 80 and under. Some Veterans aged 81 and older may also be eligible.

VALife offers guaranteed acceptance whole life insurance coverage that lasts for an individual's entire life and provides the following benefits:

- All veterans aged 80 and under with 0-100% VA disability ratings are eligible.
- Fully automated online enrollment with instant approvals.
- Coverage comes in increments of $10,000, up to a maximum of $40,000
- No medical requirements for enrollment.
- Cash value that builds over the life of the policy after the first two years of enrollment.

If veteran is 81 years or older

All of these must be true:

- Before turning 81, veteran applied for disability compensation for a service connected disability, **and**
- After turning 81, veteran received a rating for that same disability, **and**
- Veteran applied for VALife within **2 years** of getting notification of the disability rating

VETERANS AFFAIRS LIFE INSURANCE (VALIFE)

Veterans must apply for VALife within **2 years** of getting notification of VA disability rating

Veterans who currently hold an S-DVI policy can either keep their current coverage or apply for VALife.

Veterans can keep their S-DVI policy until the full coverage of VALife begins two years after enrollment as long as the application is received between Jan. 1, 2023, and Dec. 31, 2025.

VETERAN READINESS AND EMPLOYMENT (VR&E)



VETERAN READINESS AND EMPLOYMENT (VR&E)

- Vocational rehabilitation and employment services, job training, employment accommodations, resume development, and job-seeking skills coaching are available to veterans if: (Both must be true)
  - You didn’t receive a dishonorable discharge, and
  - You have a service-connected disability rating of at least 10% from VA

- Other services may be provided to assist veterans in starting their own businesses or independent living services for those who are severely disabled and unable to work in traditional employment.

VETERAN READINESS AND EMPLOYMENT (VR&E)

- **If you were discharged from active duty before January 1, 2013**, your basic period of eligibility ends 12 years from one of these dates, whichever comes later:
  - The date you received notice of your date of separation from active duty, **or**
  - The date you received your first VA service-connected disability rating
  - The basic period of eligibility may be extended if a VRC finds that you have a serious employment handicap (SEH). Having an SEH means your service-connected disability significantly limits your ability to prepare for, obtain, and maintain suitable employment (a job that doesn't make your disability worse, is stable, and matches your abilities, aptitudes, and interests).

- **If you were discharged from active duty on or after January 1, 2013:**
  - The 12-year basic period of eligibility doesn't apply to you. There's no time limit on your eligibility

VETERAN READINESS AND EMPLOYMENT (VR&E)

How to apply:

- The veteran will have to submit the VA Form 28-1900 "*Disabled Veterans Application For Vocational Rehabilitation*" to VA and then will meet with a counselor to determine the best course of action and eligibility.
- If the veteran has not received a VA rating or has not yet been discharged (up to 6 months prior to discharge), they can still apply for VR&E; They will complete and submit the 28-1900 and the Notice to VA Veterans Service Center, located on the bottom of 28-0588. VA will review the available evidence and issue a memorandum rating determining eligibility

COMMISSARY AND EXCHANGE PRIVILEGES

VETERANS OF FOREIGN WARS.



COMMISSARY AND EXCHANGE PRIVILEGES

As of January 1, 2020, all service-connected veterans, former POWs, and Purple Heart recipients have access to Commissary, Exchange, and MWR services on military installations.

To gain access to the installation and use these services, veterans will need to enroll in the VA healthcare system and show their VA healthcare card at the military installation.

Note: Even though DoD and VA authorize these benefits, the Base Commander has the ultimate say on who is allowed on the base.

Veterans who are not eligible to enroll in VA health care, or who are enrolled in VA health care but do not possess a VA healthcare card will not have access to military installations for in-person commissary, exchange, and MWR privileges, but will have full access to online exchanges and American Forces Travel.

COMMISSARY AND EXCHANGE PRIVILEGES

- Though these benefits are provided by Department of Defense (DoD), VA does provide assistance in completing DD Form 1172, *"Application for Uniformed Services Identification and Privilege Card."* For detailed information, contact the nearest military installation.

- This application is only used for 100% P&T service-connected veterans

- As of November 11, 2017 all Honorably discharged veterans may shop the online exchange

- https://www.shopmyexchange.com/account/register

Dependents Educational Allowance (DEA) (Chapter 35)

Provides education type benefits to spouse/children of:

- Veteran who died or is permanently and totally disabled due to a service-connected disability
- Veteran who died from any cause while permanently and totally disabled due to a service-connected disability
- Service member who died on active duty, MIA or captured by hostile forces
- Service member forcibly detained/interned in LOD by a foreign government
- Service member hospitalized/receiving outpatient treatment for permanent and total service-connected disability and likely to be discharged for that disability

Dependents Educational Allowance (DEA) (Chapter 35) continued

- Up to 45 months of benefits if benefits began before 8-1-18
- Up to 36 months of benefits if benefits began on or after 8-1-18
- Time limit
- Children generally aged 18 to 26 (or up to age 31 in certain circumstances)
- Surviving spouse
- Up to 20 years if spouse died on active duty
- Up to 10 years if veteran established eligibility after discharge from active duty

Other Programs-VA's Benefits A-Z Page

- Veterans Health Care
- Caregiver Support Program
- Civilian Health and Medical Program of the Department of Veterans Affairs (CHAMPVA)
- Veteran Owned Business Program
- Civil Service Preference
- Commissary/Exchange Privileges
- Space Available Travel/Lodging
- State Benefits

The Appeals Process For Ancillary Benefits



Filing a Supplemental Appeal



Filing a Higher Level Appeal



Filing A Board Appeal



Appealing A VA Decision To The Appeals Court

Appealing A Clinical Decision

- If the veteran disagrees with a decision that their VA health care team makes about their treatment or care, they can request to have other medical professionals review that decision. This type of decision review follows the VHA Clinical Appeals process.
- Veteran can request a review of a decision that their health care team makes about treatment or care. Here are some types of medical treatment decisions that can be appealed through the Clinical Appeals process:
- If the provider should prescribe a specific medicine for veteran
- Whether veteran should receive a specific type of therapy
- These treatment decisions are also called “medical determinations.”

Appealing a Clinical Decision (cont.)

- After the patient advocate reviews the appeal request, they'll determine the next step for your appeal:
- If new medical evidence was presented, the advocate may request that the health care team review their original decision again.
- If the appeal enters the Clinical Appeals process, the facility's chief medical officer, or someone they designate, will review the appeal and any relevant medical records. If needed, they'll ask other experts to help review the appeal, too.
- The veteran will then receive a final letter with the decision on your appeal. If they agree with the decision, the appeal will be considered closed. If they disagree with the decision, they can appeal the decision in writing to their Veterans Integrated Service Network (VISN) Office.

- Be aware of the multiple ancillary benefits a veteran may be entitled to

- Check current criteria for eligibility as it may change

- REMEMBER: Veterans don’t always know what they are entitled to.

- **They need YOU!**

VETERANS OF FOREIGN WARS®

Questions?

VETERANS OF FOREIGN WARS®

Veteran Education Benefits

What we will discuss:

VETERANS OF FOREIGN WARS.

- What are VA education benefits?
- Who processes education benefits?
- Application process
- Eligibility Requirements
- What programs are available?
- Best Practices to Obtain
- Appeals process for denial

What are VA Education benefits?

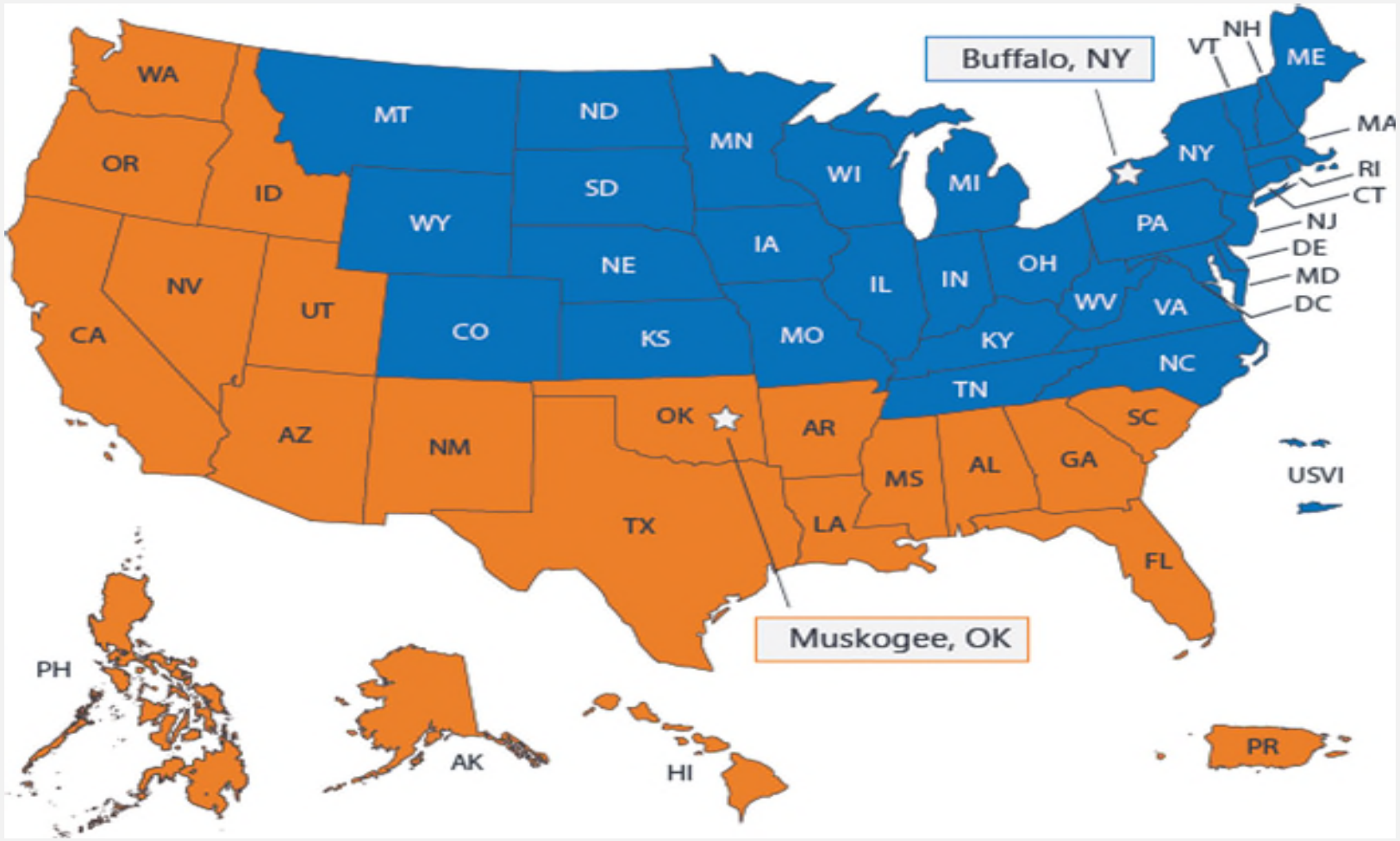
VA education benefits help Veterans, service members, and their qualified family members with needs like paying college tuition, finding the right school or training program, and getting career counseling.

What are VA Education benefits?

- May include GI Bill (this is a registered trademark BTW)
- Post-9/11 GI Bill
- Yellow Ribbon program
- Montgomery GI Bill
- Reserve Educational Assistance Program
- Survivor’s and Dependents’ Educational Assistance

Education Administrators-Regional Processing Offices

VETERANS OF FOREIGN WARS.



Education Administrators

Education Liaison Representative (ELR)	• ELR=VBA Employee
State Approving Agency (SAA)	• SAA=State Employee
School Certifying Official (SCO)	• SCO= Designated School Employee

Education Liaison Representative/State Approving Agency/School Certifying Official

What do they do?

Responsible to the VA for Education Administration

ELR

- Updates Web Enabled Approval Management System (WEAMS)
- Authorize SCO access through VA form 22-8794
- Handles Direct Deposit information for schools (Public Law 104-134, also known as "The Debt Collection Improvement Act of 1996" requires all federal payments be made by Electronic Funds Transfer (EFT) and there are no exceptions for Vendor payments.)

SAA

- Gathers and maintains education documentation related to programming.
- Helps coordinate Risk Based Surveys
- Approves/Disapproves education programs based on VA requirements.
- Acts as Liaison between VA and SCO

School Certifying Official-HEAVY LIFTER

- Submits VA 22-1999 (VA Enrollment Certification)
- Maintains student education file:class schedule, transcripts, bursar record, etc. 3 year record keeping.
- May advise student academically. May be a Jack of All Trades!
- Constant point of contact with Veteran and dependents.
- Handles Risk Based Survey (RBS).

Use the SCO Handbook as a guide for certifications. 8 hours of training annually.

SCO's are located found in various areas around campus.

Some may be found within the Registrar Office, Financial Aid Office, Student Account Office, or Admissions.

Every organization is structured differently. **However, the role of SCO doesn't change!**

Approval Process for GI Bill

VETERANS OF FOREIGN WARS.

Organization Creates Program

- Regional/National Accreditation Approve/Disapprove

Organization Submits to SAA for Approval

- Organization submits all relevant documentation to include marketing, finances, and catalog to SAA.

SAA/ELR Approve

- SAA notifies organization of approval/disapproval. ELR updates WEAMS. SCO is cleared to report student and program.

Who is Eligible?

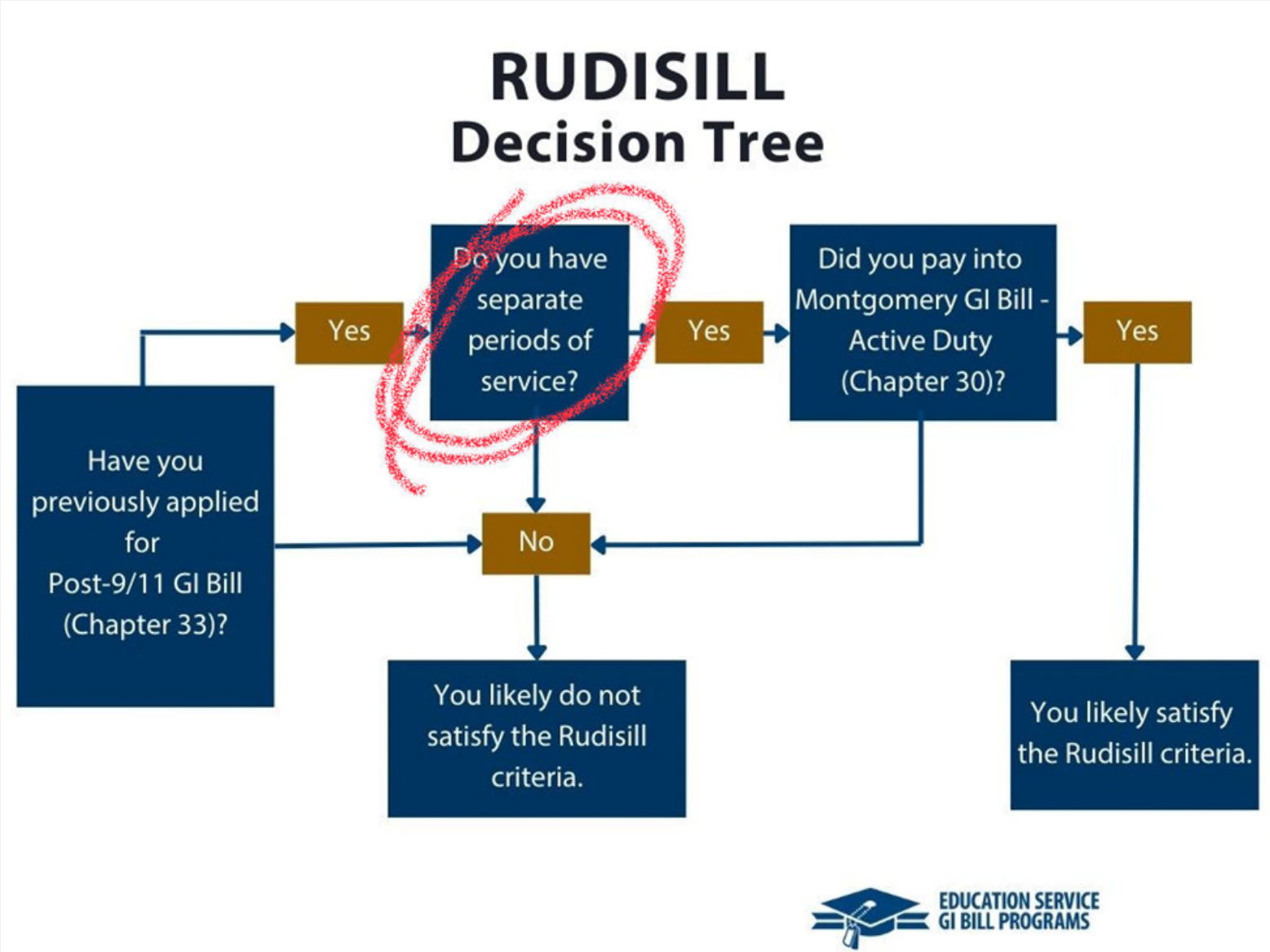
- Veterans
- Active-duty service members
- National Guard or Reserves
- Qualified survivors
- Qualified dependents

Recent Change!

- This will be discussed in more detail in your “What’s New at VA” Class with Crystal
- There may be additional entitlement in the recent Rudisill decision (for those with 2 or more qualifying periods of active duty = potentially up to 48 months of entitlement
- Some specific examples in Perkins v Collins
- Also look at Loomis v Collins

Recent Change!

VETERANS OF FOREIGN WARS.



(Fairly) Recent Changes

VRRAP – Veteran Rapid Retraining Assistance Program does not have any enrollments after December 10, 2022 – was in place due to COVID-19

Post-911 GI Bill Eligibility

- Also known as Chapter 33
- Active duty for at least 90 days after 9/10/2001 (continuous or interrupted)
- Served for at least 30 continuous days after 9/10/01 and were discharged because of SC disability
- Received Purple Heart after 9/10/2001
- If you have one period of service after 8/1/2011 and you qualify for others, you must choose only 1 education benefit

Montgomery GI Bill Active Duty Eligibility

VETERANS OF FOREIGN WARS.

- Also referred to as MGIB-AD
- Generally, at least 2 years active duty plus:
  - Honorably discharged, and
  - You have HS diploma or GED, or 12 hours college credit, and
  - You didn’t decline enrollment in MGIB-AD when you started AD, and
  - You meet other requirements
  - You must choose only 1 education benefit if you have only 1 period of service after 8/1/2011 (same as Post-911 requirement)

Montgomery GI Bill Selected Reserve Eligibility

Also referred to as MGIB-SR

Army, Navy, Air Force, Marine Corps, or Coast Guard Reserves

One MUST be true:

- 6-year service obligation, or
- Officer in the Selected Reserve who agreed to serve 6 years in addition to the initial service obligation

Montgomery GI Bill Selected Reserve Eligibility

ALL of these must be true:

- IADT is complete
- HS Diploma or GED is completed prior to finishing IADT
- Good standing while serving in an active SR unit

Let’s evaluate

- Does anyone know?
- Which is better – Montgomery GI Bill? Or Post-9/11 GI Bill?
- Why?

Education Benefits Highlights

- If there is eligibility for more than one education benefit, there is a maximum 48 months/ 4 years of benefits available
- Keep in mind that Veteran Readiness and Employment (VR&E) benefits (Chapter 31) are separate

Edith Nourse Rogers STEM Scholarship

Veterans or Fry Scholars may be eligible if:

- Enrolled in an undergraduate STEM degree program
- Earned a post-secondary degree or graduate degree in approved STEM degree field and enrolled in a covered clinical training program for HC professionals
- Earned a post-secondary degree in an approved STEM degree field and working toward a teaching certification

Priority is given to Veterans and Fry Scholars who are eligible at the 100% level for Post-9/11 GI Bill and require the most credit hours compared to other applicants

Benefit: 9 additional months (or $30,000 whichever comes first)

Yellow Ribbon Program

Can help pay for higher out-of-state, private school, foreign school, or graduate school tuition and fees that the Post-9/11 GI Bill doesn't cover.

Recipient must qualify for the Post-911 GI Bill at the 100% level

School must offer the Yellow Ribbon Program, have available slots, and will make the decision.

Benefit = school will contribute a certain amount toward the extra tuition and fees through a grant, scholarship, or similar program. VA will match the contribution.

Post-911 GI Bill at the 100% level

- 36 months on active duty and honorably discharged
- Purple Heart recipient on or after 9/11/2001 and honorably discharged
- 30 continuous days on or after 9/11/2011 and discharged for SC disability
- Active-duty member with at least 36 months on active duty
- Spouse using the transferred benefits of active-duty service member with at least 36 months active-duty service
- Dependent child using benefits transferred by a Veteran
- Fry Scholar

Fry Scholarship

Available to the child or surviving spouse of a service member or member of Selected Reserve who died on or after September 11, 2001.

Named for Marine Gunnery Sergeant John David Fry

- Service member died in LOD, or died from SC disability within 120 days of discharge
- Selected Reserve member died in LOD not on AD, or from SC disability
- School must be an approved program for the Fry Scholarship

Chapter 36

Free educational and career counseling through Personalized Career Planning and Guidance (Chapter 36)

- Leaving active service soon
- Discharged within the past year
- Veteran or dependent who is eligible for VA education benefits

Spouse or Child education benefits

If Post 9/11 benefits have not been used, up to 36 months may be transferred to spouse or dependent children. While the service member is on Active Duty or in the Selected Reserve.

All of these must be true:

- You've completed at least 6 years of service on the date your request is approved, **and**
- You agree to add 4 more years of service, **and**
- The person getting benefits is enrolled in the Defense Enrollment Eligibility Reporting System (DEERS)

Note: If you received a Purple Heart, you don't need to meet a service requirement. But you'll need to request to transfer your benefits while you're still on active duty.

Spouse or Child education benefits

For SC disabilities, dependent family members may be eligible through Chapter 36

Surviving spouse and children can obtain educational assistance

- P&T Veteran due to SC disabilities
- Died as a result of SC disability, or in line of duty, MIA, POW
- Service member is in the hospital for SC permanent disability

Spouse or Child education benefits

January 1, 2013 is an important date for eligibility for spouses.

- If service member separated before 1/1/2013, the spouse has up to 15 years from separation to use the benefits (assuming no revocation)

- If service member separated ON OR AFTER 1/1/2013, there is no time limit unless the SM or Veteran revokes the transfer

Spouse or Child education benefits

A dependent child can start to use these benefits only after you've finished at least 10 years of service. They can use these benefits while The service member is on active duty or after they have separated from service.

The child must meet these requirements to use the benefits:

- They have a high school diploma (or a certificate that's equivalent) or they're at least 18 years old
- They're younger than 26 years old

Special Circumstances

For individuals without an honorable discharge, it may be possible to:

- Apply for a discharge upgrade
- As for VA Character of Discharge review

How to Apply

- Apply Online –
  - *There is a GI Bill Comparison Tool that is super helpful*
- Apply In Person – at a benefits office
- Apply at School – with an SCO
- Apply by Mail (yes this still exists)

HOT TIP

Make sure that the student you are helping forms a relationship with their School Certifying Official

They will be a wealth of information and guide

GI Bill Benefit Process-Application



VA 22-1990

Ch 1606 Selected Reserves MGIB

Ch 30 Montgomery GI Bill

Ch 33 Post 9/11 GI Bill

VA 22-1990e

Ch 33 Post 9/11 Transfer of Entitle Benefits (TEB)

VA 22-5490

Ch 35 Dependents Education Assistance (DEA)

GySgt Fry Scholarship (Post 9/11)

VA 28-1900

Ch 31 Veteran Readiness & Employment

22-10203

Edith Nourse STEM Scholarship

What are the Benefits? (Post-9/11)

Post-9/11 GI Bill (Chapter 33) rates for tuition and fees:

- Public institutions = up to the net tuition and mandatory fees
- Private, foreign, non-college degree = up to $29,920.95
- Flight training = up to $17,097.67
- Correspondence school = up to $14,533

What are the Benefits?

Post-9/11 GI Bill (Chapter 33) rates for monthly housing:

- Must not be on active duty
- Must be more than half-time
- Based on zip code for in-person courses
- For online learning, it is 50% of the national average
  - After 1/1/2018, $1,169 is the max

What are the Benefits?

Post-9/11 GI Bill (Chapter 33) rates for monthly housing:

- The Defense Travel Management Office Basic Allowance for Housing (BAH) is used based on zip code, at the E-5 level
- For example, Louisville KY is $1,950 with dependents, $1,500 without dependents
- Annapolis, MD is $2,859 with, and $2,448 without
- Atlanta, GA is $2,367 with, and $1,989 without
- New York, NY is $3,240 with, and $2,835 without

What are the Benefits?

Post-9/11 GI Bill (Chapter 33) rates for books & supplies:

- $1,000 each academic year
  - Up to $41.67 per credit hour (limit 24 hours) for college or university
  - $83/ month for non-college

If student is moving from a rural area, there is an additional benefit of $500 to help with moving expenses (county with no more than 6 ppl per sq mile and relocating at least 500 miles away)

Tutorial assistance up to $1,200 total ($100/ month) is available

What are the Benefits?

Additional benefits:

- Work study program
- On-the-job training and apprenticeship living expenses (rates determined by zip code)
- Test fees = up to $2,000
- Prep courses
- National tests

What are the Benefits?

Chapter 35 rates for survivors and dependents (per full month at higher learning institution:

- $1,536 for full-time enrollment
- $1,214 for ¾ time enrollment
- $890 for ½ time enrollment

- These are same rates for non-college degree programs

Montgomery GI Bill Benefits

For institutions of higher learning rates based on full months with at least 3 continuous years of service:

- $2,438 for full-time enrollment
- $1,828.50 for ¾ time enrollment
- $1,219 for ½ time enrollment
- Same for non-college degree programs

- 60% of flight training charges

Montgomery GI Bill Benefits

For institutions of higher learning rates based on full months with at 2-3 continuous years of service:

- $1,978 for full-time enrollment
- $1,483.50 for ¾ time enrollment
- $989 for ½ time enrollment
- Same for non-college degree programs

- 60% of flight training charges

Montgomery GI Bill Benefits

There was a Buy-up program for MGIB-AD

- If member contributed $600, there is up to $5,400 more available
- $150 more per month for full-time enrollment
- $112.50 more for ¾ time
- $75 more for ½ time

Montgomery GI Bill Benefits – Selected Reserve

VETERANS OF FOREIGN WARS.

For Selected Reserve (MGIB-SR):

- $481 for full-time enrollment
- $360 for ¾ time enrollment
- $240 for ½ time enrollment
- Same for non-college degree programs

- 60% of flight training charges

… and there’s more!

