VETERANS OF FOREIGN WARS®

The Role of the VFW Representative



Mike Figlioli
Director, NVS

LEARNING OBJECTIVES

- Mission and Scope of National Veterans Service
- Structure of VFW Service Program
- Stereotypes and Misconceptions on the VFW and Benefits Assistance
- Messaging
- Outreach Opportunities
- Post Service Officer Obligations
- Other VFW Benefit Programs
- Q&A

What are we responsible for?



VETERANS OF FOREIGN WARS.

Benefits Assistance

Primary Responsibilities:

- Help veterans access earned benefits:
  - Accredit and train VFW's network of service officers
  - Provide direct assistance to separating service members and VFW client appeals
  - Provide referral and casework services
- Work with federal agencies to ensure proper administration of veterans' benefit programs
- Manage VFW's national network of volunteers at VA hospitals (VAVS)

STRUCTURE

National Veterans Service:

- National Certifying Authority:
  - Director, National Veterans Service
- National Veterans Service Advisory Committee amends and approves NVS Policy & Procedure:
    - Available on: www.vfw.org/NVS
- National Veterans Service conducts required training for all accredited VFW representatives:
    - In-person/virtual training conferences
    - Quality Assurance site visits
    - Online training
- National VFW Provides Restricted Grants to assist in funding service offices

STRUCTURE

VFW Department:

- Department Commander appoints the Department Service Officer.
- Departments employ support staff:
  - Usually managed by Adjutant/Quartermaster
  - Rules may established by Department Service Committee
  - Departments prepare and submit all accreditation paperwork to NVS
  - Departments decide whether or not to cross-accredit State or County employees with VFW
- DSO provides “general oversight” and training for District/Post Service Officers

This is different for state-run agencies, where the VFW service program is administered in partnership with the state government.

BENEFITS DELIVERY AT DISCHARGE

VETERANS OF FOREIGN WARS.

VFW has Accredited Pre-Discharge representatives at the following locations:

- Camp Lejeune, NC
- Ft. Liberty, NC
- Ft. Cavasos, TX
- Las Vegas, NV
- San Diego Naval Base
- Camp Pendleton, CA
- Ft. Campbell, KY
- Ft. Stewart, GA
- Ft. Lewis, WA
- Ft. Drum, NY
- Winston-Salem, NC
- Salt Lake City, UT
- Ft. Carson, CO
- Ft. Riley, KS
- Naval Base Norfolk
- San Diego VARO, CA
- Ft. Bliss, TX

Military District of Washington:

- Walter Reed at Bethesda
- Joint Base Anacostia-Bolling
- Joint Base Andrews
- Navy Yard
- Marine Corps Base Quantico, VA
- U.S. Naval Academy
- Joint Base Myer-Henderson Hall

STEREOTYPES ABOUT THE VFW



- Looking to recruit members
- Looking for donations
- Club-centric
- Others?

BENEFITS ASSISTANCE

Common Misconceptions about our Services:

- Volunteers
- Untrained
- Pay-to-Play
- Members Only
- “Are you VA?”
- We Only Do Claims
- I’m taking benefits away from other vets
- I’m not disabled
- I can do it on my own
- If I pay for it, I’ll get better help

WHO ARE VFW SERVICE OFFICERS?

- Veterans who have been through this transition, or
- Advocates who care about the mission
- Highly-trained professionals who can help
- Services are no obligation and free of charge
- And…



SERVICE OFFICER:



What VA thinks I do



What veterans think I do



What civilians think I do



What I think I do



What clients think I do



What I actually do

OTHER TITLES

- Although we often use the term Service Officer, there are many other titles out there such as Claims Consultant, Benefits Representative, or Veteran Representative