- Senator Elizabeth Dole 21st Century Veterans Healthcare and Benefits Improvement Act of 2025
- 15 provisions to enhance benefit programs
- Effective January 2, 2025

… and there's more!

Accelerated payments for high-technology programs

- Enrolled in qualifying high-tech degree or non-college program
- Tuition and fees cost more than 200% of the monthly amount of assistance you would normally qualify to receive
- Benefit = accelerated payments of 60% of tuition and fees
- Qualifying programs may include engineering, mathematics, computer specialties, and so on
- Must certify the intention to look for employment in a related field

Best Practices to obtain benefits

- Know your eligibility
- Know which program will pay you the most! (GI Bill Comparison Tool is a great start)
- Get to know the School Certifying Official
- If the student is having a hard time deciding on a major, it might be smart to pick one in STEM! And apply for the Nourse! And find a Yellow Ribbon school!
- Don’t forget about programs that can supplement (like VR&E)

Education – How to Appeal

- Supplemental claim (new and relevant evidence)
- Higher-Level Review
- Board Appeals
- Must follow timelines as stated within the decision notification (generally one year from notification)

Questions?



VETERANS OF FOREIGN WARS®

Esoteric Claims

Definition of Rare Conditions

- A rare disease is defined by NIH as affecting fewer than 200,000 Americans at a given time. For VA, this definition guides decisions when conditions are unusual or poorly documented

- Veterans may face conditions like autoimmune disorders, rare cancers, Gulf War illnesses, or genetic disorders that have unusual military connections

Example: Exposure to burn pits can lead to rare respiratory conditions that were not recognized by VA until recently

Sources of Rare Conditions

Environmental Exposures: Agent Orange, burn pits, radiation, chemical weapons, contaminated water.

Genetic Predispositions: Conditions like Huntington's, ALS, or hereditary blood disorders that may be triggered or aggravated by service.

Unusual Service Experiences: High-altitude assignments, submarine duty, classified missions with chemical exposure.

Question: Can a veteran with mitochondrial disease aggravated by service qualify?

Difficulties of Rare conditions

- Veterans may struggle for years without recognition of symptoms
- Delayed diagnosis may cause missed benefits, financial hardship, worsening health
- VA adjudicators may deny due to lack of precedent or knowledge
- Accredited reps must bridge the knowledge gap by helping the veteran provide medical literature, nexus letters, and lay testimony

Example: A Veteran with Gulf War Illness denied repeatedly until studies and expert opinions proved service connection.

VA Recognition & Rating Basics

- Recognition does not equal automatic approval
- VA relies on medical literature, case law, and medical opinions
- Ratings consider:
  - Severity of condition
  - Impact on daily life and employability
  - Medical evidence of service nexus

Example: Rare autoimmune disease might be rated 60% if severely limiting employment, 30% if only moderate symptoms.

Difficulties of Rare conditions

How can an accredited representative help?

- Advise on lay statements – explain to the veteran what they are and help determine who would be best to write one
- Provide the nexus letter info sheet
- Direct them to different websites for research – (Not WebMD)
- Provide suggestions such as keeping a journal, finding HR logs, or providing receipts for treatment/supplies

Elements of a Strong Claim

Clear Diagnosis: Must be current, supported by licensed medical professionals.

Nexus to Service: Document exposure, in-service event, or aggravation.

Continuity & Severity: Evidence that symptoms persisted and worsened.

Example: For radiation-exposed veterans, pair medical scans with unit records confirming exposure sites.

Challenges with Nexus

- Not presumptive = harder to prove service connection.
- Requires expert nexus letters often costing veterans money.
- Scientific studies may be limited for rare diseases.

Example: Linking mitochondrial disease to burn pits requires creative use of environmental exposure data and published medical research.

Common Pitfalls

- Lack of awareness of rare conditions among veterans/providers
- Incomplete medical documentation
- Misinterpretation of vague symptoms (e.g., fatigue, chronic pain)
- VA adjudicators default to denial when evidence is insufficient

Example: Gulf War Illness is often denied because of multi-symptom presentation

Overcoming Pitfalls

- Collect complete treatment history from civilian and VA providers.
- Secure expert opinions early so that C&P examiners can use them
- Use lay statements to document chronic symptoms
- Highlight evolving science in support of claim (submit studies, NIH definitions).

Example: A Veteran with rare skin cancer linked to sun exposure in service, supported by dermatologist nexus letter.

Evidence Collection

- Beyond the typical medical evidence, you may need to have to dig a little deeper for some uncommon claims.

Example: For a Spina Bifida claim, you should include the parent's service records, medical birth documentation, and VA AO guidelines.

VA Development

- VA may schedule a C&P exam – prepare the veteran to discuss their symptoms clearly and let them know that they can bring research or records to the exam, but you also need a copy to submit to VBMS
- VA may request additional documentation – respond promptly
- Accredited reps should monitor VBMS regularly to ensure the claim is progressing

Other AO conditions

VETERANS OF FOREIGN WARS.

Everyone knows about Spina Bifida but what about these?

- Achondroplasia
- Cleft lip and/or palate
- Congenital heart disease
- Congenital talipes equinovarus (clubfoot)
- Esophageal and intestinal atresia
- Hallerman-Streiff syndrome
- Hip dysplasia
- Hirschprung's disease (congenital megacolon)
- Hydrocephalus due to aqueductal stenosis
- Hypospadias
- Imperforate anus
- Neural tube defects
- Poland syndrome
- Pyloric stenosis
- Syndactyly (fused digits)
- Tracheoesophageal fistula
- Undescended testicle
- Williams syndrome

Adding Parents to an Award

- VA allows dependent parents to be added for financial support benefits
- Requires proof of parenthood, financial dependency, and income documentation (Parent must be dependent on the veteran for support)
- Accredited reps should assist in filling VA Form 21P-509

**Parents can also be eligible for DIC

Dental Claims

- VA provides dental benefits under certain conditions – normally requires a service-connected dental condition, POW status, or 100% P&T

- Accredited reps must explain limits clearly as there is a lot of misconception with dental cale and VA

VFW has a resolution passed to have dental benefits available to all veterans

Dental Claims

VETERANS OF FOREIGN WARS.

VA categorizes dental treatment based on classes

Class I: Available to veterans with compensable service-connected dental disabilities or conditions. (Eligible for any dental treatment indicated as necessary for SC compensable dental conditions to maintain oral health and chewing function) For Class I dental treatment, there is no restriction on the time limit for making application for treatment or the number of repeated treatments.

Class II(a): Available if a dental condition is determined to be service-connected but not compensable. The condition must have existed at the time of discharge or release from active service. Can receive any treatment necessary for the correction of the SC non-compensable dental condition or disability.

Dental Claims

Class II(c): Former POW regardless of the length of captivity – will receive any necessary dental treatment

Class III: Veterans with a dental disability professionally determined by VA to be currently aggravating an SC medical condition - will receive treatment to resolve the problem

Class IV: 100% P&T including TDIU – any necessary dental treatment

Class V: Veterans who have SC disabilities or have been approved by VA for VR&E – will be provided care to allow for training

Class VI: Veterans who are scheduled for admission or receiving care under 38 U.S.C. 1710 – will receive treatment that is complicating a treatment condition

M21-1, Part XIII, Subpart i, Chapter 4, Section A

Dental Claims

A veteran may be entitled to one-time correction of certain SC dental conditions if he/she meets the following requirements for Class II dental disabilities

- The veteran left active service after September 30, 1981 under conditions other than dishonorable
- Served on active military for 90 days or more during the Gulf War period (beginning August 2, 1990) or 180 days or more during any other period
- The certificate of discharge or release does not certify that the veteran had a complete dental examination (including x-rays) and all appropriate dental treatment indicated by examination, within 90 days immediately prior to discharge or release
- The application for dental treatment is made within 180 days after discharge or release, a
- VA dental examination is completed within six months after discharge or release, unless delayed through no fault of the Veteran

Other Esoteric Claims

There are too many conditions to be listed in the CFR

If a condition isn’t listed but the veteran has evidence that it is related to service, file the claim – this is how presumptives and laws get updated

If you are unsure if it should be service connected – file the claim unless it is fraud

Questions to Keep Asking

VETERANS OF FOREIGN WARS.

- What is the condition?
- Does VA recognize it? (precedent, medical literature, science)
- How do we manage the claim? (strategy, evidence collection, appeals)
- Keep asking and re-answering with each Veteran scenario

Resources for Reps

- Electronic Code of Federal Regulations (eCFR)
  https://www.ecfr.gov/current/title-38
- M21-1 VA Adjudication Procedures Manual
  https://www.knowva.ebenefits.va.gov/system/templates/selfservice/va_ssnew/help/customer/locale/en-US/portal/554400000001018
- NIH Rare Disease Database for supporting evidence
- https://rarediseases.info.nih.gov/

2025 Skill Level Training Conference: Esoteric Claims

Please scan the QR Code or click on the link below to take an anonymous survey about your experience during the 2025 Skill Level Training Conference.

VETERANS OF FOREIGN WARS®

Hearings & Effective Preparation

CFR References & Court Cases

- 38 CFR 3.105(a) & (e) & (d) – Revision of decisions
- 38 CFR 3.344(a) – Stabilization of disability evaluations
- 38 CFR 3.655 – Failure to report for VA exam
- 38 CFR 3.951 – 20-year rule
- 38 CFR 3.957 – 10-year rule
- 38 CFR 20.704(c) & (e) – Hearings conducted by BVA
- Hayes v Brown, Brown v Brown, and Stern v McDonough – Reductions of evaluations

M21-1 References

- M21-1 X.ii.4.A.1.b. – 5-year rule
- M21-1 X.ii.4.A.2.a. – 5-year rule, Burden of Proof
- M21-1 X.ii.4.A.2.b. – Sustained Improvement Definition
- M21-1 X.ii.5.B.1.a., b., c. – Severance with CUE
- M21-1 X.v.1.D.1.b. – Purpose of Hearing
- M21-1 X.v.1.D.1.l. – Requesting, Canceling, or Rescheduling Hearings at RO
- M21-1 V.ii.1.A.1.b. – Burden of Proof
- M21-1 V.i.1.C.2.a. – Criteria Before Decision Can Be Made

Course Objectives

- Know rules for Reductions
- Know rules for Severance
- Define Informal Conference v Hearing
- Know what to do before, during, and after hearings
- Understand mechanics of hearings
- Maximize efficiency by understanding what Hearing Officers/VLJ's want

Protected Ratings

- 5-year rule
  - Cannot be reduced without showing sustained improvement (1 year)
- 10-year rule
  - Cannot be severed
    - Not even if it was in error
    - Unless it was fraudulent
    - Can be reduced
- 20-year rule
  - Cannot be reduced

Sustained Improvement

- Reductions Are Allowed
  - 38 CFR 3.344(a) - Will improvement be maintained under the ordinary conditions of life (without medication(s)/treatment)
  - M21-1 X.ii.4.A.2.b. - "…evidence portrays an abatement or lessening of SC symptoms…must not be mitigated by
    - temporary or episodic improvement
    - temporary alleviation by prolonged rest, or
    - less thorough or less complete examination"

Proposed Reductions

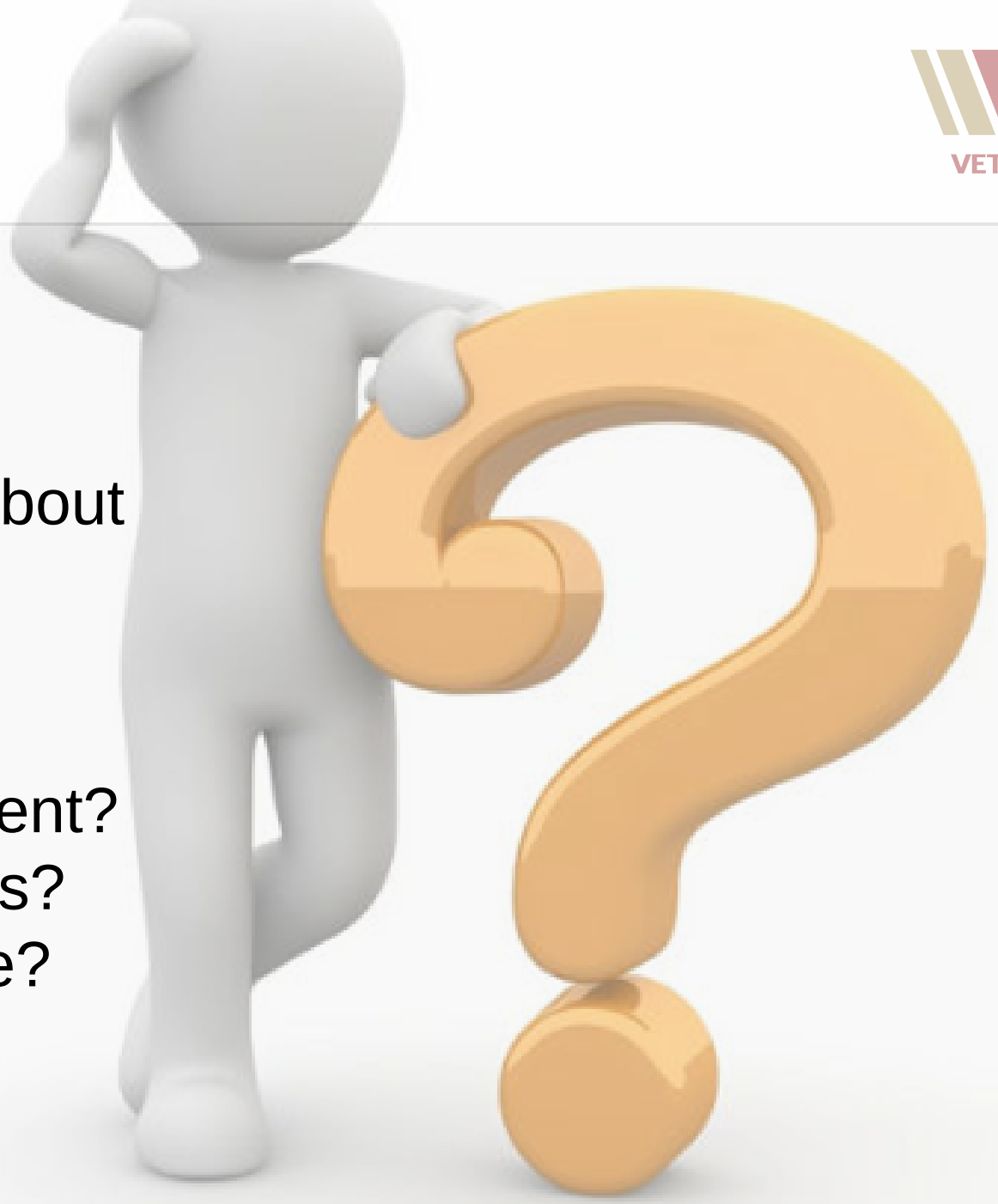
- Common Reasons for Reduction Proposals
  - Medical evidence shows improvement (slight, moderate, substantial)
  - FTR for routine future examination (don't miss exams)
  - Criteria for 100 percent no longer met
- 38 CFR 3.105(e)
  - Proposal must be made when sustained improvement shown
- VA Bears Burden of Proof
  - Hayes v Brown, Brown v Brown, and Stern v McDonough

Reductions Without Proposal

- SC less than 5 years does not need to show sustained improvement
- Reduction would not change benefits
  - Overall rating remains unchanged
  - Simultaneous increase offsets reduction
- Expiration of temporary 100 percent
- Criteria for 100 percent no longer met

Severance Rules

- Severance of Benefits is Rare
  - VA discovers a CUE on their own decision
  - Award of SC was illegal
  - Change in diagnosis
- Proposal to Sever gives veteran time to respond
  - The only way to avoid severance is to prove the decision was accurate to begin with from the start
- 38 CFR 3.105(d) Severance



Questions about

- Protected Ratings?
- Sustained Improvement?
- Reductions?
- Severance?

Informal Conference

- A unique, optional component of a higher-level review that is requested with submission of VA Form 20-0996
  - Telephone contact
  - Not formal, not recorded
  - Purpose is to point out VA errors
  - NO new evidence

Hearing Mechanics

- Formal, recorded
- Oral only
  - Documents uploaded prior
- Purpose is for veteran to provide
  - Evidence via testimony
  - Argument
  - Emphasize credibility
- Can be with RO or BVA
  - Location variable

Hearings

- Testimony
  - Can be provided by veteran or witness
  - Oral presentation of facts, recollections, opinions based on evidence
- Argument
  - Can be provided by veteran or representative
  - Establish a point by reasoning
    - Decision-maker can miss a legal path
    - Use previous slides to support argument

Preparation for Hearing

- Step 1
  - Find VA rationale for reduction/severance/denial
- Step 2
  - Identify how to prevent negative action
    - Keep in mind reduction rules
    - Find evidence VA needs
    - Simplest argument is most effective
- Step 3
  - Submit response documents
  - Prepare response statement for hearing

Aim for efficiency



- Hearings extend the time to decision
- BVA has a backlog of 200,000
- Is it likely decision maker will see the problem?
  - A mistake made by RO
  - Document submitted
  - Vet submitted statement

Hearing Mechanics

- Hearing Officer/VLJ is the person who will be making the next decision
  - Should not be the person who made the decision veteran disagrees with
- If the veteran fails to respond, a decision will be made based on evidence in the file
  - Non-adversarial, reassure the veteran, no cross-examination
  - The point of hearings is to help (clarify)
  - Last-minute cancellation has multiple negative consequences

Hearing Mechanics

- Hearing Officer/VLJ will state the issues open for discussion
  - HO/VLJ is prevented from acting on any other issue, except secondary conditions
- Courteousness is expected
- Communicate with Hearing Coordinator
  - Veteran may have received notice but not VSO
  - Cross-docketing

During Hearing

- Present the evidence/argument that was missing previously
  - Ensure that this is what veteran needs to avoid reduction/severance/denial and/or to gain a favorable decision
  - If evidence is insufficient, ask why
    - Potentially find the needed evidence during hearing
  - Hearing Officer/VLJ can give specific suggestions & examples

What does Hearing Officer want?

- VBA work is production-based
  - Work credit for hearing assumes decision
  - Decision requires a complete file
- Missing puzzle piece
  - HO/VLJ wants to complete the puzzle (the file)
  - The veteran and their representative (you) can provide the missing piece

What does Hearing Officer want?

- Portrait of current conditions
  - Re-telling of military event is irrelevant for determining evaluation
- Point out <u>where</u> rules support veteran
  - 5-, 10-, or 20-years
  - Sustained improvement
    - Exams were not equivalent
    - Condition waxes and wanes
  - VA has burden of proof

After the Hearing – Action Plan

- Hearing Officer should have described the missing piece and why it is needed – Some VLJ's will also provide insight
- Talk with veteran about best way to get that piece
- Provide reassurance and encouragement and request patience

Future of BVA Looks Different

- Shifting to National Work Queue
- Docket based on national inventory
- Hearings prioritize oldest
- Caseflow/AMA
- Legacy
- BVA contacts:
  - BVAHearingTeam@va.gov
  - BoardCustomerService@va.gov

Withdraw and Postpone at BVA

- Withdrawal request of BVA hearing accepted at any point prior to date of hearing 38 CFR 20.704(e)
  - Can be withdrawn by representative with consent from veteran (in writing)
- Postponement request of BVA hearing accepted up to two weeks prior 38 CFR 20.704(c)
  - Good cause must be shown
  - In writing (motion)

Withdraw and Postpone at RO

- Veteran may request, cancel or reschedule a hearing in writing, by e-mail, by telephone, or in person.
- A determination of good cause will be made.
- M21-1 X.v.1.D.1.l.

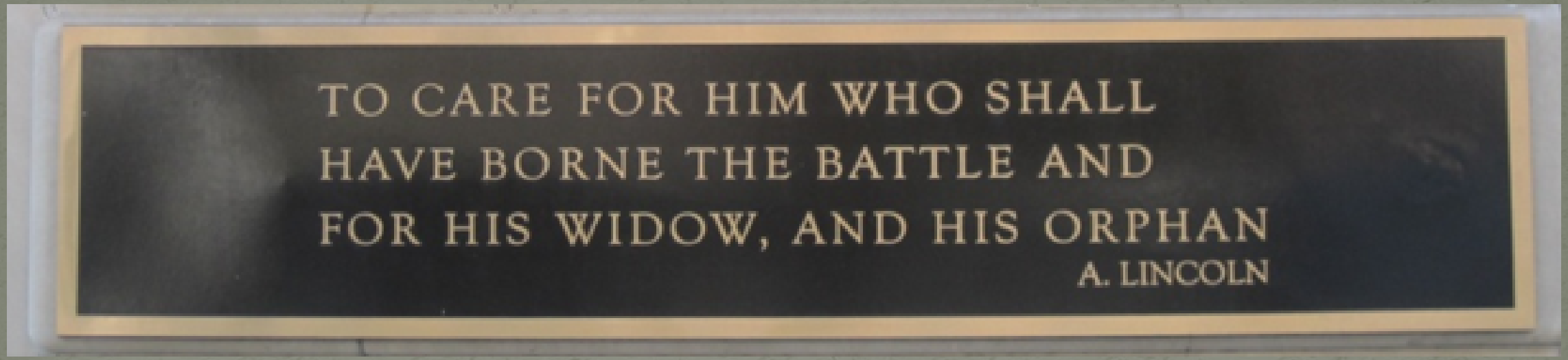
VETERANS OF FOREIGN WARS®

QUESTIONS?

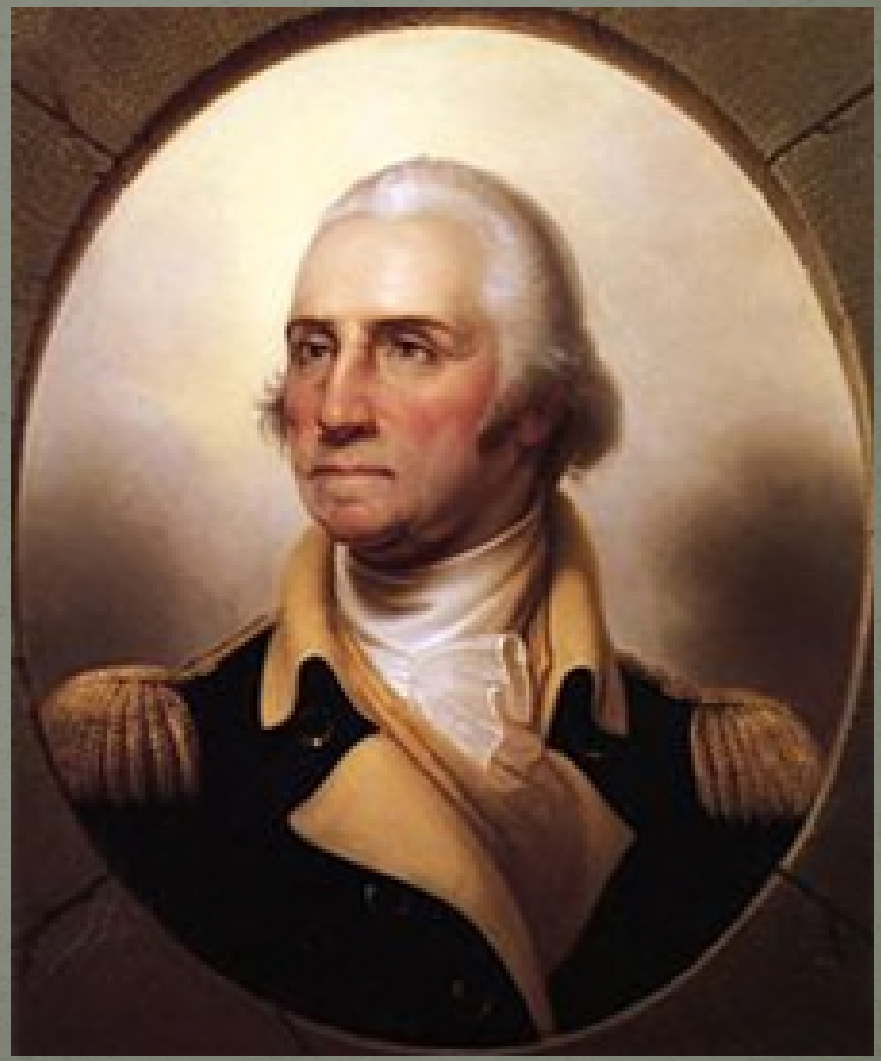
Caring for Those Who Have Borne the Battle

The History of Veterans Benefits Prior to the Department of Veterans Affairs

Lincoln's Second Inaugural Address



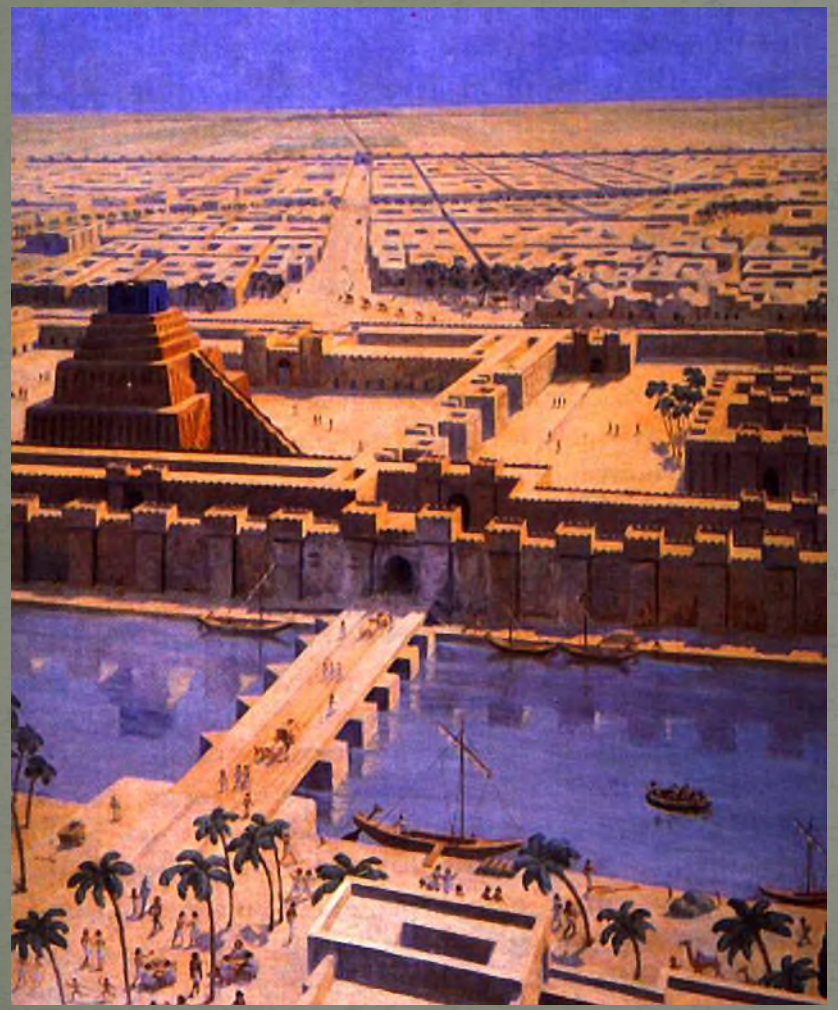
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Before America



Before America





Before America



Before America

- Aerarium Militare
  - Capitoline Hill



Before America



Colonial America

- 1592-93: English Parliament passes national system of disability compensation for veterans
- Disability Benefits
- Officer Pensions



The Revolutionary War



The Revolutionary War

- Duty
- Taxes
- Hereditary Aristocracy



The Revolutionary War



The Articles of Confederation

- States largely failed to honor the promises of the Continental Congress.
- 1783 : The Philadelphia Mutiny

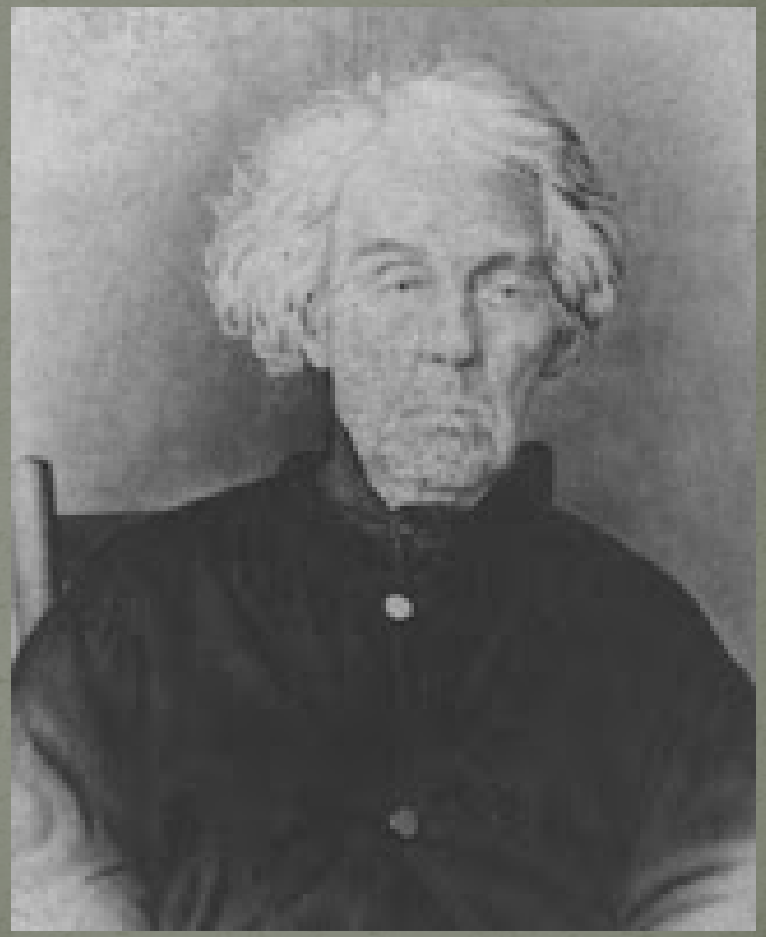




Benefits after the Constitution

- Local governments contract care of destitute veterans to the lowest bidder
  - Petersborough, NH

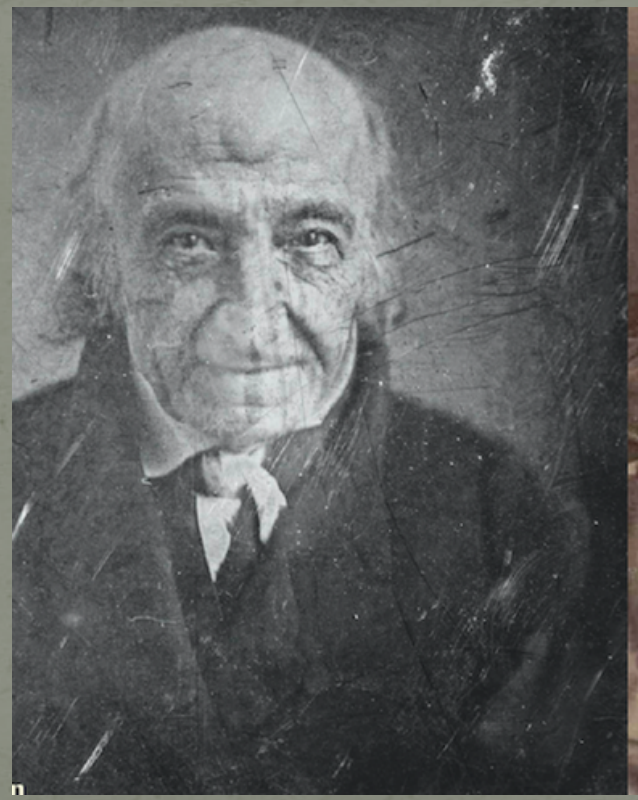
    Benjamin Alld, 96¢/week
- Service Pension Law of 1818
- 1820 Rescission
- 1832 Pension Law



The Revolutionary War

250,000

850





Judicial Review after the Constitution

- Act of Sept. 29, 1789, Ch. 24
- Invalid Pension Act of 1792



Marbury v. Madison

"It must be well recollected that in 1792 an act passed, directing the secretary at war to place on the pension list such disabled officers and soldiers as should be reported to him by the circuit courts, which act, so far as the duty was imposed on the courts, **was deemed unconstitutional** . . . ."

5 U.S. 137, 171 (1803) (discussing Hayburn's Case, 2 U.S. 409 (1792)).

The War of 1812

- War ended in 1815
- The War of 1812 Veterans Act of 1871



The Mexican-American War

- 116,000 veterans
- Twice as deadly as the Civil War
- Disability benefits first awarded for disease contracted in service
- Between 1847 and 1855, veterans were issued warrants for 60 million acres of land.



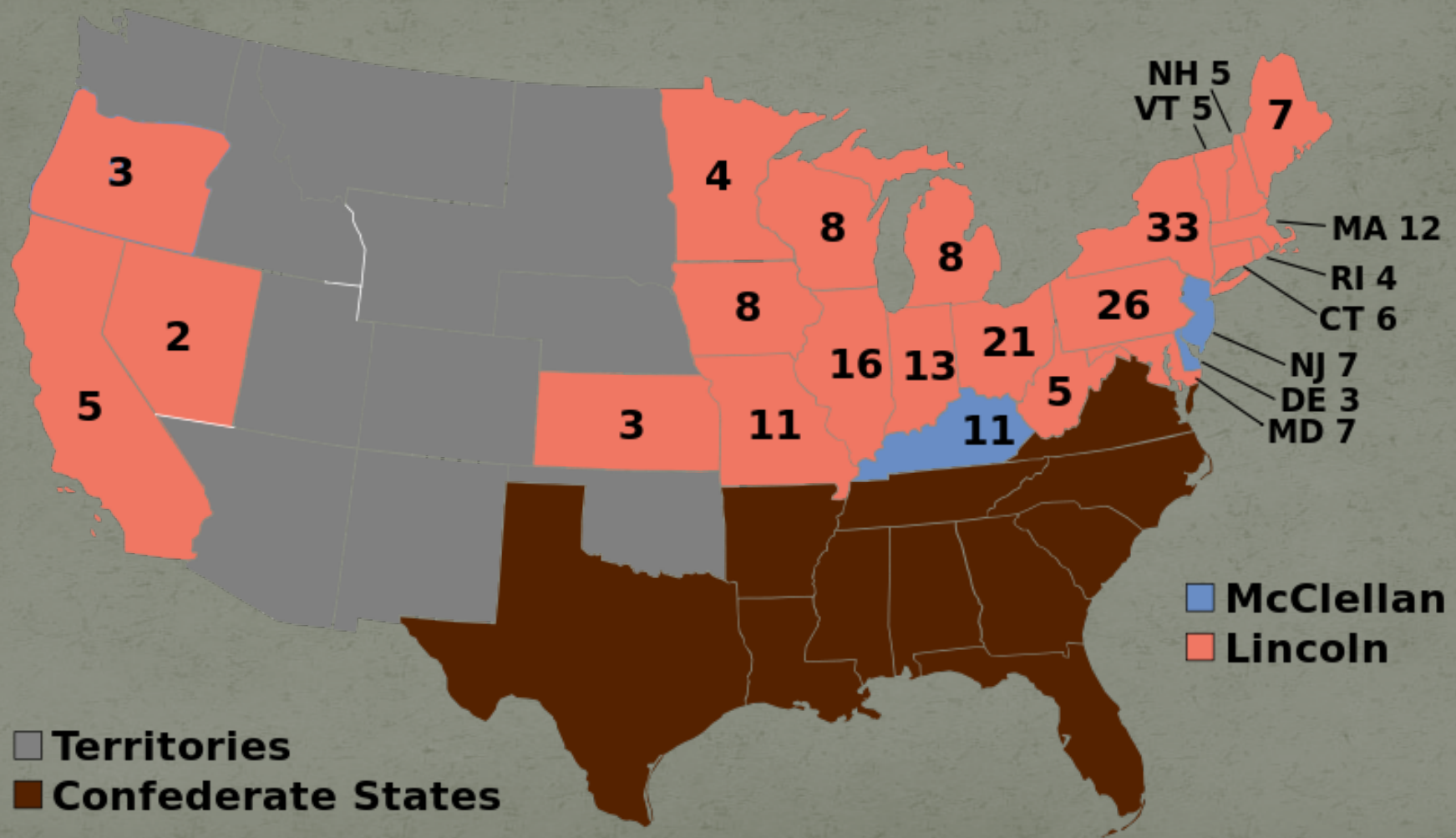
The Mexican-American War



The Civil War

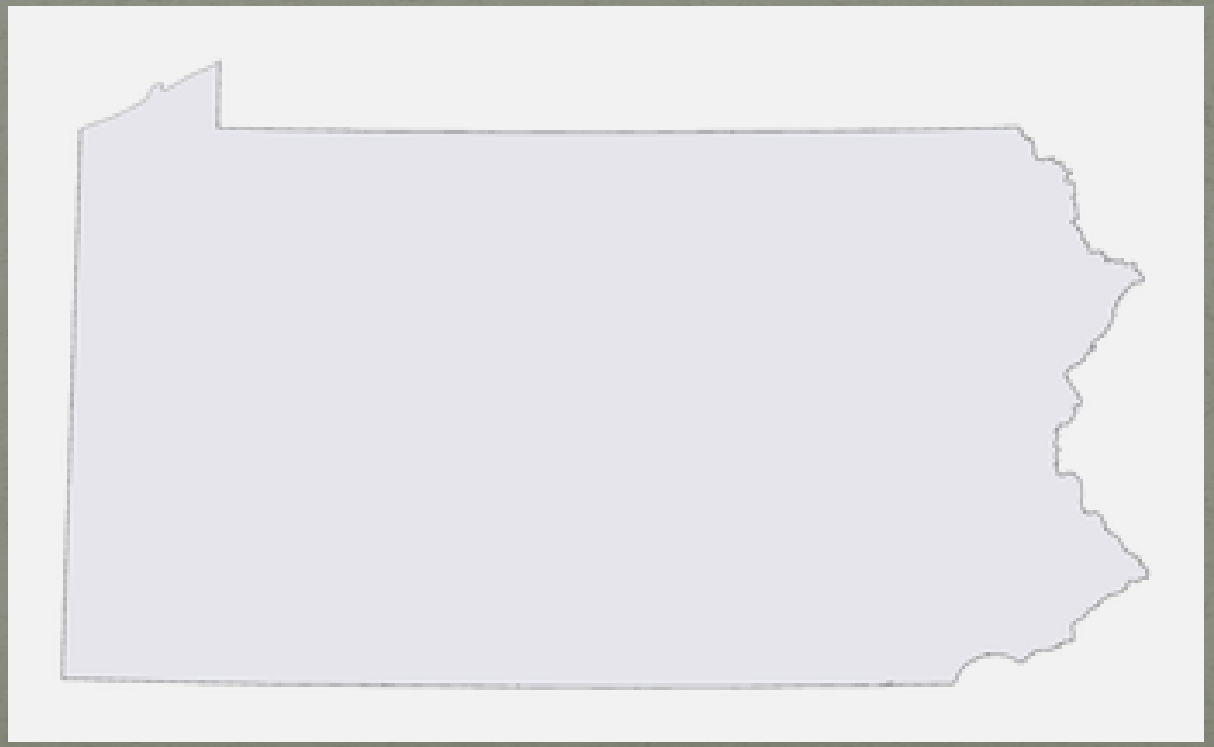


The 1864 Election



The 1864 Election

Lincoln	McClellen
296,292	277,443



The 1864 Election

Lincoln	McClellen
368,735	361,986



The 1864 Election

Lincoln	McClellen
2,218,388	1,812,807

4,031,887

2,000,000

1866 Bounty Equalization Act

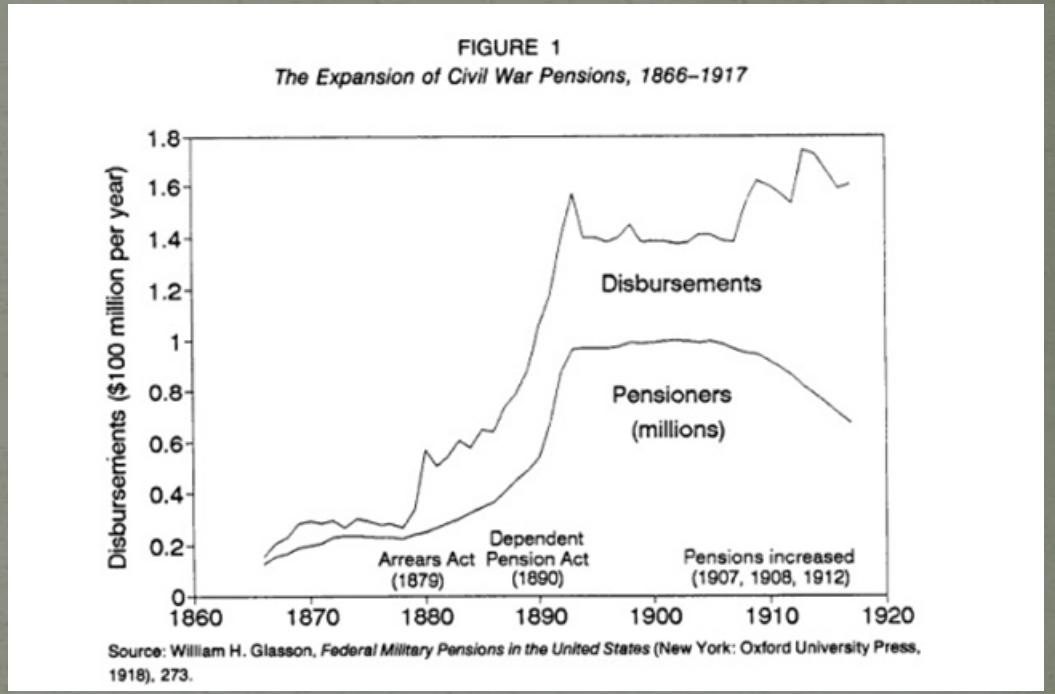
- Unemployment
- Homelessness
- “Soldier’s Heart”
- “Soldier’s Disease”



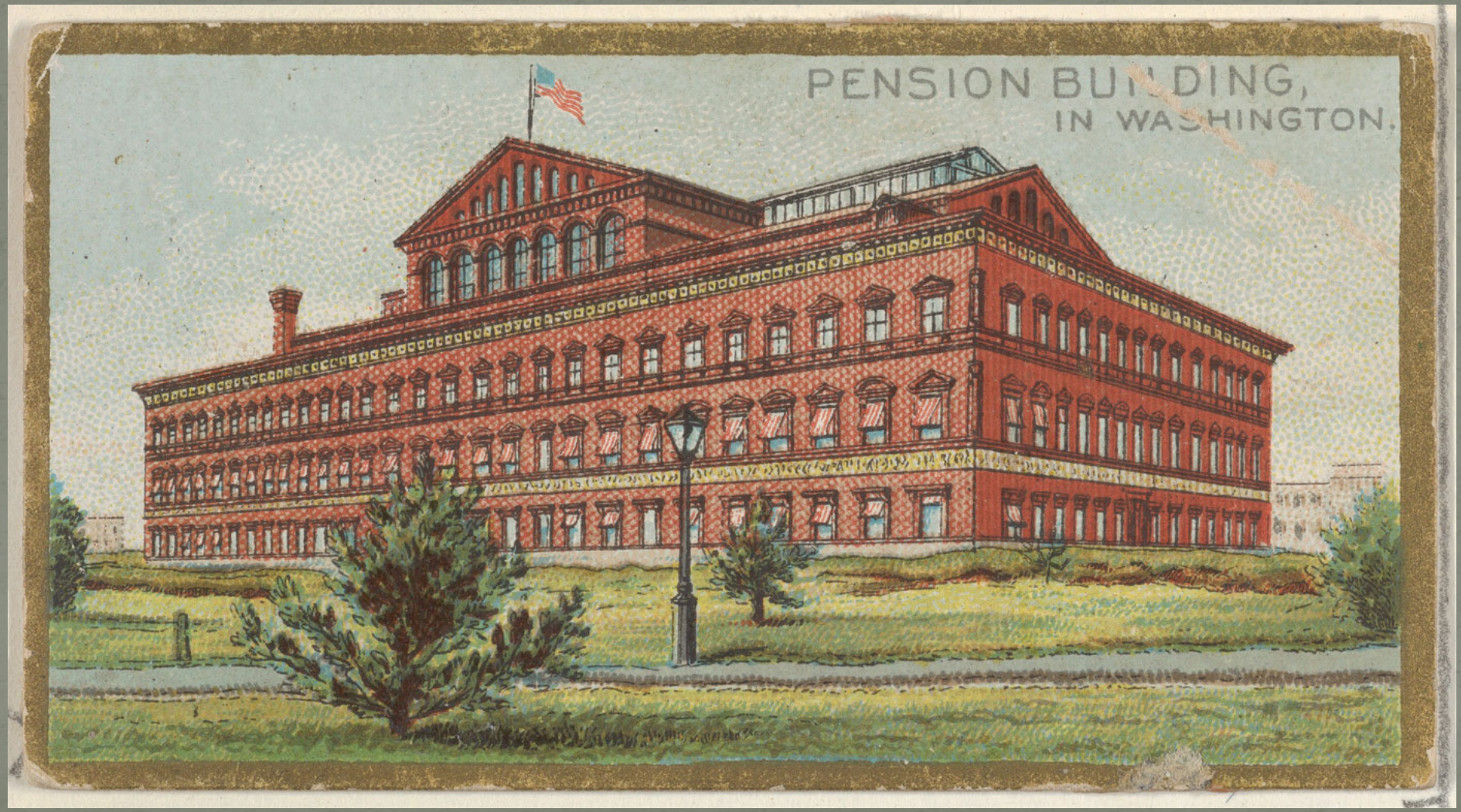
$70,000,000

Civil War Benefits Legislation

- 1866: Bounty Equalization Act
- 1880: Arrears Act
- 1890: Disability Pension Act
- 1906: Age substitutes for disability



Pension Bureau building



Claims Agents



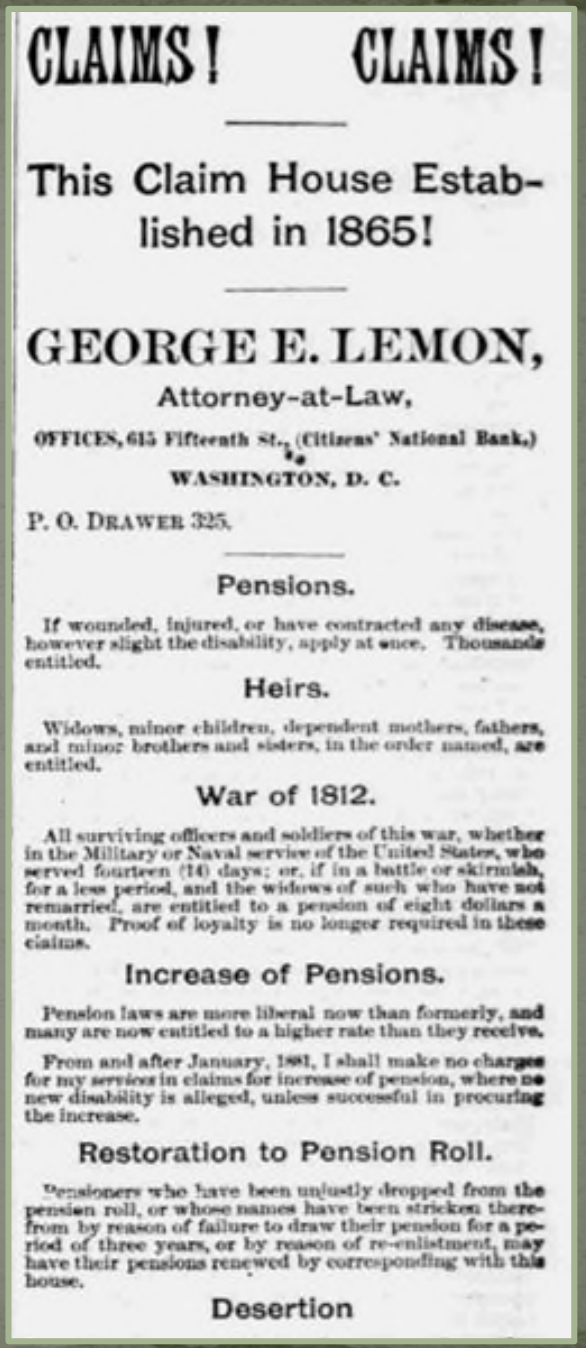
Claims Agents

- 1872: Secretary of Interior estimates that ¼ of all pension payments were based upon fraud.



Claims Agents

- 1872: Secretary of Interior estimates that ¼ of all pension payments were based upon fraud.
- 1877: *The National Review* established.
- $10 Fee limit



CLAIMS! CLAIMS!

This Claim House Established in 1865!

GEORGE E. LEMON,

Attorney-at-Law,

OFFICES, 615 Fifteenth St., (Citizens' National Bank.)

WASHINGTON, D. C.

P. O. DRAWER 325.

Pensions.

If wounded, injured, or have contracted any disease, however slight the disability, apply at once. Thousands entitled.

Heirs.

Widows, minor children, dependent mothers, fathers, and minor brothers and sisters, in the order named, are entitled.

War of 1812.

All surviving officers and soldiers of this war, whether in the Military or Naval service of the United States, who served fourteen (14) days; or, if in a battle or skirmish, for a less period, and the widows of such who have not remarried, are entitled to a pension of eight dollars a month. Proof of loyalty is no longer required in these claims.

Increase of Pensions.

Pension laws are more liberal now than formerly, and many are now entitled to a higher rate than they receive.

From and after January, 1881, I shall make no charges for my services in claims for increase of pension, where no new disability is alleged, unless successful in procuring the increase.

Restoration to Pension Roll.

Pensioners who have been unjustly dropped from the pension roll, or whose names have been stricken therefrom by reason of failure to draw their pension for a period of three years, or by reason of re-enlistment, may have their pensions renewed by corresponding with this house.

Desertion

U.S. Court of Claims



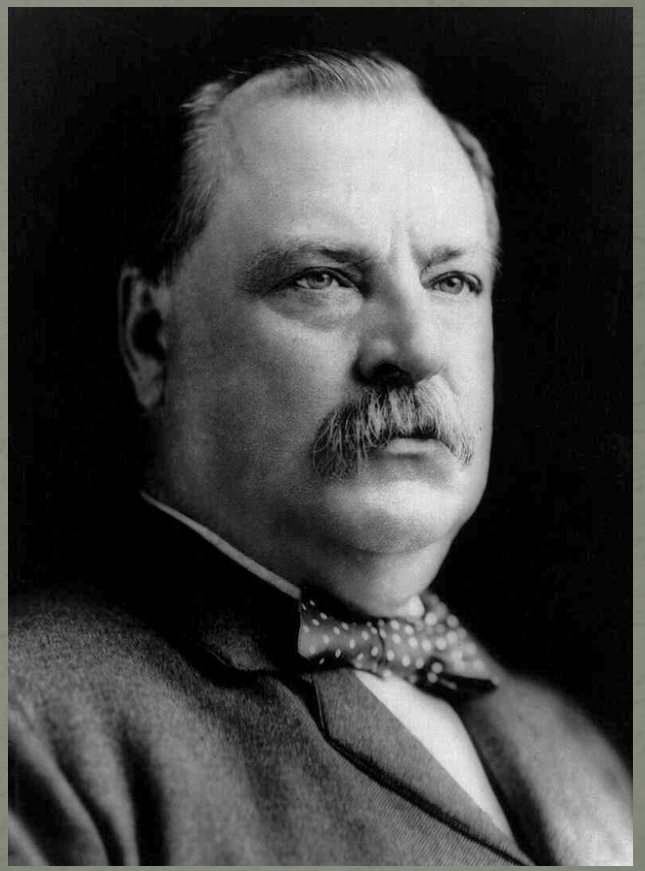
U.S. *ex rel.* Burnett v. Teller

"No pensioner has a vested legal right to his pension. Pensions are the bounties of the government, which Congress has the right to give, withhold, distribute, or recall, at its discretion."

107 U.S. 64, 67-68 (1882).

Pension Politics in the 19th Century

- First session of the 49th Congress (1885): 4,500 special pension acts introduced
- Grover Cleveland (1885-89): Signed 1,453 bills
- 1884: Pension Bureau Commissioner W.W. Dudley uses claims staff to campaign against William Warner



Peak Benefits

- 1913 -- 48 years after the end of the war
- 33-40% of the federal budget



The moral degeneration caused by the changing view of the true character of pensions led to the evil of extending them to men whose service was brief and resulted in no injury to them. Moreover, pensions were taken without compunction by some men who, while technically entitled to them, had other means of adequate support; to say nothing of young widows of old soldiers. For such people to take pensions is to throw a shadow of graft on the whole system.

As a result of these and other evil influences, the whole pension system became gradually discredited. Nobody begrudged the deserving pensioner his pittance from the public treasury, but the developing rottenness of the system led the public at last to look with more or less suspicion on applications for pensions, even when they were meritorious.

WILLIAM HENRY GLASSON, FEDERAL MILITARY PENSIONS IN THE UNITED STATES (1918)

World War I



World War I

- 4,700,000 veterans
- “Compensation”



World War I

- Harold Wobber



Harold B. Wobber, 47, Oakland war veteran, who leaped to his death from the Golden Gate bridge yesterday, the first person to commit suicide from either of the two bay spans. —Tribune photo.