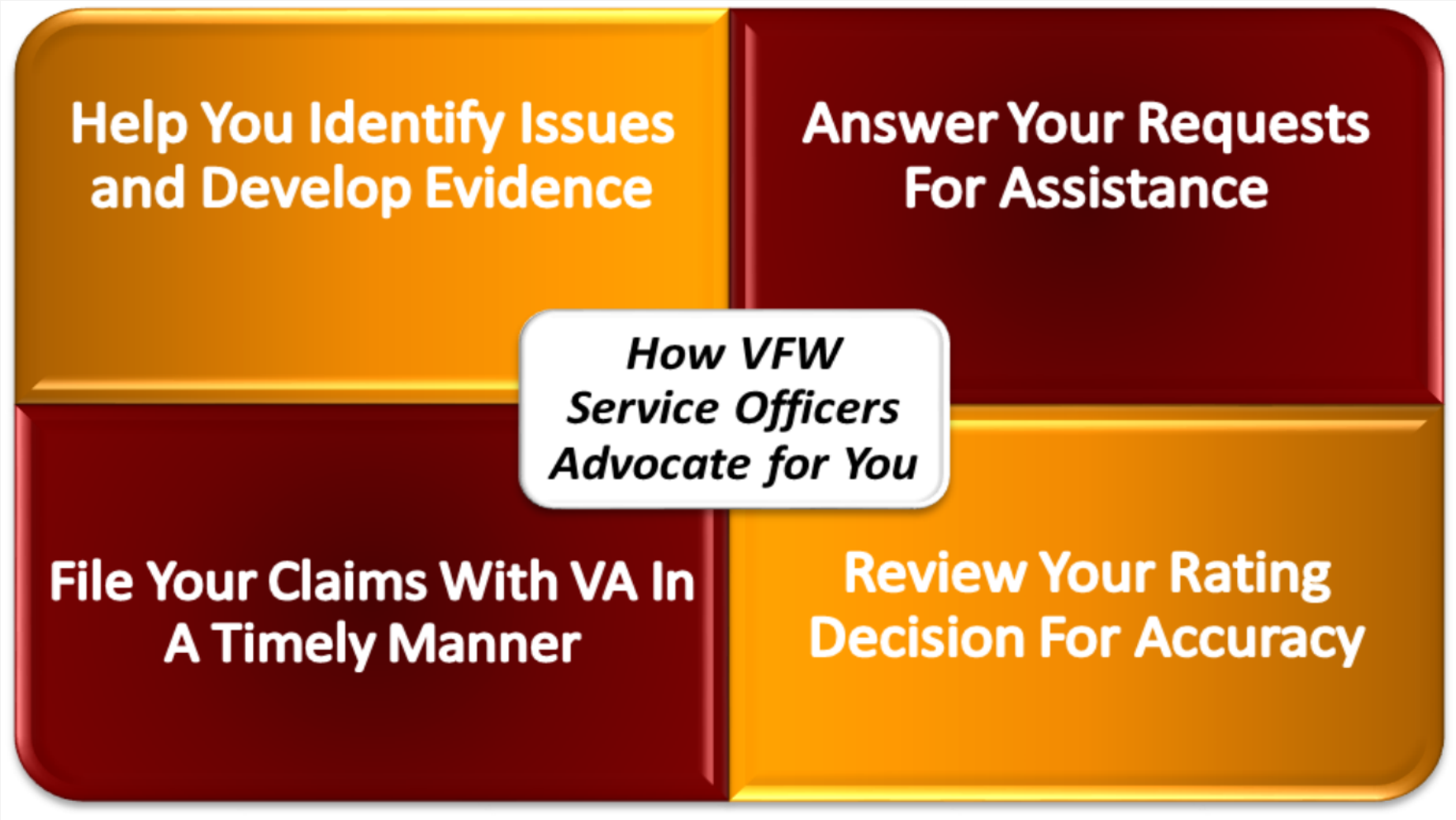
- If you have received accreditation you are authorized to represent veterans and can perform any of the benefits related tasks

VFW Service Officers are…

…the best trained, accredited and certified **PROFESSIONAL** advocates in the nation.