World War I

- Veterans Service Organizations



Veterans Service Organizations

- 1913: Veterans of Foreign Wars
- 1919: American Legion
- 1920: Disabled American Veterans



The VA Hospital System

- 1851: First national home for disabled veterans



The VA Hospital System

- 1921: "shell-shocked veterans sent to hospitals for feeble-minded children, where they were forced to sit on infants' chairs, and of tuberculous patients sent to marshy districts detrimental to their health."
- 1924: Non-service connected conditions eligible for hospital care
- 1933: Peacetime veterans eligible for VA hospital care


United States Veterans' Hospital
Portland, Oregon

World War I

- 1921 – "Veterans' Bureau" created
- 1921-23 – Charles Forbes
- 1924-46 – Frank Hines
- 1930 – "Veterans Administration" (VA) created



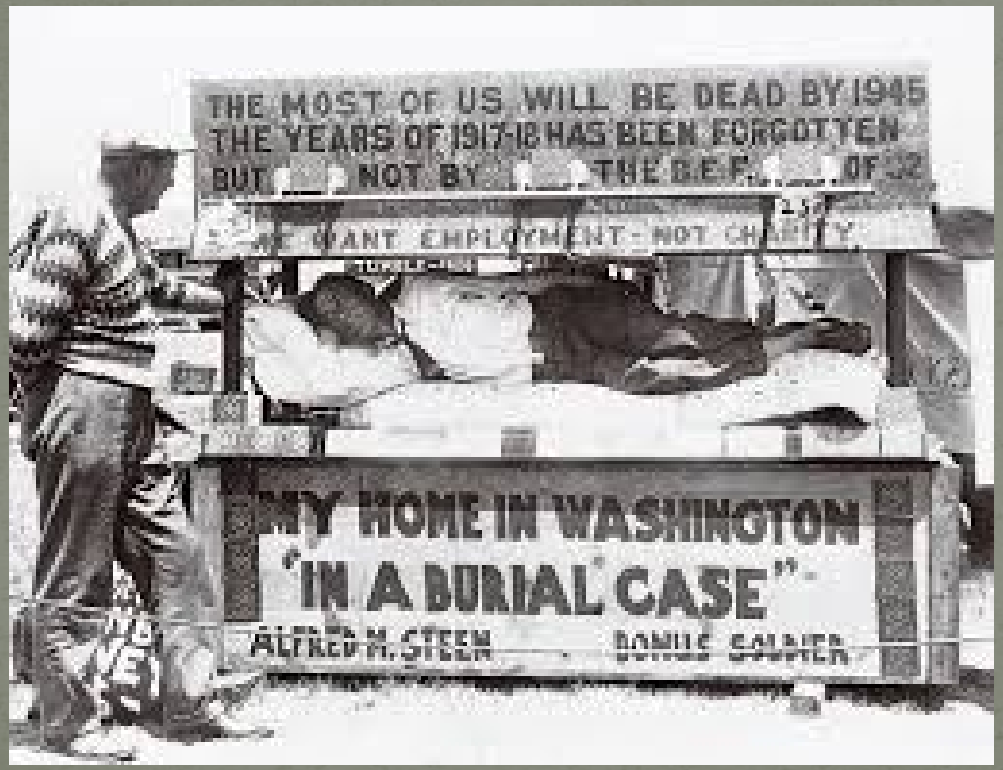
World War I

- VA hospital system
- The Veterans Administration ("VA")
- The Bonus



The Bonus Army

- "The Tombstone Bonus"





The Bonus Army

- Walter W. Waters



The Bonus Army







The Bonus Army



The Bonus Army



The Bonus Army



The Bonus Army



The Bonus Army

- Smedley Butler





July 28, 1932



July 28, 1932



July 28, 1932



July 28, 1932



July 28, 1932



What happened; where, when, and who was involved? That is the essence of NEWS—and given to you completely, accurately, and with desired brevity by The Washington Post.

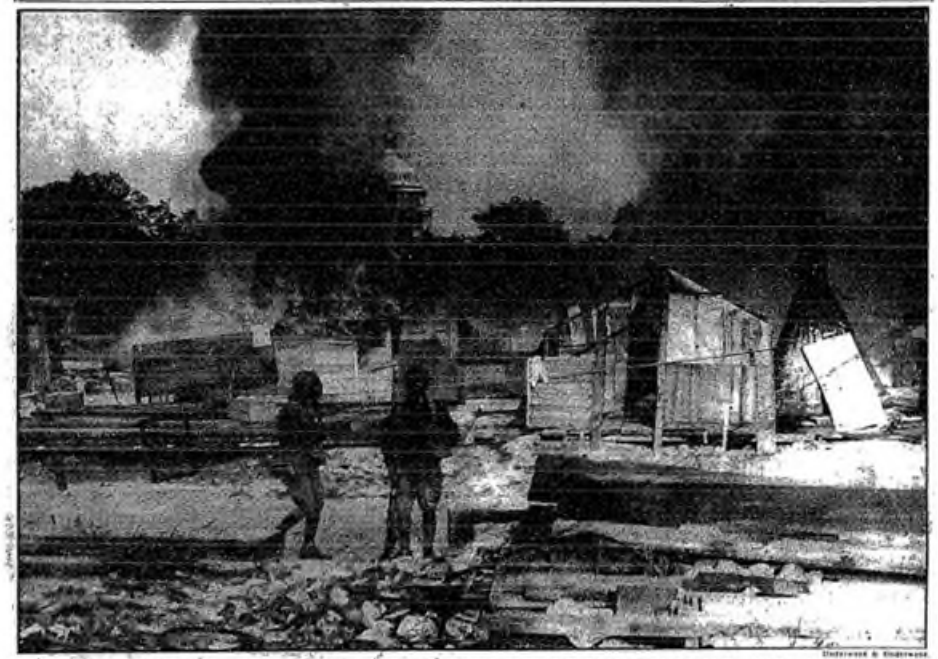
The Washington Post.

Today—Local showers, cooler.
Tomorrow—Fair, moderate temperature.
Yesterday—Highest, 92; lowest, 71. 1931—Highest, 94; lowest, 74. Details on Sixth Page.

NO. 20,497. ENTERED AS SECOND-CLASS MATTER, POSTOFFICE, WASHINGTON, D. C. WASHINGTON: FRIDAY, JULY 29, 1932. COPYRIGHT, 1932, BY THE WASHINGTON POST CO. THREE CENTS.

ONE SLAIN, 60 HURT AS TROOPS ROUT B. E. F. WITH GAS BOMBS AND FLAMES

Troops Burn Bonus Billets in Shadow of Capital as Rout Begins



Underwood & Underwood.

A striking view of burning Bonus Army billets at Third street and Pennsylvania avenue northwest, fired by troops which had just routed the veterans through use of tear gas. The dome of the Capitol may be seen through the cloud of smoke and flame. (Full page of pictures on Page Five.)

ANACOSTIA HUTS FIRED; MEN ARE DENIED RIGHT TO RETURN TO CAPITAL

All Bonus Groups in Western Section of Capital Are Evicted Amid Disorder.

CONCERTED DRIVE FOLLOWS HOOVER EDICT FOR ACTION

Shacks in Pennsylvania Avenue Area Are Also Burned; Reserve Police Added at White House.

By DANIEL B. MAHER.

Tear gas bombs and torches, unleashed by Federal troops in a sweeping offensive, routed the ragged bonus army yesterday from every major encampment in the Capital in a day of wild disorder that took the life of one veteran.

In a relentless drive, infantrymen, cavalrymen and tanks opened the drive against the veterans on Pennsylvania avenue, headed them from the Southwest section and stopped their offensive at Camp Marks, the largest of the bonus army encampments.

In front of Camp Marks, Chief of Staff Douglas A. MacArthur, on orders from a high authority, ordered cessation of the drive, but it was needless, for the 5,000 veterans in the camp were in full retreat. They set fire to their rude shacks and early today the flames were burning a memorial across the sky in what may be the epitaph of the bonus army.

More Than 60 Hurt in Clashes.

Though peace again reigned, the hospitals held the more than 60 suffering victims of the series of clashes that forced the District Commissioners to send a plea for aid to President Hoover, with the consequent call by the Chief Executive for the War Department to put an end to the "rioting and defiance of civil authority."

Through the struggling veterans left their big camp in Anacostia, their attempts to reenter the city proper met with failure. Brig. Gen. Perry L. Miles, in command of the troops before Camp Marks, issued orders that no bonus members would be permitted to cross the bridges into the city.

Tanks and cavalry blocked the Eleventh street and Pennsylvania avenue bridges. Their only road of further egress was toward Baltimore and Annapolis. Police guarded the Benning Bridge.

Infantrymen Use Tear Bombs.

Dropping tear gas bombs to the right of them and to the left of them, the infantrymen had routed the veterans from every camp in the Western section of the city, and the desolation was completed by soldiers who laid waste the encampment with torches.

CASUALTY LIST IN BONUS RIOTING

DEAD.

William J. Hushka, 37, Chicago bonus marcher, shot through the heart. Body at Providence Hospital morgue.

SERIOUSLY INJURED.

Private Edgar G. Scott, 27, of 2213 Seventh street northeast, fractured skull. At Emergency Hospital.

Private John O. Hild, 27, of 1108 Twenty-fourth street northeast, cut on left side with ax. At Emergency Hospital.

Eric Carlson, 38, bonus marcher, of Oakland, Calif., shot in pelvis. At Casualty Hospital.

John Hall, colored, bonus marcher, of Mocksville, N. C., gunshot wounds in the shoulder. At Gallinger.

Earl Baldwin, 42, a bonus marcher from Burton City, Mich., possible skull fracture, struck on head at Eleventh and V streets southeast, at Casualty.

OTHER INJURED.

Private Stiley Zimmerman, of 1501 W place northwest, hit on head with a brick. Treated at Emergency and sent home.

Private Robert Floyd, of 907 Civil-trading street northeast, fractured skull, doubtful fair; at Emergency.

James Snell, colored, of 435 First street southwest, a spectator, shot through shoulder, condition not serious; at Emergency Hospital.

Private John E. Waters, of 1017 E street southeast, injured about the body by bricks. Treated at Emergency Hospital and sent home.

Private Samuel H. Herring, of 1420 Chanta street northwest, injured about the head and body by bricks. Treated at Emergency Hospital and sent home.

Will R. Bird, 35, bonus marcher from Dayton, Ohio, struck on neck by a brick. Treated at Casualty Hospital and released.

Francis Hoffman, Washington Times photographer, hit on shoulder by brick. Treated at Emergency Hospital and sent home.

Herman Fox, of 1458 Connecticut avenue northwest, cut on head. Treated at Casualty Hospital.

Richard O. Hazlett, of 301 Tenth street northeast, Gen. Grunsfeld's chauffeur, hit on elbow by brick. Treated at Casualty Hospital.

Chief Mountain Heart, 42, an Indian bonus marcher, cut on arm and

REPORT OF WALKER DEMANDS ACQUITTAL

Hot Document to Roosevelt Tells of Being Object of "Political Manhunt."

Albany, N. Y., July 28 (A.P.).—Pro-

Maj. A. W. Robertson In Race for Congress

Lexington, Va., July 28 (A.P.).—Maj. A. Willis Robertson, State commissioner of game and inland fisheries, today announced that Rockbridge County News to announce his candidacy for Congress from the new Seventh Virginia District.

He will also be a candidate to fill out the unexpired term of Henry St. George Tucker, Tenth District representative, who died last week. Maj. Robertson is the second candidate to

ARMY OF 3,000 MEN MOBILIZED FOR RIOT

Infantry, Cavalry and Tank Corps Sent Here From Nearby Forts.

Rioting bonus marchers yesterday

Statement of President On Ordering Out Troops

President Hoover yesterday issued the following statement:

For some days police authorities and Treasury officials have been endeavoring to persuade the so-called bonus marchers to evacuate certain buildings which they were occupying without permission. These buildings are on sites where Government con-

authorities in such measures against leaders and rioters as may be necessary.

Commissioner's Letter.

July 28, 1932.

The President:

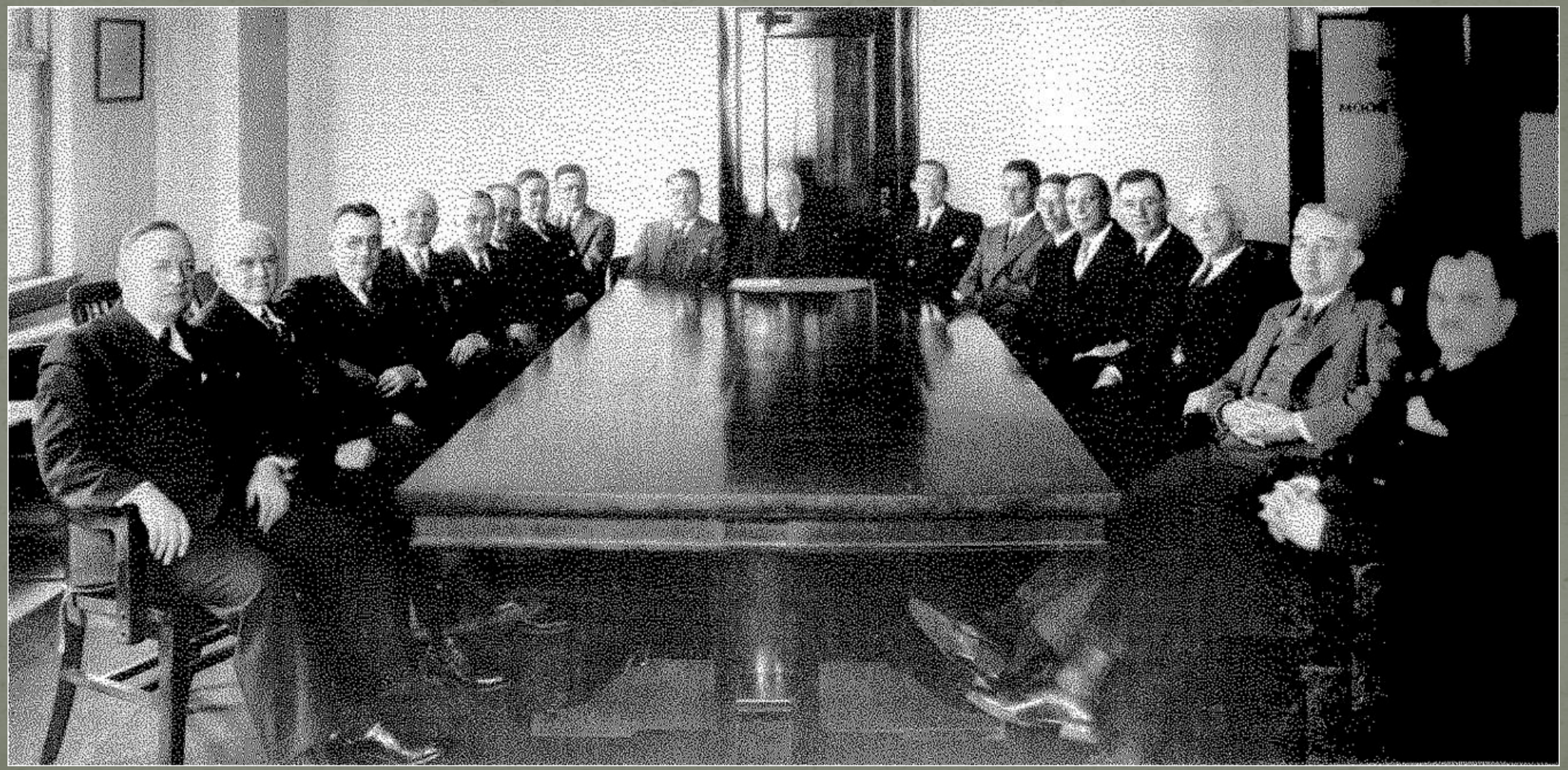
The Commissioners of the District of Columbia regret to inform you that during the last few hours, city

Franklin Roosevelt

- Economy Act of 1933



The Board of Veterans' Appeals



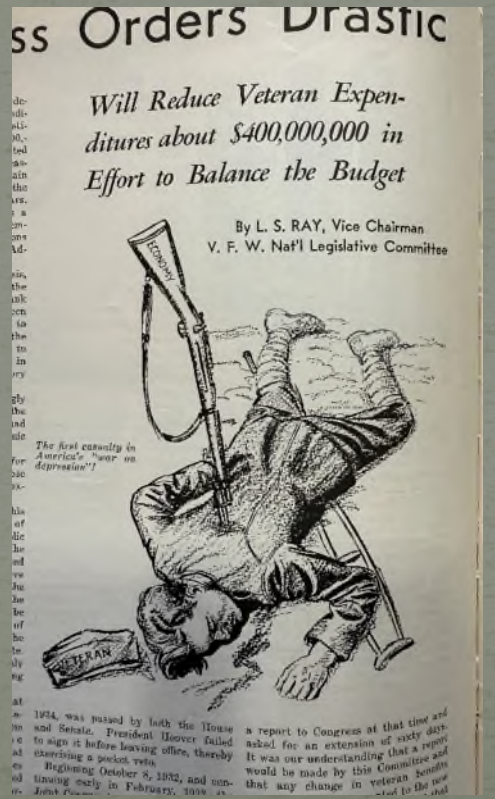
The Economy Act of 1933

Section 5: "All decisions rendered by the Administrator of Veterans' Affairs under the provisions of this title . . . [s]hall be final and conclusive on all questions of law and fact and no other official or court of the United States shall have jurisdiction to review by mandamus or otherwise any such decision."

Economy Act of 1933

- Cuts $400,000,000 from VA budget







1935 Labor Day Hurricane

- Works Progress Administration
- Windley and Lower Matecumbe Keys



1935 Labor Day Hurricane

- Over 250 veterans killed



200 VETERANS DEAD,
320 STILL MISSING;
WEATHER MEN BLAMED

HARRY L. HOPKINS

HOPKINS HOLDS U. S. BUREAU RESPONSIBLE

RED CROSS PUTS KNOWN HURRICANE TOLL AT 256

LEGION LAUNCHES PROBE OF VETERANS' DEATH; HOPKINS AND WEATHER MEN IN CLASH

Masses

SEPTEMBER 17, 1935

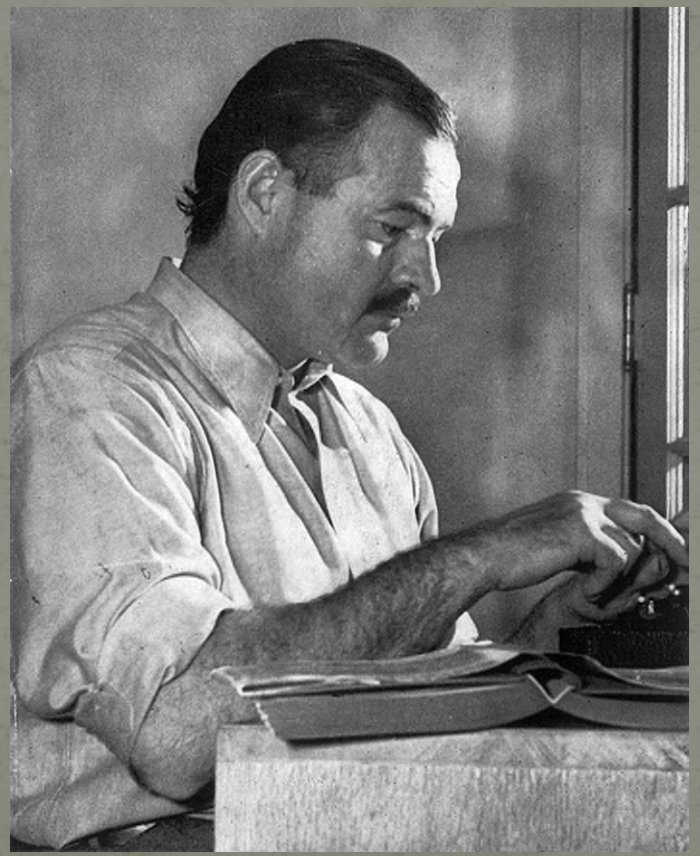
Who Murdered the Vets?

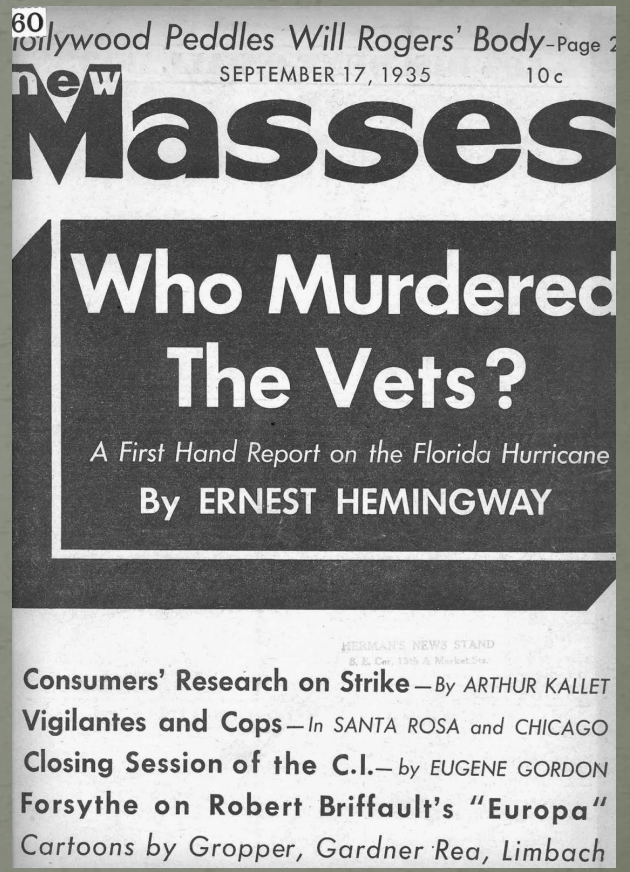
A First-Hand Report on the Florida Hurricane

ERNEST HEMINGWAY

1935 Labor Day Hurricane







1935 Labor Day Hurricane



"Who Murdered the Vet?" in *The New Masses*

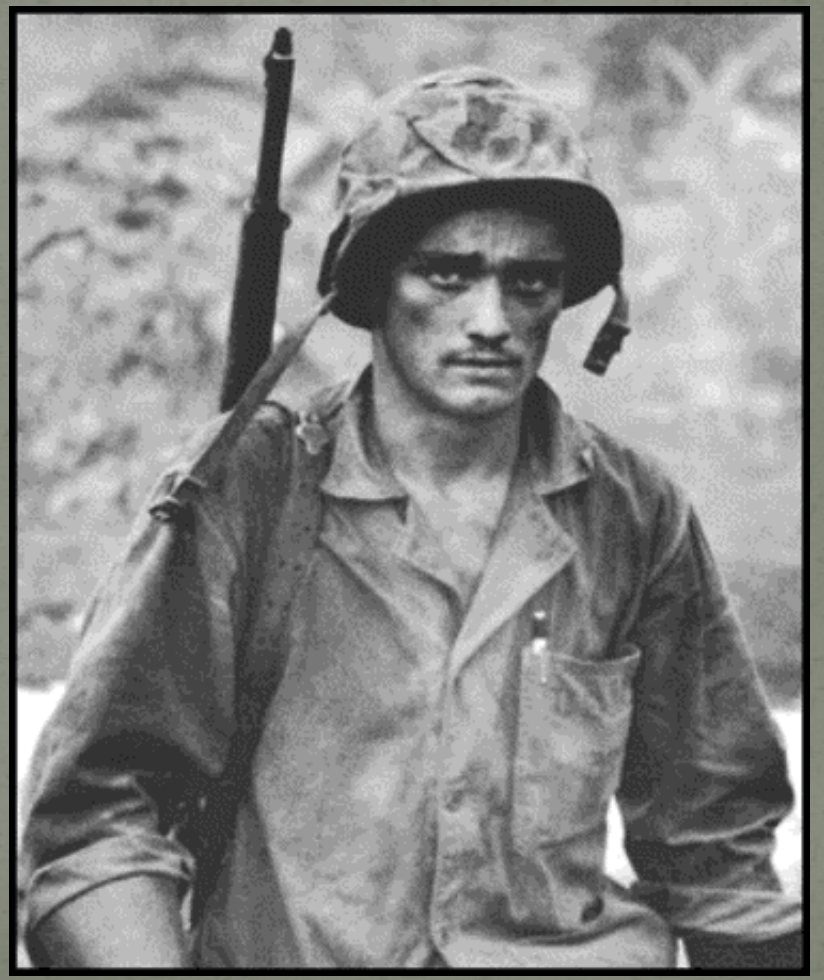
"…wealthy people, yachtsmen, fishermen such as President Hoover and Presidents Roosevelt, do not come to the Florida Keys in hurricane months…. There is a known danger to property. But veterans, especially the bonus-marching variety of veterans, are not property. They are only human beings; unsuccessful human beings, and all they have to lose is their lives. They are doing coolie labor for a top wage of $45 a month and they have been put down on the Florida Keys where they can't make trouble. It is hurricane months, sure, but if anything comes up, you can always evacuate them, can't you?…..It is not necessary to go into the deaths of the civilians and their families since they were on the Keys of their own free will; They made their living there, had property and knew the hazards involved. But the veterans had been sent there; they had no opportunity to leave, nor any protection against hurricanes; and they never had a chance for their lives. Who sent nearly a thousand war veterans, many of them husky, hard-working and simply out of luck, but many of them close to the border of pathological cases, to live in frame shacks on the Florida Keys in hurricane months?"

World War II



World War II

- 16,112,566 served



World War II

"When demobilization day comes we are going to suffer another Pearl Harbor, a Pearl Harbor perfectly foreseeable now—a Pearl Harbor of peace, not war."

The New Republic, Aug. 2, 1943



The G.I. Bill

- January 9, 1944: American Legion proposes the Bill of Rights for G.I. Joe and G.I. Jane in a *New York Times* editorial





The G.I. Bill

- January 9, 1944
- John E. Rankin

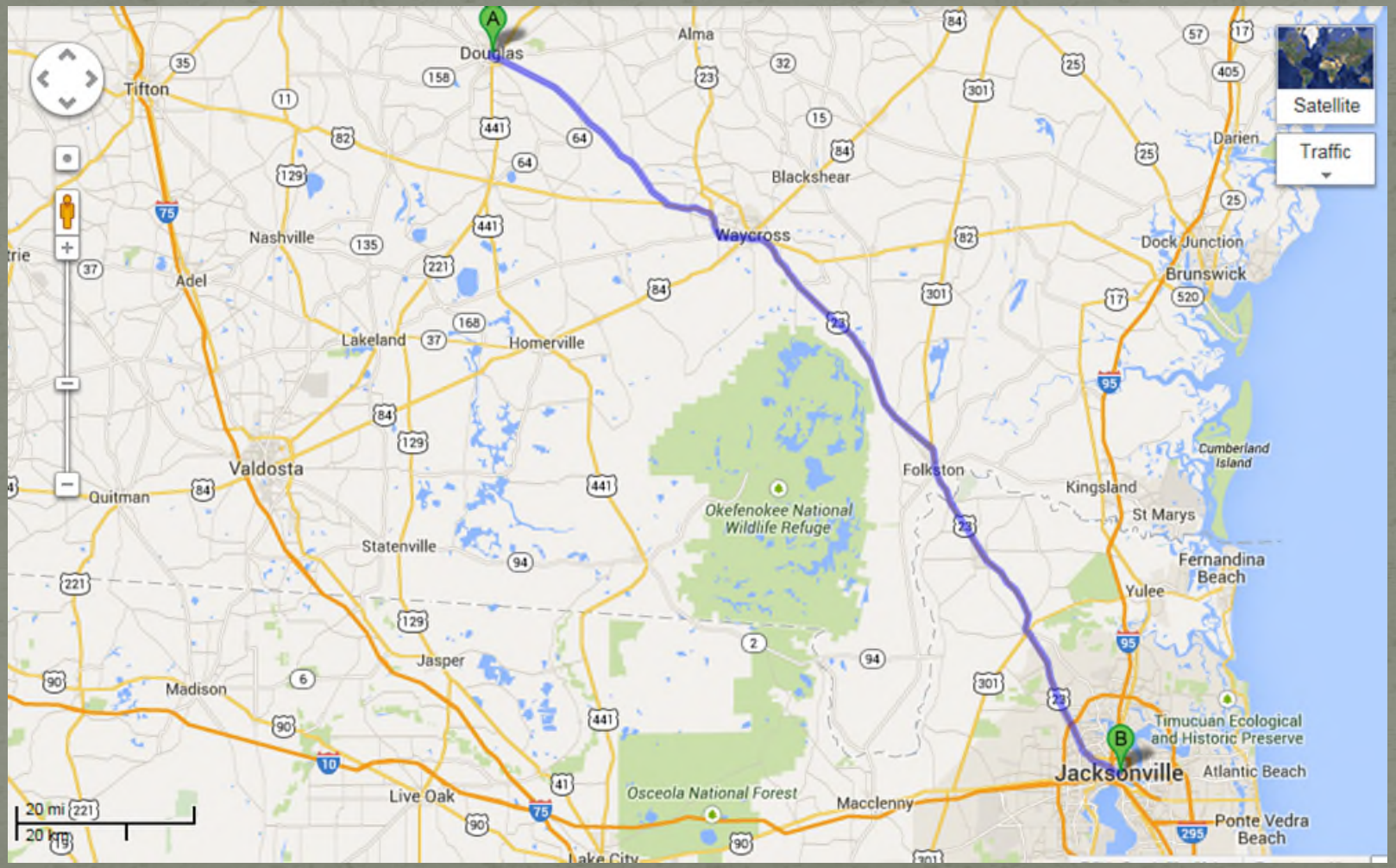


The G.I. Bill

- January 9, 1944
- John E. Rankin
- John S. Gibson



The G.I. Bill


A
Douglas
Alma
Tifton
Blackshear
Waycross
Darien
Dock Junction
Brunswick
Nashville
Adel
Lakeland
Homerville
Valdosta
Quitman
Folkston
Okefenokee National Wildlife Refuge
Kingsland
St Marys
Cumberland Island
Fernandina Beach
Yulee
Statenville
Jasper
Madison
Timucuan Ecological and Historic Preserve
B
Jacksonville
Atlantic Beach
Ponte Vedra Beach
Live Oak
Osceola National Forest
Macclenny
Lake City
20 mi
20 km
Satellite
Traffic

The G.I. Bill

- Eddie Rickenbacker



- June 7, 1944



The G.I. Bill

- June 22, 1944



The VA Hospital System

- 1945: VA hospital scandal
- 1946: $448,000,000
- 183 hospitals in 39 states



The Korean War



The Korean War

- 5,700,000 served



The Korean War

- 5,700,000 served
- 1956: Bradley Commission



The Vietnam War



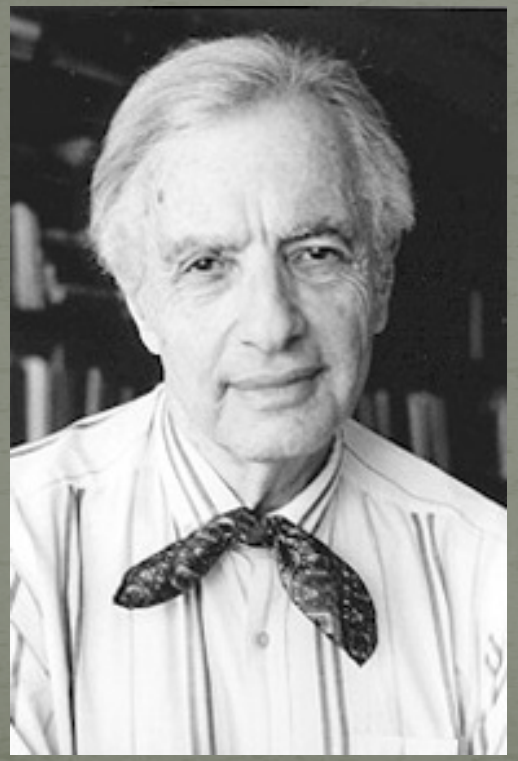
The Vietnam War

- 9,000,000
- 1967: Vietnam Veterans Against the War
- 1979: Vietnam Veterans of America

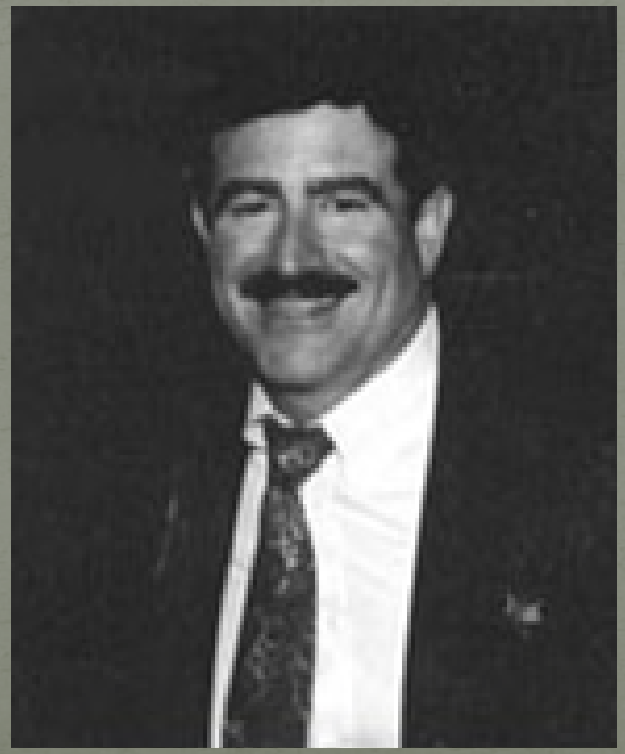


Post-traumatic Stress Disorder

Dr. Robert Jay Lifton



Shad Meshad

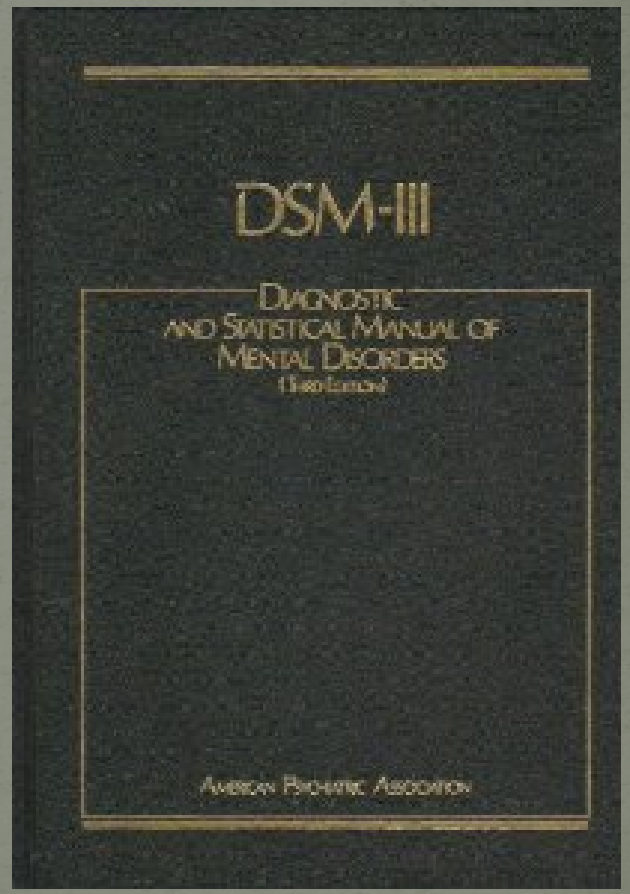


Sarah Haley



Post-traumatic Stress Disorder

- American Psychiatric Association (APA)
- Vietnam Veterans Working Group
- Diagnostic and Statistical Manual of Mental Disorders, 3rd ed. (DSM-III)



Community Based Outreach Centers

- Max Cleland
- 1979: First CBOC opened



Agent Orange

- 1965-71: 11,000,000 gallons sprayed through Operation Ranch Hand
- Dioxin



Agent Orange

- 1977: First claim
- 1978: Maude DeVictor
- 1978: *Agent Orange: The Deadly Fog*



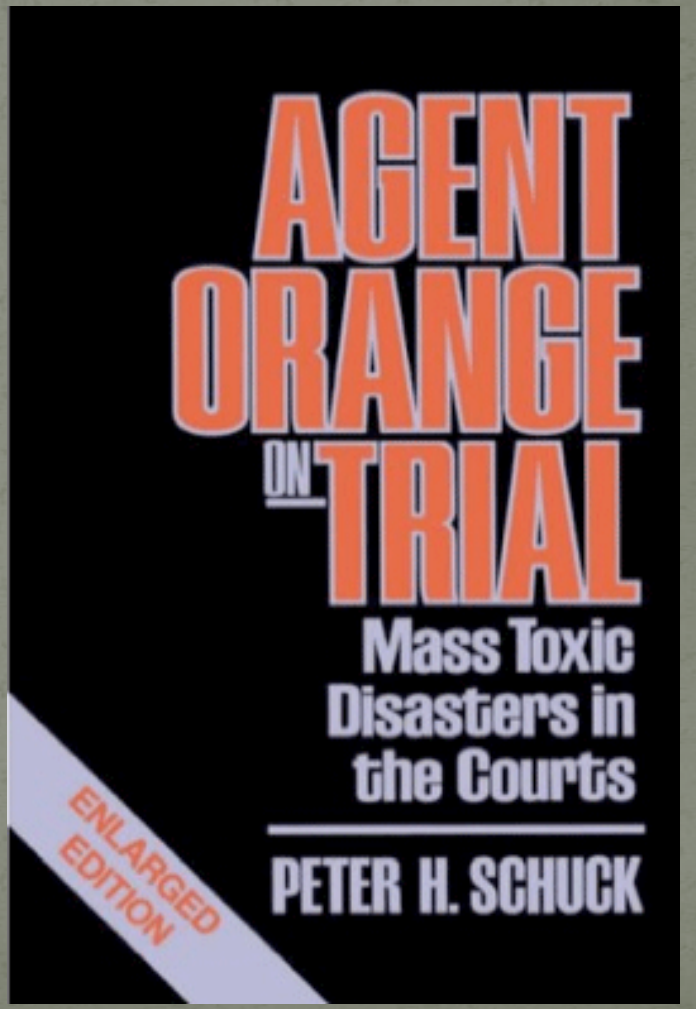
Agent Orange

- 1979: Veterans Health Programs Extension and Improvement Act
- 1987: CDC scraps its study with no results



Agent Orange

- 1979: Class action lawsuit filed
- 1984: Settled for $180 million



Agent Orange

- 1979: Class action lawsuit filed
- 1983: Times Beach



Agent Orange

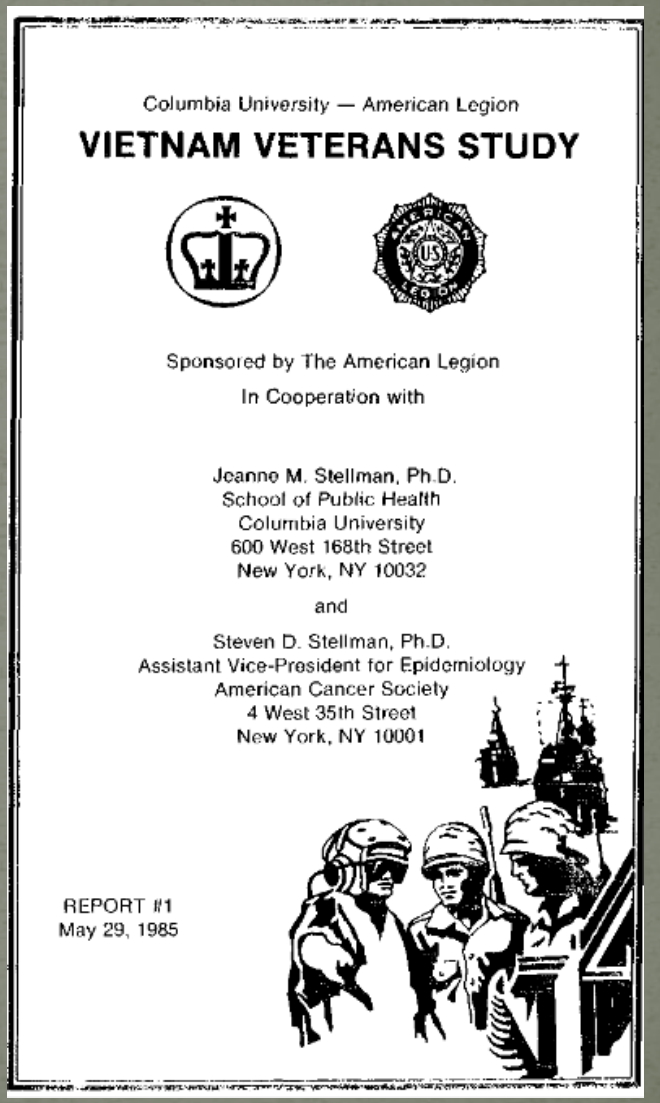
"Perhaps dioxin is poisonous only when in proximity to civilians but harmless to men and women in uniform."

Washington Post



Agent Orange

- 1989: American Legion-Columbia University Study of Vietnam-era Veterans submitted to Congress.



Agent Orange

- Veterans Dioxin and Radiation Exposure Compensation Standards Act of 1984
- 1990: Secretary Derwinski grants presumption for non-Hodgkin's lymphoma and soft-tissue sarcomas
- Agent Orange Act of 1991



Judicial Review

- *Johnson v. Robinson*, 415 U.S. 361 (1974)
- *Walters v. National Association of Radiation Survivors*, 473 U.S. 305 (1985)



Veterans Judicial Review Act



Department of Veterans Affairs Act of 1988



“The willingness with which our young people are likely to serve in any war, no matter how justified, shall be directly proportional as to how they perceive veterans of earlier wars were treated and appreciated by this country.”

Bedtime Reading

- Available at http://ssrn.com/author=1378084.

- **Short Version** --- *Caring for Those Who Have Borne the Battle: Exploring the Myths and Realities of Veterans' Benefits Since the Revolution* , 6 J. FED. CIR. HIST. SOC. 73 (2013)
- **The Long Version** --- *The Splendid Isolation Revisited: Lessons from the History of Veterans Benefits Before Judicial Review*, 3 Veterans L. REV. 135 (2011)
- **The History Since Judicial Review** --- *The Veterans' Judicial Review Act Twenty Years Later: Confronting the New Complexities of Veterans Benefits System*, 66 NYU ANN. SURV. AM. L. 251 (2010)
- **The Technical History of the Statutes, Regulations, and Procedures** --- *Recovering an Institutional Memory: The Origins of the Modern Veterans Benefits System, 1914 to 1958*, 5 VETERANS L. REV. 1 (2013)

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  - William Henry Glasson, Federal Military Pensions in the United States (1918)
  - A.F. Sisson, History of Veterans' Pensions and Related Benefits (1946)
  - James W. Oberly, Sixty Million Acres: American Veterans and the Public Lands Before the Civil War (1990)
- Civil War
  - Mary R. Dearing, Veterans in Politics: The Story of the G.A.R. (1952)
  - Theda Skocpol, Protecting Soldiers and Mothers: The Political Origins of Social Policy in the United States (1992)
  - Patrick J. Kelly, Creating a National Home: Building the Veterans' Welfare State 1860-1900 (1997)

Selected Bibliography

- World War I
  - William Pyrle Dillingham, Federal Aid to Veterans 1917-1941 (1952)
  - Paul Dickson & Thomas B. Allen, The Bonus Army: An American Epic (2004)
  - Gustavus A. Weber & Laurence F. Schmeckebier, The Veterans' Administration: Its History, Activities and Organization (1934)
- Wolrd War II
  - Edward Humes, Over Here: How the G.I. Bill Transformed the American Dream (2006)
  - Glenn C. Altschuler & Stuart M. Blumin, The GI Bill: A New Deal for Veterans (2009)
  - Davis R.B. Ross, Preparing for Ulysses: Politics and Veterans During World War II (1969)

Selected Bibliography

- Korean War
  - The President's Commission on Veterans' Pensions, Veterans' Benefits in the United States: A Report to the President (1956)
- Vietnam War
  - Wilbur J. Scott, Vietnam Veterans Since the War: The Politics of PTSD, Agent Orange, and the National Memorial (1993)
  - Gerald Nicosia, Home to War: A History of the Vietnam Veterans' Movement (2001)
  - Paul C. Light, Forging Legislation (1992)

Humana.

Honoring & Serving Veterans



Today's Speakers



Tonya Schram

Humana
National Sales
Executive



Leah Vicente

Humana
Career Agent
DC | Maryland | Virginia |
DE | Nevada

Humana's Commitment to Veterans





Honoring and Serving Veterans

VFW VETERANS OF FOREIGN WARS

AMVETS

DAV FULFILLING OUR PROMISES

Humana | USAA

UNITING FOR VETERANS

FACE THE FIGHT

VETERAN READY

15 Things VSOs Want You To Know

Veteran Advocates:

200+ associates volunteer grassroots engagement with veteran community, monthly training

National VSO Partnerships:

Exclusive relationship with organizations that support veterans

USAA:

Partnership and co-branded products with a veteran trusted company/brand

Veteran Health Equity & Social Impact:

Preventing veteran suicide & addressing social determinants of health for veterans & their families

Humana's Commitment to Veterans



888-HUM-VETS
(888-486-8387)

Veteran Service Experience:

Veteran Service Team that addresses veteran-specific healthcare needs and help members get the most out of their plans

Humana Military:

Partner with DoD to administer the TRICARE health program in the East Region for active, retired, Guard & Reserve beneficiaries

Military Connected Associates:

6,000+ veterans and military spouses hired since 2011, goal to hire at least 2,000 military connected associates by 2032

Connect veterans to resources in their local community

Humana Community Navigator®

Humana Community Navigator ®

Help starts here: Search within your community today to connect to utility services, food resources, housing support, transportation programs, and more.

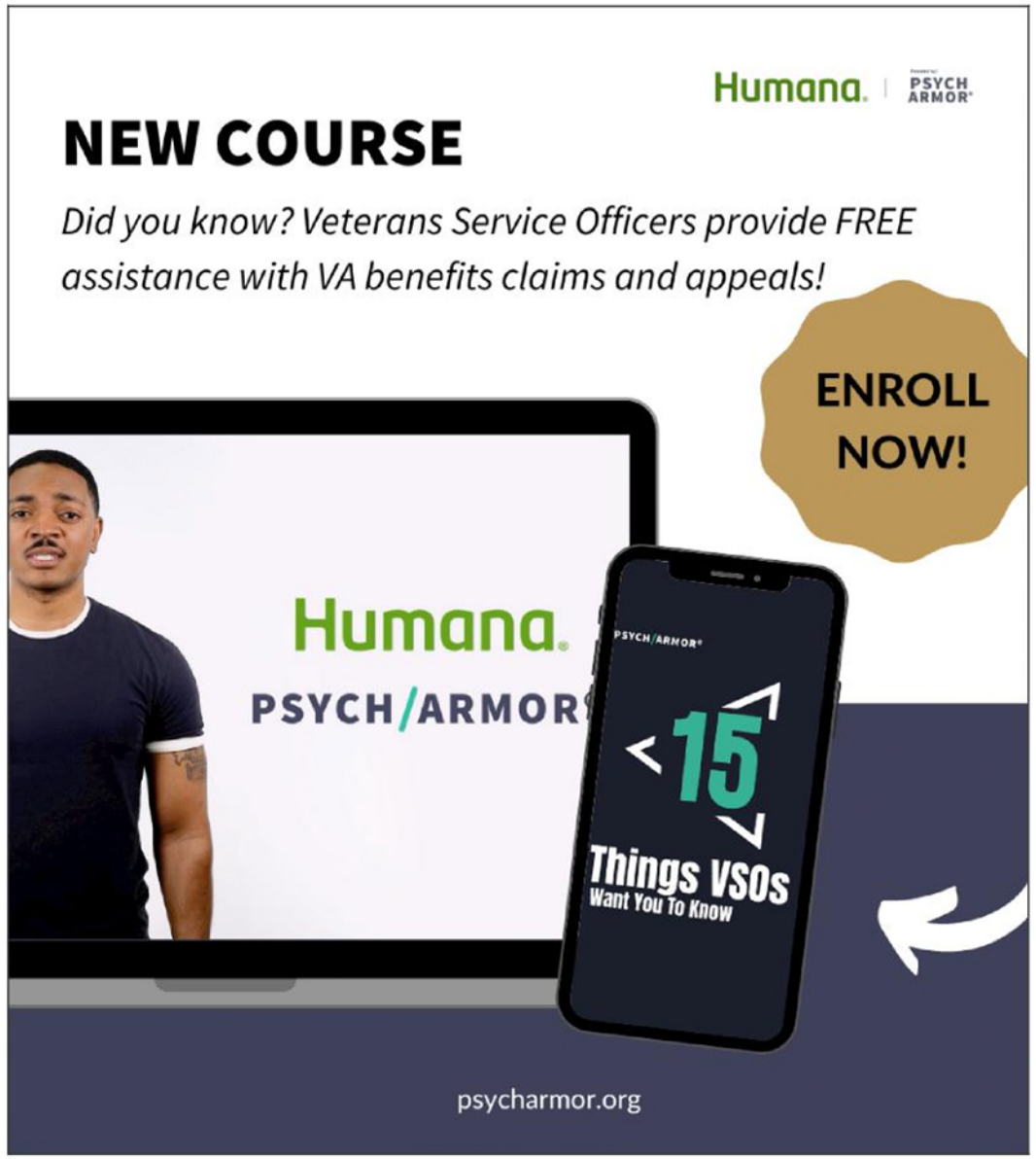


ZIP 40202 Search

If you or someone you know is in crisis, call or text 988 to reach the Suicide and Crisis Lifeline, chat with them online via their website, or text HOME to 741741 (multiple languages available). If this is an emergency, call 911.

Check out these programs specific to Digital Access & Digital Health Literacy & Social Isolation & Loneliness.

Humana.FindHelp.com



Veterans Service Officer Advocacy

- **Identify Barriers:** Veterans Service Officers are underutilized, not well known across generations of Veterans, and their role is often misunderstood

PSYCH/ARMOR®

Co-Create Solution: 15 Things Veterans Service Officers Want You to Know curriculum

Humana.

- **Achieve Best Health:** Improve Veteran health literacy through education and increase the # of Veterans who connect with a FREE ACCREDITED Veterans Service Officer



UNITING FOR VETERANS

Humnnn

WPW V

VETERANS OF FOREIGN WARS

Volunteers of America.

Uniting for Veterans

Humana's Got Your Six To combat risk factors to Veteran suicide



Hunger

Food insecurity / nutrition / healthy food choices

- Veterans with disabilities, female veterans, and rural veterans face higher rates of food insecurity
- Only ~15% of food-insecure veterans participate in SNAP



Homelessness

Stable, safe, adequate housing

- 45% of homeless veterans suffer from mental illness, including PTSD
- 70% of homeless veterans struggle with substance abuse

One Veteran at a time

Committed to ensuring Veterans and their families no matter their age, race or gender, have access to the care they need and deserve, especially those who stem from underserved and diverse communities.