- IG reports indicate veterans represented by VSOs received more VA compensation. They know and understand the law.
- Board of Veterans Appeals more likely to grant for VFW-represented veterans.
- Located in VA offices and allowed access to VA systems to provide best possible advocacy
- Lifelong advocacy from initial claims, dependency, increases, pension, burial, and survivor's benefits

WE TRAIN IN FOUR CORE TASKS:



VA Benefits are…

…**EARNED** through honorable service to our nation.

- Think about your family's well being when seeking to access benefit programs
- If it was broken on active duty, VA is there to help fix it.
- Let VA determine your eligibility

BENEFITS ASSISTANCE

Success Stories:

- More than **$11 billion** in benefits in FY2022*
- **2,000+** advocates accredited worldwide
- Over **100,000** veterans assisted in FY2022
- **80** hours of training for service officers every year
- More likely to **WIN** appeals at BVA
- **FREE** services for all clients

**Figures reported by VA for FY2021*

BENEFITS ASSISTANCE

"We've been doing this longer than V.A."

- VFW National Encampment in 1919 authorized an investigation of the War Risk Insurance Bureau and the Federal Vocational Rehabilitation Board.
- VFW concluded its investigation in October 1919 and solicited the VFW to find veterans' claims to expedite.
- Claims were stored in the basement of the U.S. Department of Treasury, bound with a Red Tape.
- VFW would pull each file, cut the tape, and bring it upstairs to be expedited, coining the phrase ***"Cutting through Red Tape."***
- VFW led the charge to first consolidate all programs under a single Veterans Bureau in 1921; then to formally establish a Veterans Administration in 1930; and finally elevate VA to the President's Cabinet as the Department of Veterans Affairs in 1988 and 1989.
- During WWII, the VFW recognized it needed to meet veterans closer to home, commissioning Department Service Officers to work with veterans in their communities.


FOREIGN SERVICE

Vol. 8, No. 2 OCTOBER, 1919 New York, N.Y., 32 Union Sq.

Special Committee Ready To Act On All Complaints

How Comrades With Grievances Against War Risk Or Vocational Training Bureau Can Have Them Taken Up Promptly by the V. F. W.

October Drive for Recruits Will Boom Every Post

Big Results Certain With Aid from National Headquarters—Three Handsome Trophies to Outfits Mustering In Largest Number from Oct. 15 to 25

Comrades, Salute Honorary Commander-in-Chief

VFW SERVICE OFFICERS LEAD THE WAY!

VFW Service Officers are the "go-to" people for all veterans' benefits to include VA claims and VA health care issues.

Tell Veterans and their families to:

- Never file a VA claim without representation.
- Refer Folks to VFW Service Officers for assistance

Service Officers can be VFW's best recruiters – If you provide good service, they will come…

OUTREACH

Where do your clients come from?

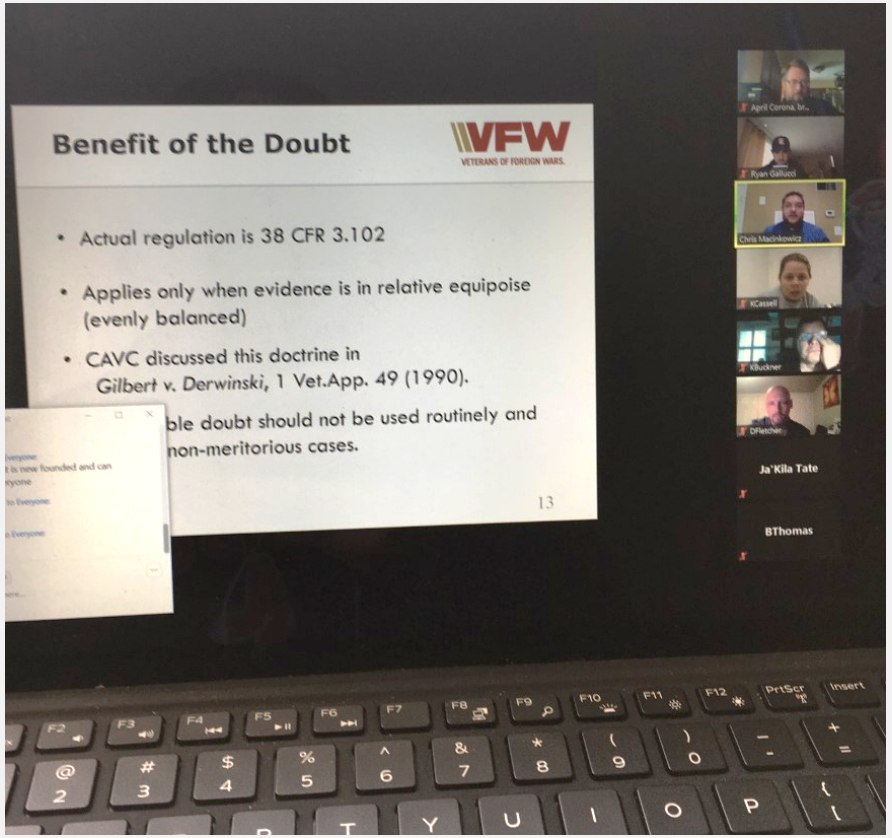
- **VFW Posts/Events**
- **Military Installations**
- **Reserve/Guard Units**
- **VA Health Care Facilities**
- **College Campuses**
- **County Service Officers**
- **VFW Post Service Officers**
- **Veterans' community events**
- **Other?**