[Humana Health Equity | Veteran Community]



UTCH

OG campaign logo



UTCH2

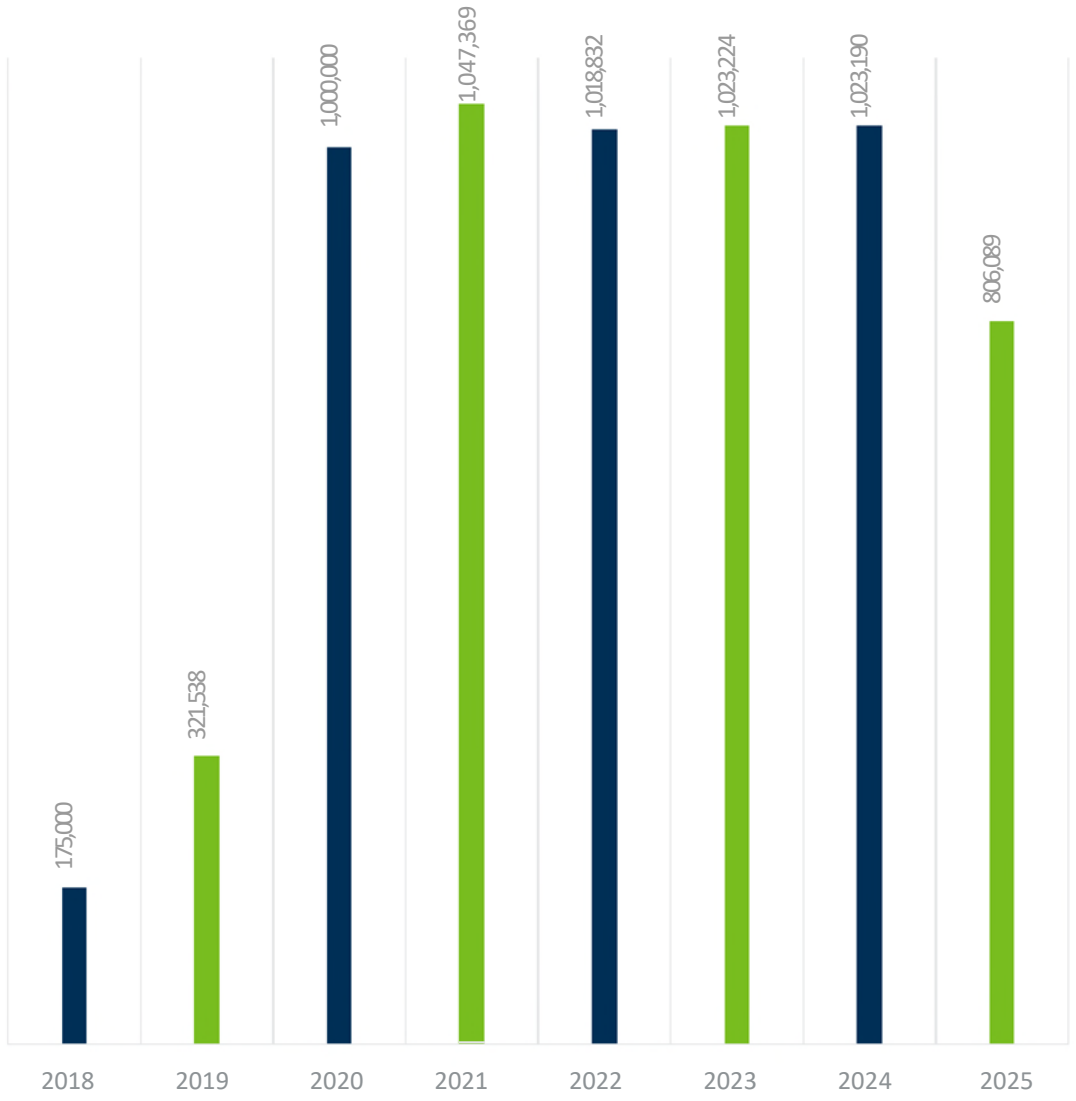
Expanded scope to include food insecurity and homelessness



UFV

New look to reflect our commitment to addressing the diverse and evolving needs of military and veteran communities

A collective impact campaign:



2018 Inaugural campaign launches at VFW National Convention in Kansas City

2019 Expansion to Florida

2020 Expands nationally & 1 million meals are raised during a global pandemic

2021 Surpass 1 million meals for the 2nd year in a row

2022 Raise 1 million meals in just 7 months

2023 Over 1 million meals raised by 155 VFW posts and auxiliaries across 40 states

2024 Over 1 million meals raised for the 5th year in a row

2025 Program expands to include homelessness, over 6.4 million meals raised to date!

*For internal use only

VFW Foundation Uniting For Veterans Grant

Grant will reopen September 1, 2025

- **Matching donation grant** of up to $1,500 available to VFW Posts & Auxiliaries
  - For monetary, food or item donations to local food banks, pantries or homeless relief organizations in their communities
  - Grant funds are not provided directly to VFW Posts or Auxiliaries, they are sent to the donation location listed on the application
- $1 match for every pound of food or dollar donated to food insecurity or homeless relief organizations
  - Minimum of 500 pounds or $500 must be met for each submission
  - Multiple requests may be made, up to a max of $1,500
- A Post OR Auxiliary may receive this grant but not both
  - **Applications from a VFW Post must be submitted on the dashboard**
  - VFW Auxiliaries can apply atwww.vfwfoundation.org/grants
- Applications for 2025-2026 award year will remain open until June 1, 2026 or until grant funding is exhausted
  - Questions? Contact Mary Spencer:mspencer@vfw.org or 866-789-6333

More info:www.vfwfoundation.org/grants

Humana | USAA®

Our Partnership

USAA | Humana.

USAA AGENCY PARTNERSHIP

- Broker for Humana Medicare Advantage since 2006
- USAA trained our Veteran Service Team, DUOS, CenterWell associates

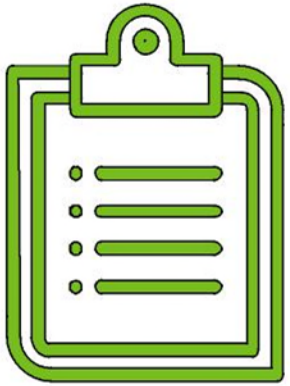
USAA EVENTS PARTNERSHIP

- Salute the Troops Event at the Opry
- VFW National Convention
    - Co-Sponsors of the cornhole tournament (2024)
- DAV National Convention
    - Health and Financial Wellness Seminar
- Vietnam Veteran Pinning Ceremonies
- VFW Day of Service

USAA MARKETING PARTNERSHIP

- Began in 2019 earning the "recommended by USAA" badge and co-branded marketing campaign
- Strategy: leverage USAA brand to increase Vet consideration/response
- USAA co-branding on all Vet plans: “Humana USAA Honor Plan”

Face The Fight: Initiative to Reduce and Prevent Veteran Suicide



- 988 added to all Humana MA/MAPD/PDP plan ID cards
- Face the Fight Night at the Grand Ole Opry
- DUOS for Veterans Pilot: Louisiana Veteran members
- PsychArmor Veteran Ready Healthcare Organization Certification Pilot: Conviva/CenterWell clinics
- VA S.A.V.E. Training: Veteran Service team (call center)
- GO365 mental health programming: Humana members
- Identifying and adding suicide prevention resources (ex. 988) to Humana websites

Humana. | USAA®

Thank you!

VETERANS OF FOREIGN WARS®

Non-Service Connected Pension

VA Forms Relating to Pension

Intent to File

21-0966

Initial Veterans Pension

21P-527EZ

Supplemental Veterans Pension

21P-527EZ

21P-0516 / 21P-0517

Initial Survivors Claim

21P-534EZ

21P-535

21P-601

Supplemental Survivors Claim

21P-534EZ

21P-601

21P-0518 / 21P-0519 / 21P-0514

Income Adjustments

21P-0516/0518

21P-8416

21P-4185

21P-4165

Income and Assets/AO 73

21P-0969

Burial Benefits

21P-530

Special Monthly Pension

21-2680

21-0779

Dependency Change

21-686c

21-674

AMA

20-0995

20-0996

10182

Non-Service Connected Pension

- Needs-based benefit
- Provides supplemental income to a wartime veteran or their survivor
- Tax-free
- Paid monthly (unless amount is small)
- A.K.A. “Improved Pension” since 1979 – some recipients are on prior pension programs… 38 CFR 3.3 (Service Pension; Spanish-American War, Section 306 Pension, Improved Pension)

Maximum Annual Pension Rate

The Maximum Annual Pension Rate (MAPR) is the maximum pension benefit someone can receive from VA per year

- If income minus medical expenses exceeds the MAPR, veteran will not be paid pension
- If income minus medical expenses is less than the MAPR, veteran will receive difference between income and the MAPR

- The MAPR varies based on number of dependents or if there is entitlement to Special Monthly Pension (SMP)

(38 CFR 3.271-3.273)

Improved Pension Eligibility - Veterans

- Character of discharge
- Wartime service
- Qualifying period of service (duration)
- Permanent and Total Disability rating or advanced age
- Meet income and net worth guidelines

Which of these criteria differ from compensation?

Character of Discharge

- Discharge must be:
  - Honorable,
  - General Under honorable conditions, or
  - Determined to be Honorable for VA Purposes

- If Veteran has an Other than Honorable Discharge or less, VA will conduct an Admin Review/Decision to determine eligibility of benefits.

(38 CFR 3.12)

Wartime Service Dates

For pension eligibility, the veteran must have at least **1 day** of service during wartime.

- Mexican Border Period – May 9, 1916 – April 5, 1917
- World War I – April 6, 1917 – November 11, 1918
- World War II - December 7, 1941 – December 31, 1946
- Korean War – June 27, 1950 – January 31, 1955
- Vietnam – November 1, 1955 – May 7, 1975 (for veterans who served in country) otherwise – August 5, 1964 – May 7, 1975
- Gulf War – August 2, 1990 through a date TBD

(38 CFR 3.2 and 3.3)

Period of Active Service

- In addition to wartime service, prior to 1980, a veteran must have 90 days or more of active service to be eligible for pension

- Exception: If discharged before 90 days due to service-connected disability eligibility is established

(38 CFR 3.3, 38 CFR 3.6)

Period of Active Service

In addition to wartime service, for veterans entering service after September 7, 1980 (or October 16, 1981 for officers), to be eligible for pension, the veteran must also complete at least 24 months of continuous active duty OR the entire period called to active duty

Exceptions to 24 month rule:

- Discharged due to early out/hardship
- Discharged due to service connected disability
- Holds a 10 % disability rating for anything

38 CFR 3.12a

Total Disability

The veteran must be **Permanently and Totally Disabled** to receive pension*.

Ways to determine total disability for pension purposes:

- Age 65 or older
- Patient in a nursing home for long-term care
- Receiving Social Security Disability benefits
- Receiving Supplemental Security Income
- Exam/Medical evidence

*Includes both service connected and NSC disabilities

38 CFR 3.3

Disability Decisions

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VA must complete a disability rating if:

- Veteran is under 65 yrs and not already receiving SSD or SSI, or a long-term patient in a nursing home **OR**
- There is a claim for or indication of special monthly pension **OR**
- Competency is an issue (from VA Form 21-2680)

- The decision is made to determine if veteran is permanently and totally disabled, meaning unable to adjust to substantially gainful employment
- This decision includes **both** service connected and NSC conditions

Qualifications for Special Monthly Pension (Higher Rates of Pension)

Housebound : 38 CFR 3.351(d)

- Must have a single permanent disability rated at 100% , and
  - Substantially confined to the home by reason of their disabilities, or
  - Have other disabilities independently ratable at 60% or more

Aid and Attendance: 38 CFR 3.351(b) 3.352(a)

- Beneficiary is blind or nearly blind, or
- So helpless as to require the aid of another person to perform the personal functions required in everyday living, or
- Is a patient in a licensed nursing home receiving skilled or intermediate care

Notes:

- Medical evidence needs to include diagnosis and description of severity of each disability **(VA Form 21-2680 must be signed by a physician)**

Eligibility vs. Entitlement

Now that we know how a veteran can become eligible for NSC Pension, we must look at how they can become entitled to actual benefits

Pension Entitlement

- Net worth limitations
  (savings/property)

- Annual income limitations
  (what is coming in every year)

- Unreimbursed medical expenses
  (what is being paid out-of-pocket)

Net Worth

- Pension is intended to maintain a minimum level of security, not to protect substantial assets or build up an estate

- VA's evaluation of net worth is based on the date of claim, not the date of entitlement.

- The term *net worth* is the sum of the claimant's:
  - Assets and
  - Income for VA purposes, including the income of dependents
  - While subtracting prospective annual unreimbursed (out-of-pocket) medical expenses

Net Worth

Assets ***do not*** include the following:

- The value of a claimant's primary residence under 2 acres
- If a veteran is residing in an institution, the value of their primary residence, if they still own a home, is still excluded from net worth. However, if they are renting out the property, the rental income is included as part of countable income.
- The value of personal effects suitable to and consistent with a reasonable mode of life, such as appliances and family transportation vehicle
- 10% of a claimant’s IRA if under the age of 59.5

Net Worth

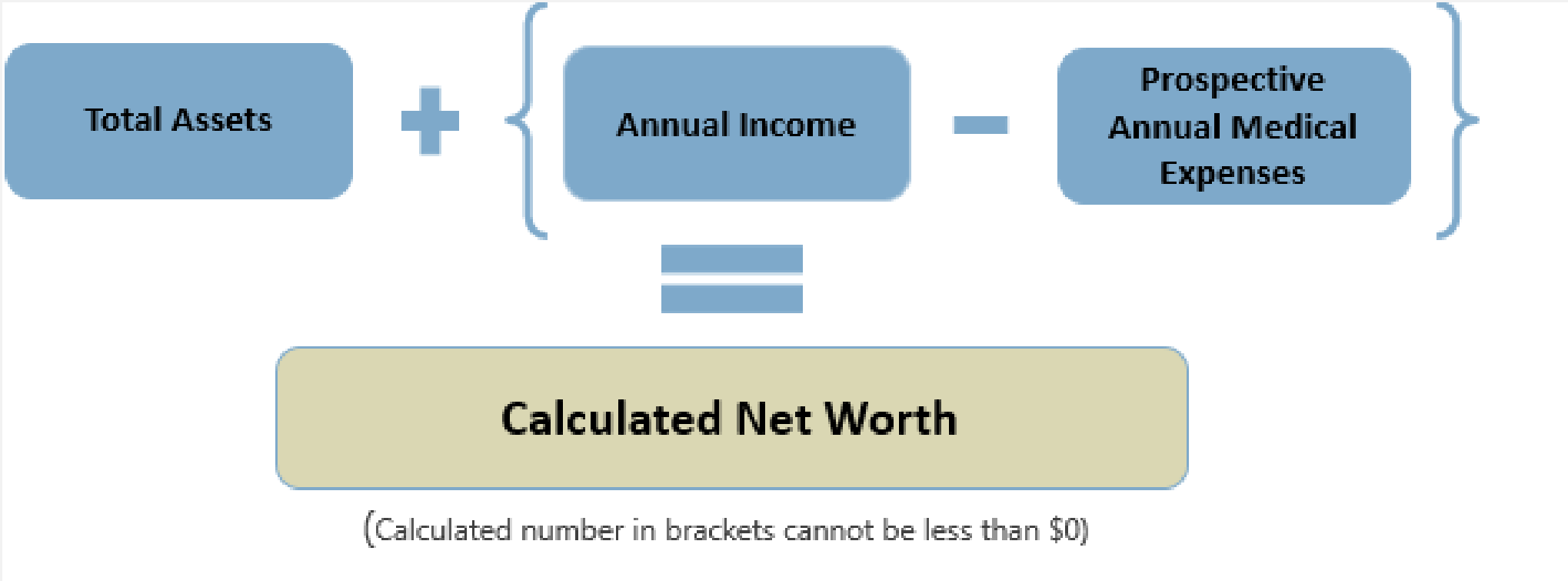
- Net worth limitations and how they are calculated were changed by the VA on October 18, 2018.

- Prior to the change, the net worth limitation for pension was $80,000.

- Under the new procedures, the net worth limits are:

  - Effective December 1, 2023 = $155,356
  - Effective December 1, 2024= $159,240 (until 11/30/25)

Net Worth


Total Assets
Annual Income
Prospective Annual Medical Expenses
Calculated Net Worth
(Calculated number in brackets cannot be less than $0)

Net Worth

VA will calculate net worth when they receive any of the following:

- An original pension claim
- A supplemental pension claim after a period of non-entitlement
- A request to establish a new dependent
- Information that a veteran's, surviving spouse's or child's net worth has increased or decreased.

Net Worth

VA has implemented a **36-month look back** period immediately preceding the date of claim. However, it will not include a look back for any transfers prior to October 18, 2018.

Only transfers for less than fair market value will be considered for a penalty period.

Transfers for less than fair market value means:

- Selling, conveying, gifting or exchanging an asset for an amount less than fair market value, or
- A voluntary asset transfer to, or purchase of, any financial instrument that reduces net worth unless the entire balance of the asset can be liquidated for the claimant's benefit

Net Worth

Covered Asset is an asset that:

- Was part of the claimant's net worth
- Was transferred for less than fair market value during the look-back period, and
- If not transferred, would have caused or partially caused the claimant's net worth to exceed the net worth limit

Covered Asset amount is the monetary value by which a claimant's net worth would have exceeded the limit due to covered assets alone if the uncompensated value of the covered asset had been included in net worth. This amount is used to calculate the Penalty Period.

Net Worth

Penalty period:

- A period of non-entitlement due to the transfer of a covered asset during the look back period
- Cannot exceed 5 years
- Begins on the first day of the month following the date of the last transfer, and
- Is calculated by dividing the total covered asset amount by the monthly penalty rate and rounding down.
    - Monthly penalty rate is the MAPR for a Veteran at the A&A rate with one dependent on the effective date of payment, divided by 12 and rounded down to the nearest dollar
    - This is the same for all pension claimants

Net Worth – What counts?

Veteran's spouse

- Always considered in total family net worth
- This includes separate property

Dependent child

- Evaluate net worth of child independently of net worth of Veteran
  - If the child's net worth is excessive, deny or remove child from the award

Trusts

- Revocable and Irrevocable (may still be countable net worth even if it is called irrevocable)
- Need a copy of:
  - the trust,
  - schedule of assets (current values of assets held in trust)

Life Estates

- The life tenant is the owner of the property during his/her life and is entitled to exclusive possession and control of the property (still considered for net worth)
- Need a copy of Life estate

Countable Income

The general rule set is that all income is countable for pension unless specifically excluded.

Examples of common countable income:

- Gross earnings
- Gross Social Security disability benefits
- Gross retirement income
- Interest/Dividends
- Unemployment compensation
- Net business or rental income
- Gross withdrawals from IRAs

Examples of common excluded income:

- VA Pension
- Profit from sale of primary residence (net worth issue)
- Welfare or Supplemental Security Income
- Income Tax Refunds
- Conversion of assets
- Withdrawals from bank accounts and CD's
- Cashed in life insurance on death of Veteran
- *Potentially* mineral royalties (Depends on land ownership)

Does VA Service-Connected Compensation or DIC Count as Income?

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- Compensation and DIC *are* counted as income
  - Veteran will be paid either compensation *or* pension
  - Survivor will be paid either DIC *or* pension

- If entitled to both, whichever is the greater benefit at the time of filing will be paid

- Veteran/survivor may elect to switch programs at any time

38 CFR 3.701

Medical Expense Deductions

A deduction for medical expenses is permitted if **all** of the following conditions exist:

- Expenses are actually paid by the beneficiary or beneficiary's spouse
- Expenses are unreimbursed
- Expenses are for a beneficiary or relative who is a constructive member of the household
- Expenses are paid on or after the date of pension entitlement
- **Expenses exceed the five percent medical deductible (the 5% figure can be found in the pension rate chart on the VA website).**

Medical Expense Deductions

Examples of common medical deductions:

- Medicare Part B and D premiums
- Private medical insurance (Life insurance and burial insurance do not count)
- Prescriptions and co-pays
- Non-prescription drugs (OTC), medical supplies, vitamins, herbal remedies, and food supplements (M21-1 IX.iii.1.G.3.r.)

  ($1,500/year limit per household member)
- Medical supplies include incontinence supplies
- Adaptive equipment
- Care facilities or in-home care providers for beneficiaries entitled to A&A or HB benefits
- Reimbursement for travel to medical appointments

Counting Care Facility Expenses

Nursing home costs

- Count all facility and medical service fees if a responsible official of the nursing home certifies that the claimant or relative is a patient in the nursing home
- Use the VA Form 21-0779 for this

Counting Care Facility Expenses

Other types of facilities (Assisted Living, Independent, Senior Living, Residential Care for the Elderly, Group Homes, etc.)

- Count room and board if the facility provides health care or custodial care.
- Custodial care includes:
  - Providing assistance with 2+ Activities of Daily Living or
  - Supervision due to physical, mental, developmental or cognitive disorder
- Facility must be licensed if required by the State or county in which the facility is located. The facility must be staffed 24 hours per day with care providers.

Counting In-Home Fees

Rated Special Monthly Pension (primary beneficiaries)

- Provides medical or nursing services, or provides custodial care
- Does not have to be a licensed health care provider
- Count all charges

Not Rated SMP (primary beneficiaries or dependents)

- If the provider is a licensed health professional

Not Rated SMP and Not a Licensed Provider (dependents)

- Signed statement from a physician that the person (dependent) requires the medical/nursing care provided by an in-home care attendant

Counting In-Home Fees

Payments must be commensurate with the number of hours that the provider attends to the disabled person.

Receipts or other documentation of payment of this expense is required. The evidence submitted must show:

- Amount paid
- Date payment was made
- Purpose of the payment
- Name of the person services were provided for
- Identification of the provider

Counting Medical Expenses

- Prediction of future expenses
- Amount and frequency of payment is easily predictable
- Common continuing medical expenses:
  - Nursing home, assisted living, in-home care
  - Private medical insurance
  - Medicare Part B and D
  - Incontinence supplies
  - Diabetic supplies

Reporting Medical Expenses

- Medical expenses can be reported directly on Form 21p-527ez / 21p-534ez
- If additional medical expenses need to be reported, report on VA Form 21p-8416
  - Report in year *paid*, not year incurred
  - Be sure to calculate roundtrip mileage if you used your own car
  - No mileage if using taxi/public transportation, just fare
  - For self, spouse, child
  - Have veteran keep receipts for at least 3 years: VA may ask to verify

Reporting Medical Expenses
VA Form 21p-8416

Report medical expenses for the period thru . If no dates appear on this line, refer to the accompanying letter or Eligibility Verification Report for the dates your medical expense report should cover.

5. ITEMIZATION OF MEDICAL EXPENSES				
A. PURPOSE *(Physician or Hospital Charges Eyeglasses, Oxygen Rental, Medical Insurance, etc.)*	B. AMOUNT PAID BY YOU	C. DATE PAID (Mo/Day/Yr)	D. NAME OF PROVIDER *(Name of Doctor, Dentist, Hospital, Lab, etc.)*	E. FOR WHOM PAID (Self, spouse, child)
MEDICARE (PART B)			SOCIAL SECURITY	
PRIVATE MEDICAL INSURANCE				

Form was last updated: October 2023

Education Expenses

- Education expenses paid for veteran or surviving spouse may be deducted on a dollar for dollar basis

  - Tuition
  - Fees
  - Books

38 CFR 3.272(i)

Veterans Pension Rate Table and Survivors Pension Rate Table – Effective 12/1/2024

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See Larger Print-Outs of the Veterans Pension Rate Table and Survivors Pension Rate Table at the end of your slides.

Veterans Pension Rate Table:
https://www.benefits.va.gov/pension/current_rates_veteran_pen.asp

Survivors Pension Rate Table:
https://www.benefits.va.gov/pension/current_rates_survivor_pen.asp

Reading Pension Rate Tables

- Two different Rate Tables: Veterans and Survivors
- Annual COLA tied to SSA: *may* increase each year
- MAPR based on dependents and disability level
- Medical expense deduction (5%) is based on if the veteran has dependents
- Two veterans married to each other?
- Child earned income exclusion

How to Calculate Pension

Fractions of dollars are rounded down for both income and monthly pension rate

- Single vet, MAPR is $16,965 per year
- If zero income, veteran would receive $16,965 per year, or $1,413/mo in VA pension.
- Veteran's income is SSDI of $850/mo. Or $10,200/year
- MAPR of $ $16,965 minus income of $10,200 = $6,765 annual pension

$6,765 ÷ 12 = monthly pension of $**563**

Total of SSDI + VA Pension = $16,965

How to Calculate Pension with Medical Expenses

- Single vet, MAPR is $16,965/year
- Income is SSDI of $10,800/year
- He pays total medical expenses of $2,848 for 2024
  - 5% of MAPR is $ 848 (meds above this are deductible)
  - Total expenses minus $848 = $2000

  (allowable medical expense to deduct from income)
- Countable income is now $10,800 - $2,000 = $8,800
- Veteran will receive MAPR minus countable income

$16,965 - $8,800 = $8,165

$8,165 ÷ 12 = **monthly pension of <u>$680</u>**

Reporting Changes in Income and Expenses

- Recipients are expected to keep VA informed of any change that may affect their pension benefit, including changes to income, net worth, marital status, nursing home patient status, and deductible expenses

- For those with consistent income, especially receiving SSA, there's no need to report annually unless there is a change, however expenses must be reported to be deducted

VA Matching Programs and Income Verification

- VA works with SSA and IRS to verify continued eligibility for pension benefits through computer matching programs
- As a result, VA no longer sends Eligibility Verification Reports (EVR's) to most beneficiaries
- But, failure to report changes that affect pension benefits may result in an overpayment (veteran owes $ to VA)
- If there is any doubt that a beneficiary's income or expenses may affect their payments, report it!

Qualifications for Liberalizing Law

Veterans Pension may be awarded to a Veteran retroactive for up to one year prior to the date of receipt of the claim if any of the following criteria are continuously met from September 17, 2001 until the date of claim:

- Age 65; or
- Found disabled by Social Security Administration (SSA) for the purpose of Social Security disability benefits; or
- a patient in a nursing home for long-term care because of disability

No liberalizing law for Survivors Pension.

Medicaid $90 Rate

38 CFR 3.551 (i) states VA must limit claimants to $90/month for a veteran, surviving spouse or surviving child who:

- Has neither spouse nor dependent child, and
- Is in a Medicaid approved nursing facility, and
- A Medicaid plan covers in part or all of his or her nursing home care.

Note(s):

- No overpayment is created when reducing to the $90 rate
- The $90 payment is for personal use and cannot be used to cover nursing home expenses
- Exception: not reduced to $90 rate if in a State Veterans Home
- Be sure to include the name and phone number of the facility
- If claimant has a running award, due process is initiated before $90 rate is set.

Hospitalization Adjustments

According to **CFR 3.551(a),** "hospitalization" is defined as when a Veteran resides in a…

- VA hospital – VA medical center.
- VA domiciliary – longer term residence for Veterans who are economically-disadvantaged, suffer from mental health, and/or require substance abuse treatment.
- VA nursing home – nursing home paid for by VA (State Veterans Homes are excluded).
- Private facility under VA contract – private facility paid for by VA.

…and care is being provided at VA expense

Hospitalization Adjustments

- When a veteran becomes hospitalized, his/her benefits must be adjusted based on **CFR 3.551** and **3.552**.

- Reduction under CFR **3.551**
  - Veterans with no dependents, in receipt of Improved Pension at the basic rate, are reduced to **$90.00** when provided with **domiciliary or nursing home care** at VA expense.

- Reduction under CFR **3.552**
  - Veterans with A+A entitlement are reduced to the **housebound rate (A/H)** when provided with **hospital, domiciliary, or nursing home care** at VA expense.

Pension Management Centers

VA has three Pension Management Centers (PMC):

- St. Paul, MN
- Milwaukee, WI
- Philadelphia, PA

The majority of pension claims are processed at these offices. However, VA Regional Offices still handle pension in many cases, such as when the application is for both pension and service connected compensation.

Appeals For Pension



Filing a Supplemental Appeal



Filing a Higher Level Appeal



Filing A Board Appeal



Appealing A VA Decision To The Appeals Court

Pension Management Centers

The Pension Management Centers have established the following dedicated telephone numbers for VSO use ONLY.

DO NOT give these numbers to your clients.