VIRTUAL OUTREACH

VETERANS OF FOREIGN WARS.

Where do your clients come from?

- **Virtual Benefits Briefings**
- **Virtual “Events”**
- **Social Media**
- **Word of Mouth**
- **How else?**



OUTREACH MATERIALS

Outreach events are generally more successful if you have something to hand out

- Pencils/Pens
- Flags
- Beverage Holders
- Pins
- Pamphlets
- What Else?







**Information Pamphlets can be ordered through VFW General Services

**Other items can be ordered through the VFW Store

POST/DISTRICT SERVICE OFFICERS

- Posts & Districts are authorized to appoint Service Officers.
- These officers are charged with assisting veterans in understanding and navigating benefits available to them.
- These officers are NOT accredited and must not represent themselves as such.
- These officers fall under the “general supervision” of the VFW Department Service Officer.

POST/DISTRICT SERVICE OFFICERS

MOP Sec. 218 (12) Service Officer. The Post Service Officer shall assist members of the Post, their *surviving spouses* and orphans and other worthy cases brought to their attention in obtaining rightful entitlements from federal and state governments. **The work of a Service Officer shall be performed in accordance with the instructions contained in the VFW Guide for Service Officers under the general supervision of the Department Service Officer.** *The Service Officer* shall perform such other duties as may be incident to the office and as may from time to time be required by the laws and usages of this organization or lawful orders from proper authority.

**Similar rules apply to District Service Officers.*

POST/DISTRICT SERVICE OFFICERS

MOP Sec. 518 (11) Service Officer. The Department Service Officer shall assist the members of the Department, their surviving spouses and orphans and other worthy cases in obtaining rightful benefits from the federal or state governments. **Their work shall be performed in accordance with policies established by the National Veterans Service Advisory Committee.** The Service Officer shall perform such other duties as are incident to their office or may be from time to time required by the laws and usages of this organization or as may be directed by proper authority.

POST/DISTRICT SERVICE OFFICERS

What does this mean???

- The **NVS Policy and Procedure** guides the terms of service offered by Post/District Service Officers
- Post/District Service Officers refer claims to the DSO immediately
- Post/District Service Officers cannot represent veterans because they are not accredited
- Post/District Service Officers must not retain **ANY** records for the veterans they assist, as this is a violation of VFW policy and a violation of the veteran's privacy

Your Responsibilities

As DSO/ADSO:

- Know your District/Post Service Officers
- Provide training to your District/Post Service Officers (refer to **VFW Guide for Post Service Officers** or ask NVS for assistance in developing materials)
- Refuse requests for status updates from your District/Post Service Officers
- Provide requested status updates **DIRECTLY** to the veteran client
- Work with your Department leadership to clarify roles/responsibilities of District/Post Service Officers