- St. Paul (612) 713-8978 PENSION.VBASPL@va.gov
- Milwaukee (414) 902-5062
- Philadelphia (215) 381-3762 VBAPHI_PMC@va.gov

Pension Processing Tips

- Use ITF if you can’t submit claim right away…
- If the number of claimable expenses is excessive, have the veteran/family create a list to report to VA
- Let VA figure out the math – report everything
- Include other forms/expense statements if applicable
- If family member assisting, make sure veteran signs/marks claim if possible
- Remind client to notify VA about income/dependent changes

Pension Processing Tips

- If the veteran/survivor is considered for incompetency (from the VA Form 21-2680), a fiduciary may be assigned (38 CFR 3.850)
- Explain fiduciary's role and selection – managed by VA Fiduciary Hub
- If in receipt of pension, at least Priority Group 5 for VA Health Care
- Be aware of state and local veterans benefits

Medal of Honor Pension

- As of February 26, 2025, the monthly amount is $1406.73, which is $16,680.76 per year.
- The Medal of Honor Act of 2025 would eventually increase this to $67,500 per year.
- A monthly stipend can be paid to surviving spouses.

VETERANS OF FOREIGN WARS®

Questions?

Recent Court Opinions and Regulatory Changes

https://bergmannandmoore4.participoll.com

Polling Test Question

In FY2024, what percentage of Board decisions that were reviewed by the Court of Appeals for Veterans Claims were **reversed or remanded** (in favor of the Veteran)?

A. Less than 25% were reversed or remanded
B. Between 25% and 50%
C. Between 50% and 70%
D. Between 70% and 80%
E. Between 80% and 90%
F. More than 90%



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Polling Test Answer

F. More than 90%

Of the 6,531 appeals the court decided on the merits, the court affirmed only 375.

- In 5,491 appeals, VA conceded error without even contesting the case before a judge.

APPEALS

TYPE OF DISPOSITION	CLERK[6]	SINGLE JUDGE	THREE-JUDGE PANEL	FULL COURT	TOTAL
Affirmed	0	368	7	0	**375**
Affirmed or dismissed in part, reversed or vacated and remanded in part	3,105	122	0	0	**3,227**
Reversed or vacated and remanded in whole or in part	0	892	25	1	**918**
Remanded	2,386	0	0	0	**2,386**
Dismissed for lack of jurisdiction or timeliness	3	186	3	1	**193**
Dismissed for default	235	6	0	0	**241**
Dismissed voluntarily	498	20	4	0	**522**
TOTAL	**6,227**	**1,594**	**39**	**2**	**7,862**

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Learning Objectives

- **Learn about important recent court decisions.**
  - Review the different **courts above VA**.
  - Learn about some **recent court decisions**.
  - Learn **arguments to make** based off these recent decisions.

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Brief Overview of VA's Judicial Review

- The **Board of Veterans' Appeals** (Board) is the highest appellate body ***within VA***.
- Denials from Board can be appealed to the **U.S. Court of Appeals for Veterans Claims** (CAVC).
  - CAVC handles only Board appeals from VA.
  - Claimants cannot take VA appeals to any other court.
- Denials from CAVC can be appealed to the **U.S. Court of Appeals for the Federal Circuit** (Fed. Cir.).
  - Only decides questions of law.
  - The next and highest court is the U.S. Supreme Court.

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Issue Break!
The Pro-Veteran Canon of Interpretation

Brown v. Gardner

- In 1994, in the first Supreme Court case after the Veterans' Judicial Review Act (VJRA), the Court unanimously said that "interpretive doubt [in statutes] is to be resolved in the veteran's favor."
- This was rooted in decades of caselaw on Veteran preferences in other laws.
- Since then, *Gardner* has been routinely cited by courts to side with Veterans when interpreting laws.



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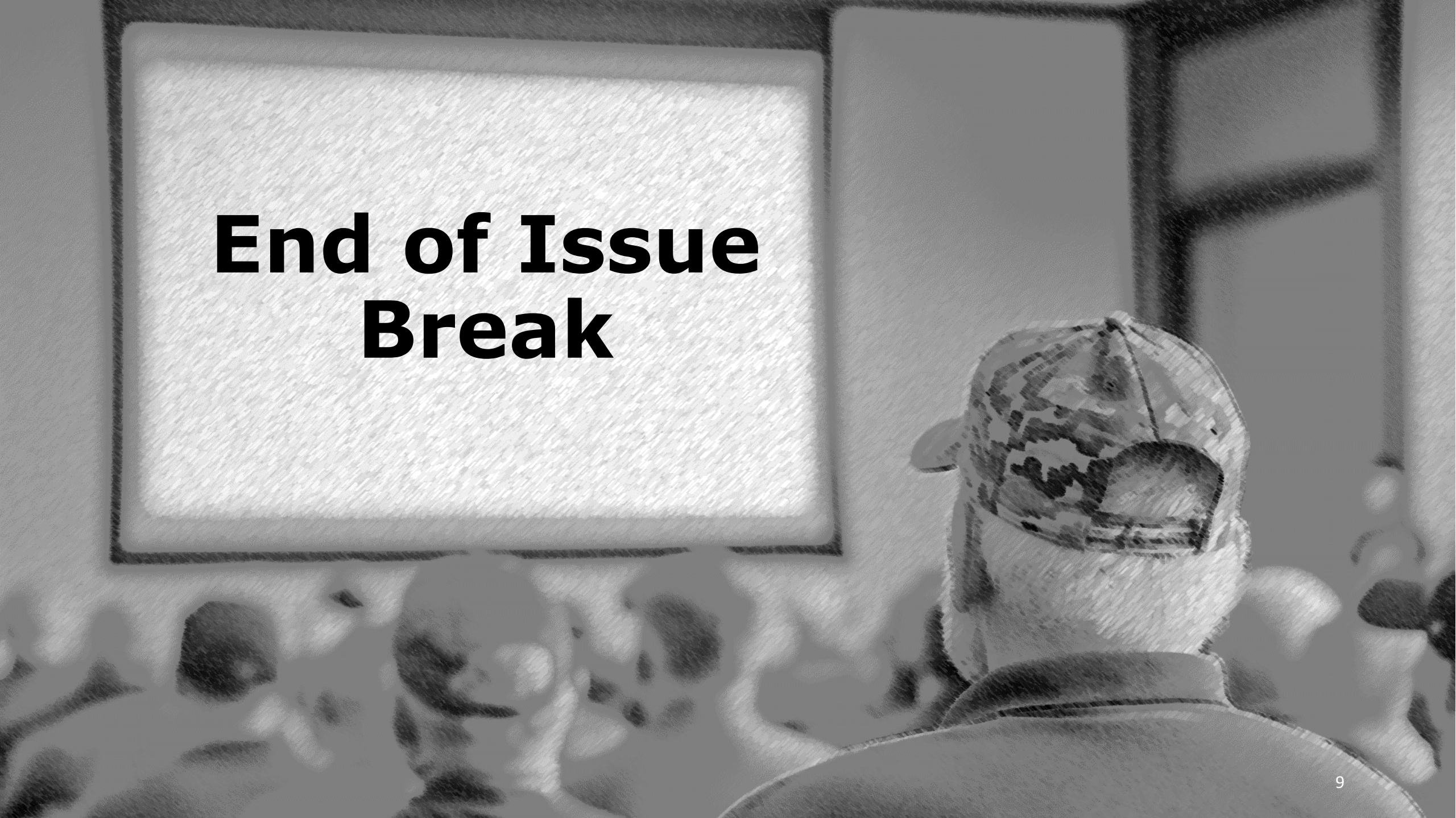
Kavanaugh's *Rudisill* concurrence



Associate Justice Brett Kavanaugh, United States Supreme Court

- Associate Justice Brett Kavanaugh wrote, "The Judiciary's role is to neutrally interpret those statutes, not to put a thumb on the scale in favor of or against any particular group. For that reason, it may be important in a future case for this Court to address the justification for any benefits-related canon that favors one group over others."
  - Joined by Associate Justice Amy Coney Barrett.
- Associate Justice Clarence Thomas (joined by Associate Justice Samuel Alito) agreed saying: "I question whether this purported canon should ever have a role in our interpretation."

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End of Issue
Break

Soto v. United States

145 S. Ct. 1677 (Jun. 12, 2025)



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Veteran Simon Soto retired in 2006. In 2016, he was awarded "combat-related special compensation" based on his service in Iraq. (This is not a VA benefit.) A general statute passed by Congress limits retroactive awards paid by DoD to six years. That law does not apply to "settlements." The law creating CRSC does refer to the benefit as a "settlement."

- Is Mr. Soto entitled to six or ten years of benefits?

A. Six years. The language of the statute is clear.

B. Ten years. Congress is presumed to be generous to Veterans.



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Soto v. United States

B. Ten years. Congress is presumed to be generous to Veterans.

- In *Soto*, the Court did not address the presumption in favor of Veterans explicitly.
- However, in a unanimous opinion by Justice Thomas, the Court ruled in favor of the Veteran because "where, as here, the statutory scheme involves a small group of particularly deserving claimants, it is not extraordinary to think that Congress wished to forgo a limitations period." 145 S. Ct. 1677 at 1687.

***Soto* creates an opportunity to save the pro-Veteran canon of interpretation. However, this requires a knowledgeable advocate to raise this case at the right time!**

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Amezquita v. Collins

135 F.4th 1369 (Fed. Cir. 2025)



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Prior to enlisting, Veteran Edward Amezquita had surgery to repair his shoulder after a car accident. His entrance physical noted the surgery but listed his shoulder asymptomatic. After service, Mr. Amezquita applied for service connection for a shoulder disability. Doe the presumption of sound condition apply to his claim?

A. No. If the service member is not experiencing any symptoms then—by definition—they do not have a condition at the time they entered service.

B. Yes. Even though he had not symptoms, the condition was still noted on his entrance physical.



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Amezquita v. Collins

B. Yes. Even though he had not symptoms, the condition was still noted on his entrance physical.

- The Federal Circuit rejected the argument that only conditions that have some kind of active symptom count as preexisting conditions.
- Therefore, the burden is on the Veteran to prove that his condition was made worse by his service.

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Loyd v. Collins

___ Vet.App. ____

2025 U.S. App. Vet. Claims LEXIS 614 (May 8, 2025)



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Veteran Marvin Loyd sought service connection for an eye condition as secondary to a service-connected stroke. After his claim was denied, he filed a Supplemental Claim. The regional office, however, determined that there was no new and relevant evidence to reopen the claim. Mr. Loyd then appealed that decision to the Board.

What issue is before the Board?

A. Only the issue of whether the Supplemental Claim was supported by new and relevant evidence.

B. The merits of whether his eye condition should be granted service connection.



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Loyd v. Collins

A. Only the issue of whether the Supplemental Claim was supported by new and relevant evidence.

- The CAVC held that an appeal of a denial of reopening is focused only on the issue of whether the claim should have been readjudicated.
- The Court also noted that it may be true—as it was in the legacy system—that if the Board grants readjudication then it must remand for a decision on the merits.

The opinion indicates that the Secretary conceded that continuous pursuit would still apply after a denial of readjudication!

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Rudisill v. McDonough
144 S. Ct. 945 (2024)



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Veteran James Rudisill served a total of eight years over three separate periods of service beginning in 2000. He used 25 months of benefits under the Montgomery G.I. Bill. However, he also qualified for educational benefits under the Post-9/11 G.I. Bill.

How many months of benefits does he have available under that program?

A. 11 months because that is what he had left under the Montgomery G.I. Bill.

B. 36 months because the Post-9/11 program is completely separate.

C. 23 months because there is a separate, 48-month cap on combined benefits.



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Rudisill v. McDonough

C. 23 months because there is a separate, 48-month cap on combined benefits.

- Veterans who **qualify for both** the Montgomery G.I. Bill and the Post-9/11 G.I. Bill education benefits through separate periods of service may use either one, in any order, up to a total 48-month aggregate cap.
- This was a hard case because there are many educational benefits statutes passed at different times that have conflicting language about how to combine eligibility.

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Rudisill Implementation Plan

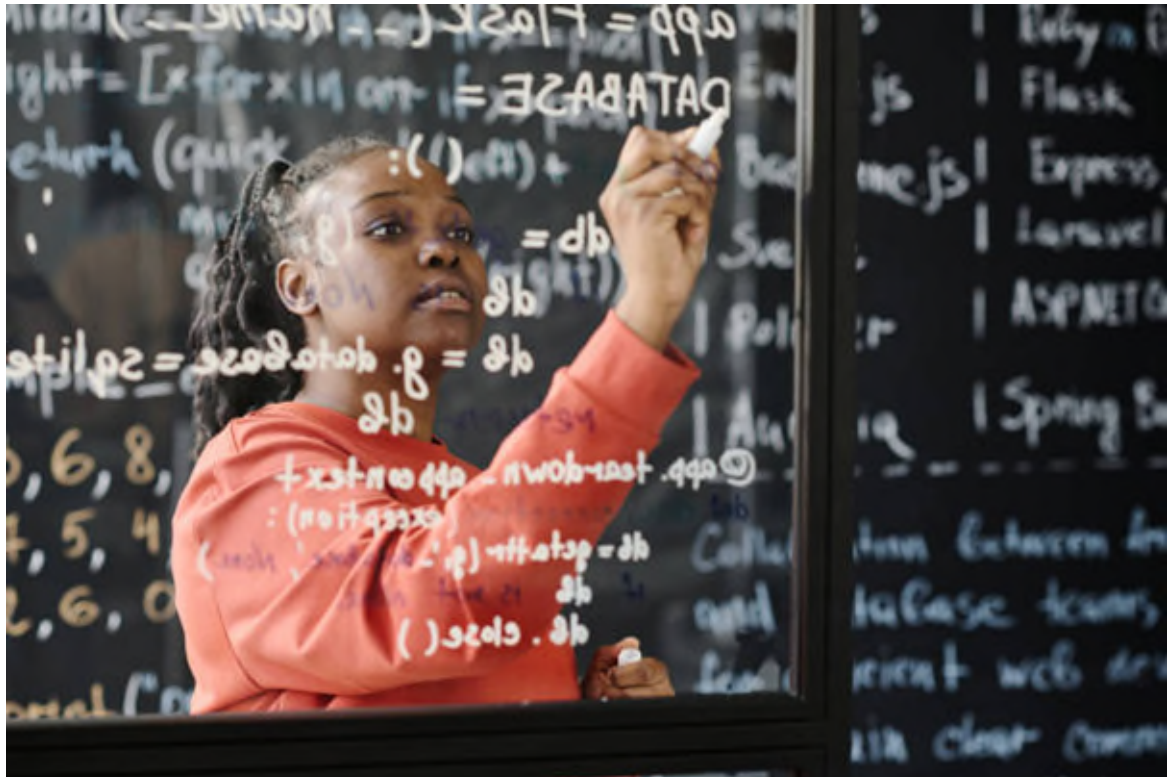
- Veterans have the amount of time that was remaining at the time of their original election plus 90 days to use the benefits.
- Veterans should avoid applying until they are ready to use the benefits because the time period for using them will be calculated based upon the date of the new application.
- Veterans should use VA Form 22-1995 to apply when ready.
- Veterans must apply by October 1, 2030. Claims may still be submitted after that date, but the delimiting date will be based on the normal rules.
- For more, go to https://benefits.va.gov/GIBILL/rudisill.asp.

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Perkins v. Collins

__ Vet.App. ___

2025 U.S. App. Vet. Claims LEXIS 558 (May 16, 2025)



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The Montgomery G.I. Bill requires two years of service. The Post-9/11 G.I. Bill requires three years of service. Veteran Kassidy Perkins served in the Air Force for six years from 2014 to 2020. She applies for a total of 48 months of educational benefits under the *Rudisill* decision.

Can she receive 48 months of benefits?

A. Yes because she served long enough to qualify for both benefits without double counting any of her years of service.

B. No. *Rudisill* applies only to Veterans like Mr. Rudisill who had multiple periods of service each with a separate DD-214.



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Perkins v. Collins

A. Yes because she served long enough to qualify for both benefits without double counting any of her years of service.

- The CAVC held that the Supreme Court's decision applies to any Veteran with enough service to qualify for both benefits.
- VA's implementation plan is based upon its narrow reading of *Rudisill*.

It is quite possible VA will appeal this decision!

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Johnson v. Collins

Johnson v. Collins

38 Vet. App. 151 (2025)



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Veteran Robert Johnson filed a claim for service connection for diabetes asserting exposure to Agent Orange while serving as a security guard at Nam Phong Royal Thai Air Force Base, patrolling the perimeter every night. The RO found there was no evidence of herbicide exposure during service. Mr. Johnson appealed to the Board. While his appeal was pending, he filed Supplemental Claims for the same disabilities pursuant to the PACT Act. In March 2023, the RO granted service connection effective from the date of the PACT Act. Mr. Johnson appealed again seeking earlier effective dates considering his pending Board appeal. The Board dismissed the 2016 appeal as "moot" because service connection has been established. Does a PACT Act grant moot a pending claim for direct service connection?

A. Yes. The effective date requires a separate 10182 to appeal.

B. No. Direct service connection could provide a better effective date.



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Johnson v. Collins

A. No. Direct service connection could provide a better effective date.

- The Court held that grants based on the PACT Act do not resolve earlier claims or appeals.
- Therefore, the Board must address the original appeal, which could entitle the Veteran to an earlier effective date.

If VA Grants service connection under the PACT Act (or any new law) and the Veteran had a claim/appeal pending before the date of the liberalizing law, **do not withdraw or accept a dismissal** of the original claim/appeal.

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Johnson argument

Although VA granted [Veteran's name]'s claim of [state specific claim] based on a liberalizing change in law, effective from the date of the liberalizing law, the Veteran's claim [or appeal] based on the law as it existed prior to the liberalizing law remains pending before VA. *Johnson v. Collins*, 38 Vet. App. 151 (2025) (holding that "[t]he RO's grants of service connection under the PACT Act did not resolve the pending Board appeal").

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Westervelt v. Collins

38 Vet.App. 206 (2025)



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In the Legacy system, the Veteran Edward Westervelt was originally rated 70% for a Traumatic Brain Injury. Later, VA also granted 30% for PTSD. After the Veteran filed an appeal, a DRO decided the 30% PTSD rating was CUE because the symptoms overlapped with the TBI and should not have been rated separately.

What exactly was the Board allowed to review? Just the rating issue, or also the validity of the CUE finding?

A. Just the rating issue because that was the subject of the rating decision.

B. Everything because the CUE determination is not separate from the original appeal.



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Westervelt v. Collins

B. Everything because the CUE determination is not separate from the original appeal.

- The CAVC rejected arguments that the CUE decision somehow split the appeal into separate tracks or limited the Board's scope of review.
- The Court held that the general rule that VA **must address all issues raised by the Veteran and the record** that could result in greater compensation still applies.
- Therefore, **everything reasonably related to the PTSD rating was still before the Board** including whether the PTSD rating should be restored, increased, or rated separately from the TBI.
- This includes questioning whether the CUE determination was correct.

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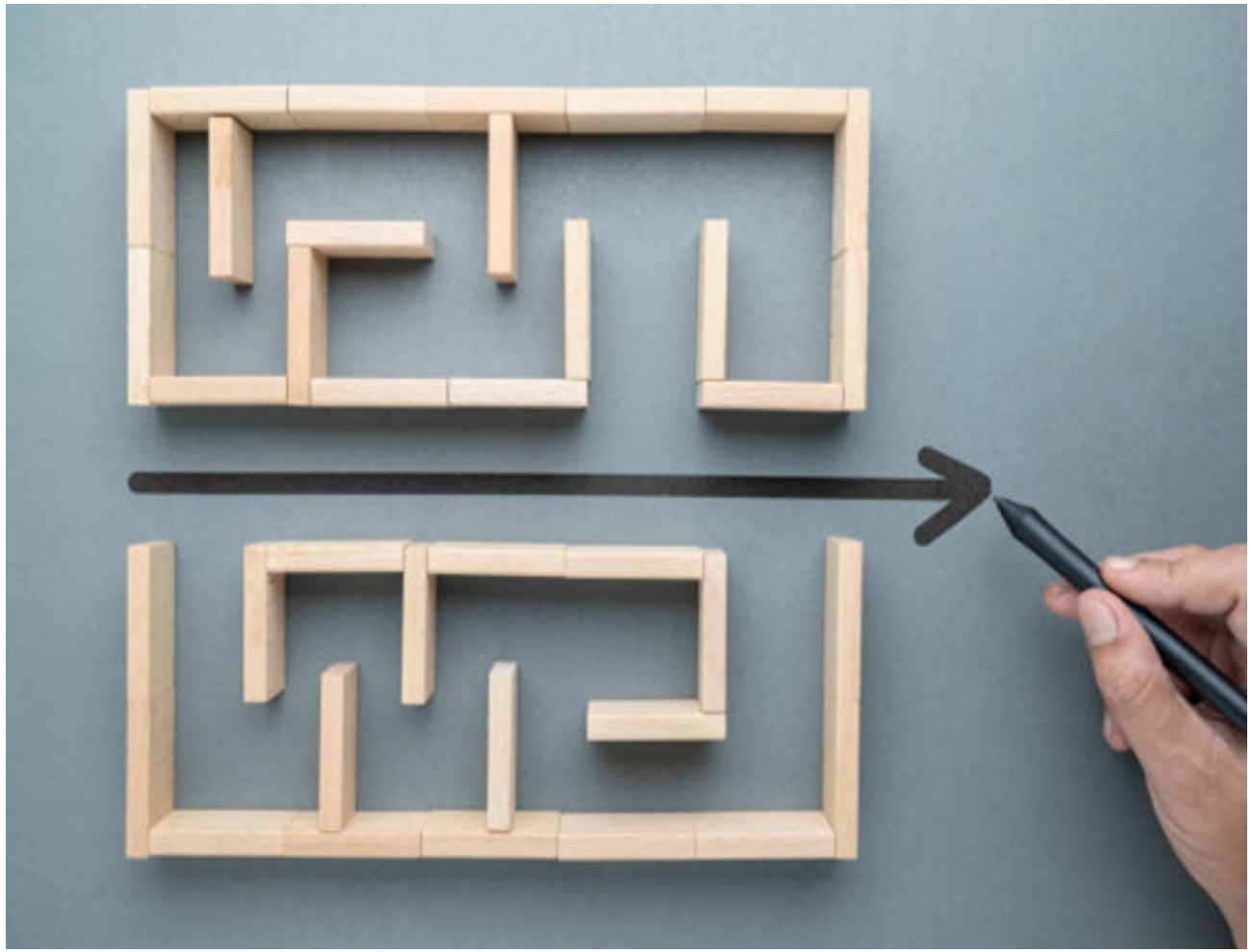
Westervelt Takeaways

- Even when VA claims it corrected a "CUE," **the Board must still review everything** tied to the original appeal.
- Don't let a CUE finding discourage broader argument for a higher or restored rating.
- In legacy cases or AMA reviews, VSOs should still **raise all relevant issues** including the accuracy of any unfavorable VA findings made during the appeal.

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Hatfield v. Collins

Hatfield v. Collins
135 F.4th 1362
(Fed. Cir. 2025)



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In 1978, the Veteran Archie Hatfield died after receiving radiation therapy at a VA hospital. In 1980, the Board denied 38 U.S.C. § 1151 benefits to his wife for the causes of his death. Decades later, she argued that the Board decision amounted to clear and unmistakable error for failing to properly apply 38 U.S.C. § 1151 and § 4131—which she believed should have been read together to award compensation because there was no record of informed consent for the procedure. The interaction of these two laws had never been considered before.

Can the widow win her CUE motion?

A. No because this legal theory had never been considered before.

B. Yes because both laws were in effect when the 1980 decision was made.



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Hatfield v. Collins

A. No because this legal theory had never been considered before.

- The Federal Circuit held that, while the legal theory was interesting, it didn't rise to the level of undebatable legal error that's required for CUE.
- The Court reaffirmed that CUE cannot be based on **new or novel interpretations** of older laws.
- Even if two laws could logically be read together today, that doesn't mean VA's failure to do so decades ago is automatically a legal error.

If you're dealing with a CUE case, you must show that VA clearly violated a legal requirement that was established and understood at the time of the original decision!

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Willen v. Collins



Willen v. Collins
38 Vet. App. 259
(2025)

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In November 2023, the Board remanded Veteran James Willen's claims for a higher rating for major depression disorder and TDIU. Within that remand, in a section labeled "Preliminary Matters," the Board stated that the appeal period could not begin earlier than April 11, 2016. Mr. Willen appealed this conclusion, arguing it was effectively a final denial of an earlier effective date for increased evaluations. VA argued that there was no final Board decision to review.

Is a comment in a preliminary part of a decision an appealable final action?

A. No. Only the formal actions in a decision are appealable.

B. Yes. It functionally limits the Veteran's potential award.



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Willen v. Collins

B. Yes. It functionally limits the Veteran's potential award.

- The CAVC held that the comment was a reviewable decision because "[t]here is no sign that VA contemplated any further adjudication on the issue of Mr. Willen's compensation before April 2016."
- This means that a Board "remand" can include final decisions, which are subject to an appeal.
- More generally, the Court decision means that sometimes a decision from VA may include a final determination on a matter even if it isn't formatted like a decision on that issue.

Carefully read all decisions from VA, including any remands from the Board or deferred rating decisions from the RO.

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Willen Takeaways

- Follow the government's own guidance: if you see something, say something.
- Carefully read all decisions from VA, including any remands from the Board or deferred rating decisions from the RO.
- If you think any part of those decisions includes a denial of part of the Veteran's claim, be sure to seek additional review or appeal of that issue.

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Adams v. Collins

Adams v. Collins
2025 U.S. App. Vet. Claims LEXIS 922
(Jul. 15, 2025)



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Veteran Millard Adams filed a claim filed a claim for service connection for obesity as secondary to PTSD supported by an article that links weight gain to cortisol, a hormone that increases with stress. The Board denied this claim holding that that "obesity is not a disease or disability for VA purposes and is not subject to service connection."

Can VA award service connection for obesity?

A. No. Obesity is not a disability.

B. Yes. Obesity causes functional impairment.

C. It depends upon whether the claim is asserting primary or secondary service connection.



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Adams v. Collins

C. It depends upon whether the claim is asserting primary or secondary service connection.

- This is a confusing decision!
- The focus was on a legal opinion from VA's Office of General Counsel.
- It upheld VA OGC's opinion that obesity is not a "disease," but struck down the opinion that it is not a "disability."
- This led the Court to the conclusion that obesity cannot be granted primary service connection, but it can be granted secondary service connection.

This doesn't seem like it will be the last word.

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Loomis v. Collins
2025 U.S. App. Vet. Claims LEXIS 953 (Jul. 15, 2025)



Loomis v. Collins
2025 U.S. App. Vet. Claims LEXIS 953 (Jul. 15, 2025)

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Mr. Loomis was an Air Force Veteran. After his separation from service, he worked for a private energy defense contractor. To qualify for a promotion at that job, he needed to get a private pilot certification. He applied to use his VA education benefits at a private flight school, MidCoast Aviation Services. VA denied his claim because MidCoast Aviation Services was not approved by the state of Georgia or VA; and it was not an educational institution of higher learning (i.e. a college or university).

- Was this denial correct?

A. Yes.

B. No.



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Loomis v. Collins

A. Yes.

- The CAVC recognized that a private flight school must meet one of two criteria:
  1. Actually approved by the state or by VA; or
  2. "Constructively approved" by the Federal Aviation Administration (FAA).
- As to the second prong, the CAVC held that a flight school may only be "constructively approved" if offered by a college or university "as part of credit toward a standard college degree."
- In other words, the flight school is part of a college's curriculum.

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Bilharz v. Collins
2025 U.S. App. Vet. Claims LEXIS ____ (Aug. 14, 2025)



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Bilharz v. Collins

Veteran Eric Bilharz appealed the denial of service connection for several musculoskeletal conditions. At a Board hearing, he testified before a Veterans Law Judge regarding how his disabilities began in the Marine Corps because of the extreme training that lead to his unit setting records in the Super Squad competition. His wife also testified corroborating his statements about symptoms since service. After the hearing, his case was reassigned to another judge who denied the claims while saying nothing about the testimony other than it was not "competent" on medical issues.

Bilharz v. Collins

Does a Veteran have the right to have their appeal decided by the judge who heard their testimony?

A. No. Congress repealed the law that created this right.

B. Yes. This is a traditional common law right that cannot be taken away.



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Bilharz v. Collins

A. No. Congress repealed the law that created this right.

- The CAVC held that there is no constitutional right to a decision by the judge who witnessed the Veteran's testimony.
- Unfortunately, the opinion did not respond to several arguments that were made as well as cases from the Supreme Court and other federal courts preventing district judges from ignoring findings made by magistrate judges based upon live testimony.

This decision is not appealable because the Court remanded all the claims on other grounds.

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Issue Break!
Judges

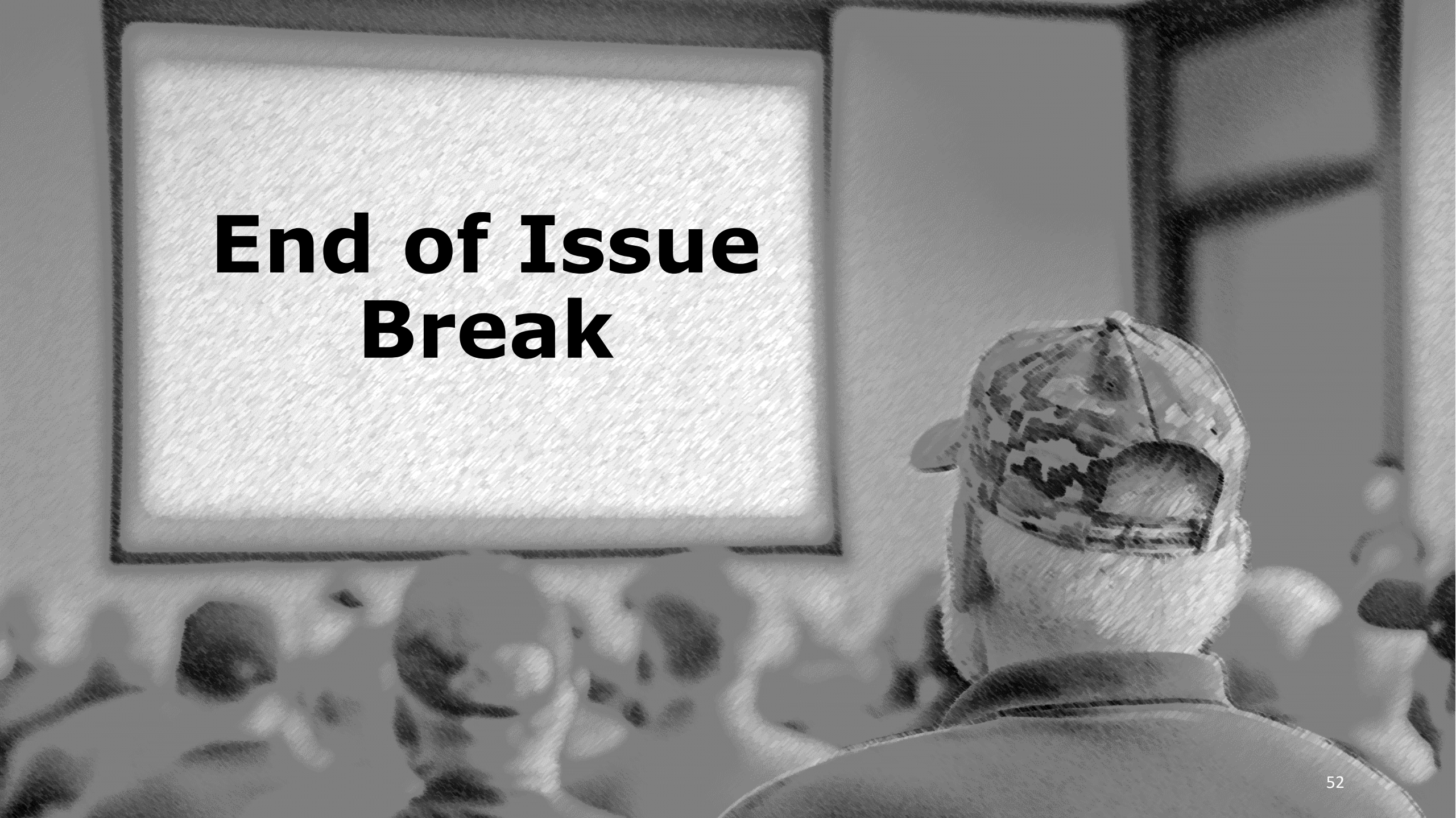
Background of Judges





- Judicial review of Veterans' benefits claims was established in **1988**.
- No CAVC judge in history has had experience at the Board of Veterans' Appeals or adjudicating claims for VA.
- No veterans law practitioner has ever been appointed as a Federal Circuit judge.

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End of Issue
Break

Final Rule – New Burn Pit Presumptive Diseases

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New Burn Pit Presumptives

- The PACT Act of 2022 gave VA authority to add new disabilities to the Burn Pit presumptives.
- In January 2025, VA used this authority to add the following disabilities:
  - Urinary bladder, ureter, and related genitourinary cancers effective January 2, 2025.
  - Acute leukemias, chronic leukemias, multiple myelomas, myelodyslastic syndromes, and myelofibrosis effective January 10, 2025.



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Final Rule - Exception to the Bilateral Factor

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Bilateral Factor § 4.26

- This regulation functions to provide Veteran with a **higher combined rating** if the Veteran receives compensable ratings for both arms or legs.
- Applies if Veteran receives a compensable rating for both arms, both legs, or "paired skeletal muscles."
  - Here "arms" and "legs" refers to whole extremity.
  - For example, if the Veteran is rated for her right hip and left foot, she receives a rating for "both legs" and therefore the bilateral factor applies.

Table I—Combined Ratings Table

[10 combined with 10 is 19]

	10	20	30	40	50	60	70	80	90
19	27	35	43	51	60	68	76	84	92
20	28	36	44	52	60	68	76	84	92
21	29	37	45	53	61	68	76	84	92
22	30	38	45	53	61	69	77	84	92
23	31	38	46	54	62	69	77	85	92
24	32	39	47	54	62	70	77	85	92
25	33	40	48	55	63	70	78	85	93
26	33	41	48	56	63	70	78	85	93
27	34	42	49	56	64	71	78	85	93
28	35	42	50	57	64	71	78	86	93
29	36	43	50	57	65	72	79	86	93
30	37	44	51	58	65	72	79	86	93
31	38	45	52	59	66	72	79	86	93
32	39	46	52	59	66	73	80	86	93
33	40	46	53	60	67	73	80	87	93
34	41	47	54	60	67	74	80	87	93
35	42	48	55	61	68	74	81	87	94

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Bilateral Factor § 4.26 – How Applies

- If this applies, then **combine** the ratings for the right and left sides as normal. Then **add** 10 percent of the resulting combined value.
- Bilateral factor applies before other combined ratings and **only applies once**.
- Combine all qualifying bilateral factor ratings together first, then add 10% of the resulting value.
- Bilateral ratings are then treated as one disability for purposes of combining with other ratings.

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Bilateral Factor

§ 4.26 Bilateral factor.

Except as provided in paragraph (d) of this section, when a partial disability results from disease or injury of both arms, or of both legs, or of paired skeletal muscles, the ratings for the disabilities of the right and left sides will be combined as usual, and 10 percent of this value will be added (*i.e.*, not combined) before proceeding with further combinations, or converting to degree of disability. The bilateral factor will be applied to such bilateral disabilities before other combinations are carried out and the rating for such disabilities including the bilateral factor in this section will be treated as one disability for the purpose of arranging in order of severity and for all further combinations. For example, with disabilities evaluated at 60 percent, 20 percent, 10 percent and 10 percent (with the two 10 percent evaluations being bilateral disabilities), the order of severity would be 60, 21 and 20. The 60 and 21 combine to 68 percent and the 68 and 20 combine to 74 percent, converted to 70 percent as the final degree of disability.

(a) ***Definitions.*** The use of the terms "arms" and "legs" is not intended to distinguish between the arm, forearm and hand, or the thigh, leg, and foot, but relates to the upper extremities and lower extremities as a whole. Thus with a compensable disability of the right thigh, for example, amputation, and one of the left foot, for example, pes planus, the bilateral factor applies, and similarly whenever there are compensable disabilities affecting use of paired extremities regardless of location or specified type of impairment.

(b) ***Procedure for four affected extremities.*** The correct procedure when applying the bilateral factor to disabilities affecting both upper extremities and both lower extremities is to combine the ratings of the disabilities affecting the 4 extremities in the order of their individual severity and apply the bilateral factor by adding, not combining, 10 percent of the combined value thus attained.

(c) ***Applicability.*** The bilateral factor is not applicable unless there is partial disability of compensable degree in each of 2 paired extremities, or paired skeletal muscles.

(d) ***Exception.*** In cases where the combined evaluation is lower than what could be achieved by not including one or more bilateral disabilities in the bilateral factor calculation, those bilateral disabilities will be removed from the bilateral factor calculation and combined separately, to achieve the combined evaluation most favorable to the veteran.

- On December 27, 2023, VA published a final rule fixing a situation when applying the bilateral factor would actually result in a lower overall rating.
  - Arises most often if the Veteran's overall combined rating is in the low 90s percent.
- Fixed by adding a new paragraph (d) to § 4.26 saying if the bilateral factor results in a lower overall rating, then it doesn't apply.
- Effective on April 16, 2023.

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Example of Bilateral Factor Fix

- Example: Veteran has a combined 93 rating plus two 10% ratings that would qualify for the bilateral factor.
- Applying the bilateral factor:
  - 10 combined with 10 is 19, add 1.9 under the bilateral factor for rating of 21, rounded to 20.
  - 93 combined with 20 is 94 – which results in a combined total rating of 90%
- No bilateral factor:
  - 93 and 10 combine to 94
  - 94 and 10 combine to 95 - **which results in a combined total rating of 100% more favorable to the Veteran.**

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Final Rule – Character of Discharge

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Character of Discharge



32361

Rules and Regulations

Federal Register
Vol. 89, No. 82
Friday, April 26, 2024

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents.

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 3

RIN 2900–AQ95

Update and Clarify Regulatory Bars to Benefits Based on Character of Discharge

AGENCY: Department of Veterans Affairs.

ACTION: Final rule.

SUMMARY: In a document published in the **Federal Register** on July 10, 2020, the Department of Veterans Affairs (VA) proposed to amend its regulation regarding character of discharge (COD) determinations. After considering public comments, VA has decided to finalize its proposal with some modifications to expand VA benefits eligibility, bring more consistency to adjudications of benefits eligibility, and ensure COD determinations consider all pertinent factors.

DATES:

Effective date: This final rule is effective June 25, 2024.

Applicability date: The provisions of this final rule shall apply to all applications for benefits that are received by VA on or after June 25, 2024, or that are pending before VA, the United States Court of Appeals for Veterans Claims, or the United States Court of Appeals for the Federal Circuit (Federal Circuit) on June 25, 2024.

FOR FURTHER INFORMATION CONTACT: Robert Parks, Chief, Part 3 Regulations Staff (211C), Compensation Service, Department of Veterans Affairs, 810 Vermont Avenue NW, Washington, DC 20420, (202) 461–9700. (This is not a toll-free telephone number.)

SUPPLEMENTARY INFORMATION:

I. COD Regulatory History

Eligibility for most VA benefits requires that a former service member (SM) be a "veteran." "Veteran" status is bestowed to former SMs "who served in the active military, naval, air, or space service, and who [were] discharged or released therefrom under conditions other than dishonorable." 38 U.S.C. 101(2). The term "conditions other than dishonorable" is not a term of art in the military and was chosen by Congress in 1944 to provide VA some discretion with respect to setting the standard for Veteran status and benefits eligibility of former SMs. *Garvey* v. *Wilkie*, 972 F.3d 1333, 1337, 1339 (Fed. Cir. 2020). In October 1946, VA codified 38 CFR 2.1064, which reiterated that, for a former SM to obtain benefits, the SM must have been terminated under conditions "other than dishonorable." VA provided that "dishonorable" discharges included those due to (1) mutiny; (2) spying; or (3) an offense involving moral turpitude or willful and persistent misconduct (terms that originated in Public Law 68–242, section 23, 43 Stat. 613 (1924)). 38 CFR 2.1064(a). VA also considered dishonorable an undesirable discharge to escape trial by general court-martial (GCM) and a discharge due to homosexual acts. 38 CFR 2.1064(c), (d). VA further codified the "statutory bars" found in the Servicemen's Readjustment Act of 1944, Public Law 78–346, section 300, 58 Stat. 284, which precluded benefits for a person who was (1) discharged or dismissed by GCM; (2) discharged for being a conscientious objector who refused to perform military duties, wear the uniform or comply with lawful orders of competent military authorities; (3) a deserter; or (4) as an officer who resigned for the good of the service. 38 CFR 2.1064(b).

Since 1946, 38 CFR 2.1064 and its successors (most notably, current 38 CFR 3.12) have provided the criteria used by VA adjudicators for determining Veteran status and evaluating benefit eligibility for former SMs. Currently, there are six "statutory bars" to benefits for former SMs listed in 38 U.S.C. 5303(a) and reiterated in paragraph (c) of 38 CFR 3.12. In addition, currently, there are five "regulatory bars" to benefits listed in paragraph (d) of 38 CFR 3.12, which states that discharges based on the five listed offenses are "considered to have been issued under dishonorable conditions." The last update to § 3.12(d) occurred in 1980, more than 40 years ago. The 1980 update provided examples of aggravated homosexual acts. 45 FR 2318 (Jan. 11, 1980).

On July 10, 2020, VA published at 85 FR 41471 its proposal to amend its regulation governing COD determinations. Specifically, VA proposed to modify the regulatory standards for discharges considered "dishonorable" for VA benefit eligibility purposes, such as discharges due to "willful and persistent misconduct," and "homosexual acts involving aggravating circumstances or other factors affecting the performance of duty." VA also proposed to extend a "compelling circumstances" exception to certain regulatory bars to benefits to ensure consideration of all pertinent factors. In response to the proposed rule, over 70 comments were received. Given the "various and differing" comments received, VA issued a Request for Information (RFI) in September 2021. 86 FR 50513. Specifically, VA asked the public questions about the factors for consideration in a compelling circumstances analysis. Regarding willful and persistent misconduct, the RFI asked whether VA should define "serious misconduct"; whether VA should require misconduct to actually cause harm to person or property; and how VA should define persistence. VA asked about the proposed rule's definition of moral turpitude. VA asked whether removing the regulatory bars would affect military order and discipline or denigrate others' honorable service; and what specific changes could be made to the proposed rule to fairly adjudicate the benefits eligibility of historically disadvantaged and vulnerable populations.

In response to the RFI, over 45 comments were received. In addition to the proposed rule and the RFI, in October 2021, VA held a two-day listening session to receive oral comments from any member of the public on the RFI questions. Transcripts from the listening session can be found at *https://www.regulations.gov/docket/VA-2020-VBA-0018.*

II. VA's Decision To Finalize the Proposed Rule With Modifications

After extensive consideration of this issue and all the comments received, VA has decided to finalize the proposed rule with some modifications. This will expand VA benefits eligibility, bring

- Effective June 25, 2024, VA updated 38 C.F.R. § 3.12 regarding character of discharge determinations.
- VA expanded exceptions to excuse a bar to benefits based upon an unfavorable character of discharge to three significant ways:
  1. Extended the compelling circumstances exception.
  2. Removed the regulatory bar to benefits based on discharges due to homosexual acts involving aggravating circumstances. (VA had not enforced this for years already)
  3. Redefined the definition of "willful and persistent misconduct."

Compelling Circumstances Exception

- VA will not pay benefits for Veterans who were involved in an offense involving moral turpitude or willful and persistent misconduct.
- The new rule applies a compelling circumstances exception to both of these categories.
- The factors to consider for compelling circumstances are:

38 C.F.R. § 3.12(e)

1. Length and character of service exclusive of the period of misconduct.
2. Reasons for misconduct, including:

   (i) mental or **cognitive impairment**; (ii) physical health, (iii) combat-related or overseas-related **hardship**; (iv) **sexual abuse/assault**; (v) duress, coercion, or desperation; (vi) **family obligations** or comparable obligations; and (vii) age, education, cultural background, and judgmental authority
3. Whether a valid legal defense would have precluded a conviction for misconduct under the UCMJ.

Help Veterans submit detailed statements addressing compelling circumstances!

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Willful and Persist Misconduct



- VA has also refined the definition of "willful and persistent misconduct" as follows:
  1. Instances of minor misconduct occurring within two years of each other are persistent;
  2. An instance of minor misconduct within two years of more serious misconduct is persistent; and
  3. Instances of more serious misconduct occurring within five years of each other are persistent.
- "Minor misconduct" is defined as misconduct for which the maximum sentence imposable pursuant to the Manual for Courts-Martial would not include a dishonorable discharge or confinement for more than one year if tried by general court-martial.

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VETERANS OF FOREIGN WARS®

Secondary Conditions and Service Connection

Course Objectives

You will leave with a better understanding of:

- Conditions secondary to SC conditions
- Conditions aggravated by SC conditions
- What is required for a VA examination for them
- How presumption of soundness is used
- Special circumstances when secondary service connection is assumed by VA

References

- 38 U.S.C. 1110 Basic Entitlement
- 38 U.S.C. 1131 Basic Entitlement
- 38 CFR 3.310 Disabilities proximately due to, or aggravated by, service-connected disease or injury
- M21-1 V.ii.2.D.1. Secondary SC, Including Aggravation
- M21-1 V.ii.2.A.2.a. Presumption of Soundness
- M21-1 V.iii.11.2. Complications of Diabetes Mellitus
- M21-1 V.iii.5.1.f Secondary SC due to amputation
- M21-1 V.iii.12.B.3.a. Secondary SC due to TBI

Secondary Service Connection Basics

- Veterans can file a secondary claim to get more disability benefits for a new disability that's linked to a service-connected (SC) disability they already have.
- Examples of when to file a secondary claim:
  - The veteran develops arthritis that's caused by a service-connected knee injury
  - The veteran develops heart disease that's caused by service-connected high blood pressure

Secondary Service Connection Basics

- M21-1 V.ii.2.D.1. Disability which is proximately due to or the result of a service-connected (SC) disease or injury shall be service connected
  - SC on a secondary basis requires showing causation

- Three elements must be satisfied prior to VA requesting an examination on a secondary claim:
  - Lay or medical evidence of a current disability or symptoms,
  - evidence of an SC primary disability, and
  - Indication that the claimed secondary condition may be associated with the primary disability.

Secondary Service Connection Basics

Causation must be more than a general statement from veteran.

- Example: Veteran claims stomach problems secondary to SC heart condition. A statement contends that since starting prescribed medications two years ago for the heart condition, the Veteran has experienced stomach problems to include constipation, pain, and indigestion.

- Analysis: While the Veteran's lay statement is not sufficient to ultimately prove the claim, it is sufficient in this instance to warrant an examination. The Veteran is competent to describe symptoms and the possible association of symptoms to the SC condition. Furthermore, the statement appears credible when considering the evidence at hand.

Secondary Service Connection Basics

Pop Quiz: Can a veteran make a claim for a condition secondary to a secondary condition?

- Example: Medications for SC PTSD cause GERD, which is a secondary disability. Now GERD has caused sleep problems that have resulted in obstructive sleep apnea, but OSA is not caused by PTSD, it was caused by GERD. Can a veteran make this claim?

- YES! This is still considered a secondary claim

Secondary Service Connection Basics

- A veteran can make a claim for service connection on a secondary basis the first time they make a claim (i.e. even if they are not already SC), as long as the claim also includes the service connected condition. (Delisio v Shinseki)

- Example: The veteran's very first claim is for direct service connection of a lumbar spine disability (due to Army injury) and a secondary claim for a sciatic nerve disability.

Aggravation Basics

- Any increase in severity of a nonservice-connected (NSC) disease or injury that is due to or the result of an SC disease or injury, and not due to the natural progress of the disease, will be SC
  - Commonly called aggravation
  - Baseline level of severity must be established by medical evidence
  - The rater will determine baseline and current levels
  - The responsibility for submitting evidence to establish a baseline level of disability rests with the claimant

Aggravation Basics

- The veteran's statement alone, without medical evidence of record showing the baseline level of the claimed disability, is not sufficient to order an examination

- If a medical baseline cannot be established prior to aggravation, then the earliest possible

- *Permanent* worsening of an NSC disability by an SC disability is not required to establish SC on the basis of aggravation

Aggravation Basics

- Aggravation is established by any increase in severity, regardless of whether it would result in a schedular increased evaluation.

- When secondary service connection on an aggravation basis is granted, the rater will subtract the pre-aggravation evaluation percentage from the current, and assign the resulting percentage

Aggravation Basics

- Diagnosis of a disability is not required (Adams v Collins), only symptoms causing functional impairment of earning capacity due to SC disease or injury
- This may include symptoms such as:
  - Pain
  - Obesity
  - Bruxism
  - Dizziness
  - Fatigue
  - Chest pain
- These will be challenging claims, but now have more potential with Adams decision

Presumption of Soundness

- When considering claims based on aggravation of a preservice disability, the presumption of soundness applies when deciding whether a claimed condition clearly and unmistakably existed prior to service.

- M21-1 V.ii.2.A.2.a. Definition of Presumption of Soundness: A veteran will be considered to have been in sound condition (the claimed disability did not exist) when examined, accepted, and enrolled for service.

Presumption of Soundness

- The presumption of soundness applies only when the Veteran underwent a physical examination at the time of entry into service

- Only the conditions that are recorded in the enlistment examination report are to be considered as noted
  - A history of pre-service conditions recorded at the time of the entrance examination is not a notation of the condition
  - It is just one factor that must be considered on the question of presumption of soundness

Presumption of Soundness

- Example: Veteran is claiming chronic bronchitis secondary to SC GERD. Their STRs include a handwritten note that they had severe bronchitis at the age of 14. The enlistment examiner notes “NCD” (not considered disqualifying) beside the veteran’s note. There is no evidence of an examination for a bronchial condition, and there is no other mention of it at the time of enlistment.

- Analysis: Even though the veteran said they had a bronchial condition, they were presumed sound.

Presumption of Soundness

- Example: Veteran claims SC for a right knee condition secondary to SC ankle condition. Enlistment exam revealed history of right knee meniscal tear and surgical repair but indicated the condition was asymptomatic at the time of enlistment.

- Analysis: Although the Veteran claimed SC on a secondary basis, the evidence shows that a knee condition clearly and unmistakably existed prior to service, although it was asymptomatic on enlistment. The possibility of aggravation will be considered.

Special Secondary Circumstances

Complications of diabetes mellitus type II

- M21-1 V.iii.11.2.c. Effective Date
  - A claim asserting new complications of SC diabetes is a claim for increase rather than a claim for secondary SC.
  - This can mean an earlier effective date
- M21-1 V.iii.11.2.f. Hypertension
  - VA is required to raise and decide whether hypertension is a complication of diabetes mellitus in the absence of an explicit claim when the evidence supports a grant.

Special Secondary Circumstances

- M21-1 V.iii.11.2.d. Cardiovascular Complications of Diabetes Mellitus in addition to hypertension, include, but are not limited to:

    - atherosclerosis/ arteriosclerotic heart disease/ coronary artery disease
    - peripheral arterial disease
    - peripheral vascular disease
    - cardiomyopathy
    - congestive heart failure, and
    - stroke (macrovascular complication)

Special Secondary Circumstances

- Example: Veteran has service-connected diabetes mellitus type II, and makes a new claim for peripheral vascular disease.

- Analysis: VA can grant peripheral vascular disease on a secondary basis without needing a medical opinion.

Special Secondary Circumstances

- M21-1 V.iii.5.1.f. Service connection on a secondary basis must be granted for the following conditions that develop subsequent to the SC amputation of one lower extremity at or above the knee, or SC amputations of both lower extremities at or above the ankles:
  - Ischemic heart disease, or
  - Other cardiovascular disease, including hypertension

Special Secondary Circumstances

- M21-1 V.iii.12.B.3.a. For a veteran who has SC traumatic brain injury (TBI), the following are secondary:
  - Parkinsonism, including Parkinson's disease
  - Unprovoked seizures
  - Dementia if manifest within 15 years
  - Depression if manifest within 3 years
  - Diseases of hormone deficiency if manifest within one year

Practice Exercises

- Celia Clark served honorably in the Navy until 2021. At the time of discharge, she had “pre-diabetes,” which is not subject to service connection. In August of 2025, she began feeling numbness in her toes for the first time. After seeing her doctor, she received a diagnosis of diabetes mellitus type II.

- She wants to make a claim for SC for DMII on a direct basis. Is that a good choice? Can you suggest any other claim for her to make?

Practice Exercises

Celia Clark heard about the Adams decision, and wants to make a claim for obesity secondary to her SC diabetes as well. Which of the following does she need to show in her claim, for VA to consider it to be secondary:

1. A diagnosis of a recognized obesity disability.
2. Evidence that she has obesity.
3. Medical evidence of functional impairment impacting employability/employment
4. Medical baseline to show that but-for diabetes, obesity would not have been as severe.

Practice Exercises

- Ruma Nandini has SC hypertension. In her private medical records, there are treatment notes from 8 years ago of ankle swelling and fatigue that her doctor attributed to heart problems, and then symptoms improved. Recently, her doctor said the hypertension seems to be making her heart act up again, and has scheduled an echocardiogram to see if a diagnosis can be made for a heart disability.

- What does she need to make a secondary claim on an aggravation basis? (clues on previous slide)

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QUESTIONS?

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