OTHER NVS PROGRAMS

Success Stories:

VA Voluntary Service: www.vfw.org/VolunteerService

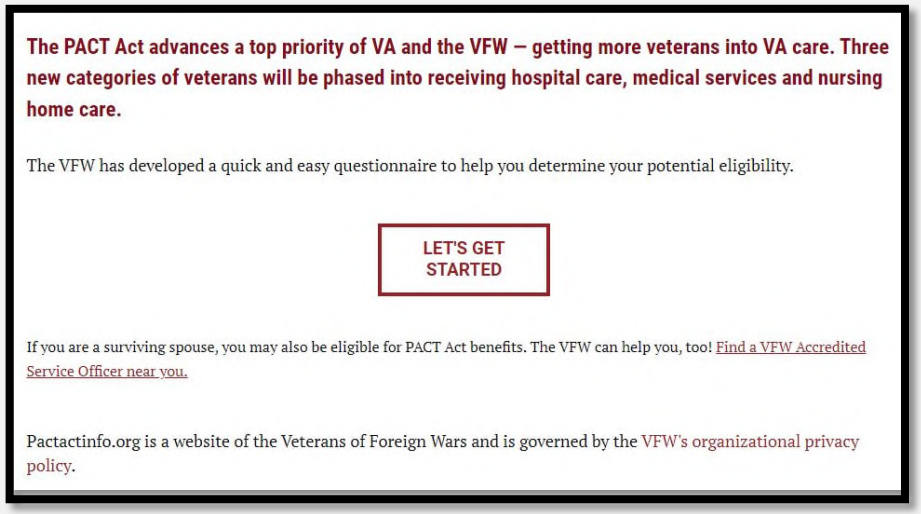
- 1,500 regularly-scheduled volunteers at more than 150 facilities
- Contributed nearly 175,000 volunteer hours

VA Health Care Casework: www.vfw.org/VAWatch

- Intervened on behalf of thousands of veterans
- Conducted multiple surveys to publish numerous reports on the current state and future of VA care

OTHER NVS PROGRAMS





In November 2022, VFW launched www.pactactinfo.org, a website to streamline referrals to our cadre of accredited service officers for VA Disability Claims.

When a veteran visits the site, they can answer a short series of questions to determine if they are potentially eligible for benefits and can also request that an accredited representative contact them to discuss their claim.

Key VFW Web Pages:

Online Learning Portal: https://vfw.psycharmor.org/

Claims Assistance: www.vfw.org/NVS

PACT Act Info: www.pactactinfo.org

Health Care Advocacy: www.vfw.org/VAwatch

VA Voluntary Service: www.vfw.org/volunteerservice

Post Service Officer Training: https://www.vfw.org/assistance/va-claims-separation-benefits

Key NVS Email Addresses:

Tactical Assessment Center: vfw@vfw.org

DSO Help Desk: DSOHelpDesk@vfw.org

Additional VFW Services:

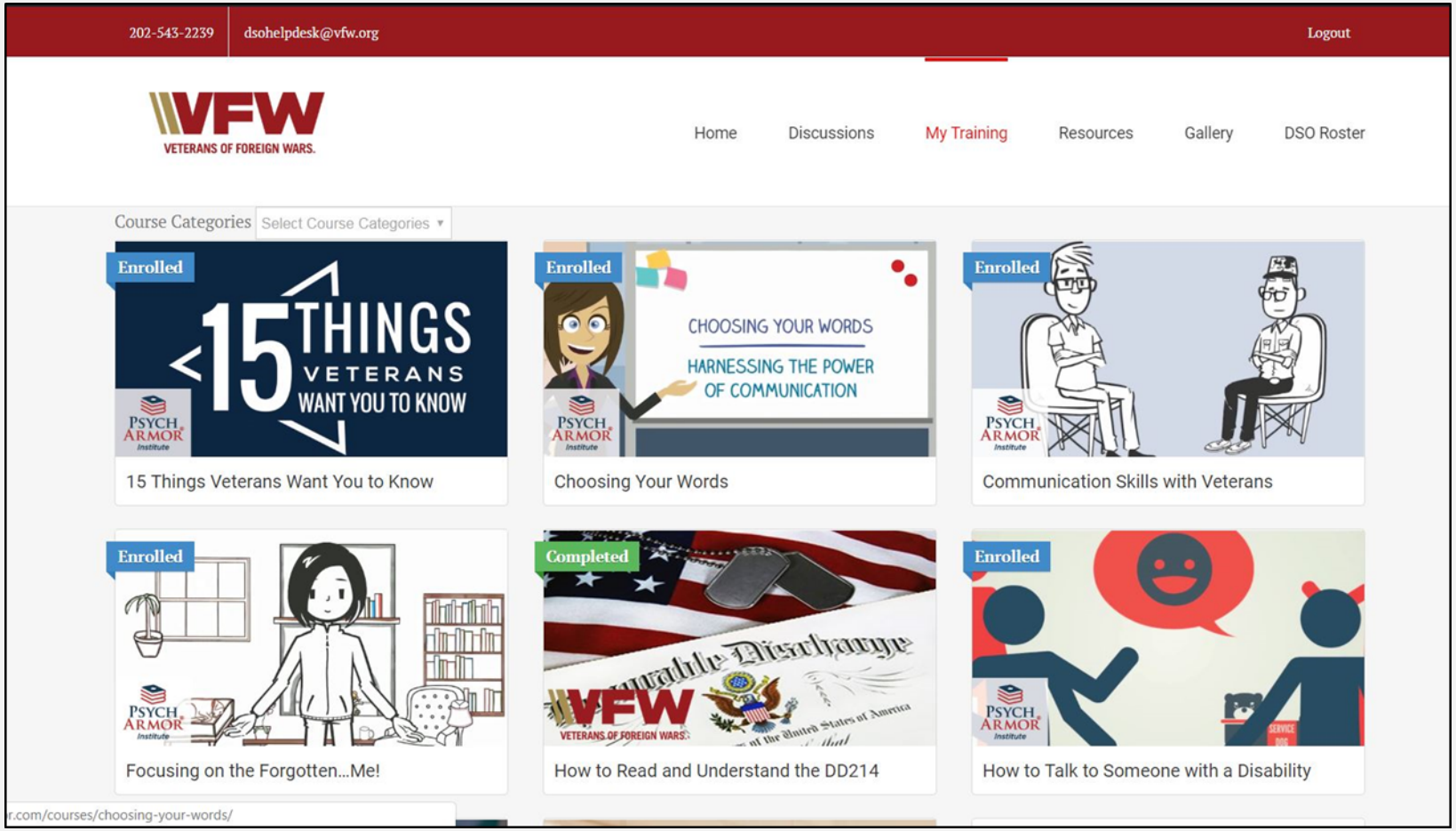
Unmet Needs (Emergency Grants): www.vfw.org/UnmetNeeds

Action Corps (Legislative Advocacy): www.vfw.org/ActionCorps

Student Veterans (Scholarships, Grants, Fellowships): www.vfw.org/assistance/student-veterans-support

Mental Wellness Campaign: www.vfw.org/mental-wellness

ONLINE LEARNING PORTAL



Online Learning Portal

https://vfw.psycharmor.org/

ONLINE LEARNING PORTAL

- New VFW-accredited representatives are registered once they receive their accreditation from VA.

- All **NVS Updates** and relevant attachments are posted and archived on the OLP

- The course library includes:
    - Archived NVS Training
    - VFW developed courses
    - PsychArmor courses

ONLINE LEARNING PORTAL

The resource library includes:

- NVS training aides
- Official VA guidance pertinent to VFW claims assistance
- PDFs of NVS collateral materials

NVS does **NOT** plan to add the following to the resource library:

- Title 38, 38 CFR, or M21-1
- Precedential court cases or other legal library resources
- Medical references or journals

The Online Learning Portal does NOT replace in-person training conferences.

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QUESTIONS?



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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.

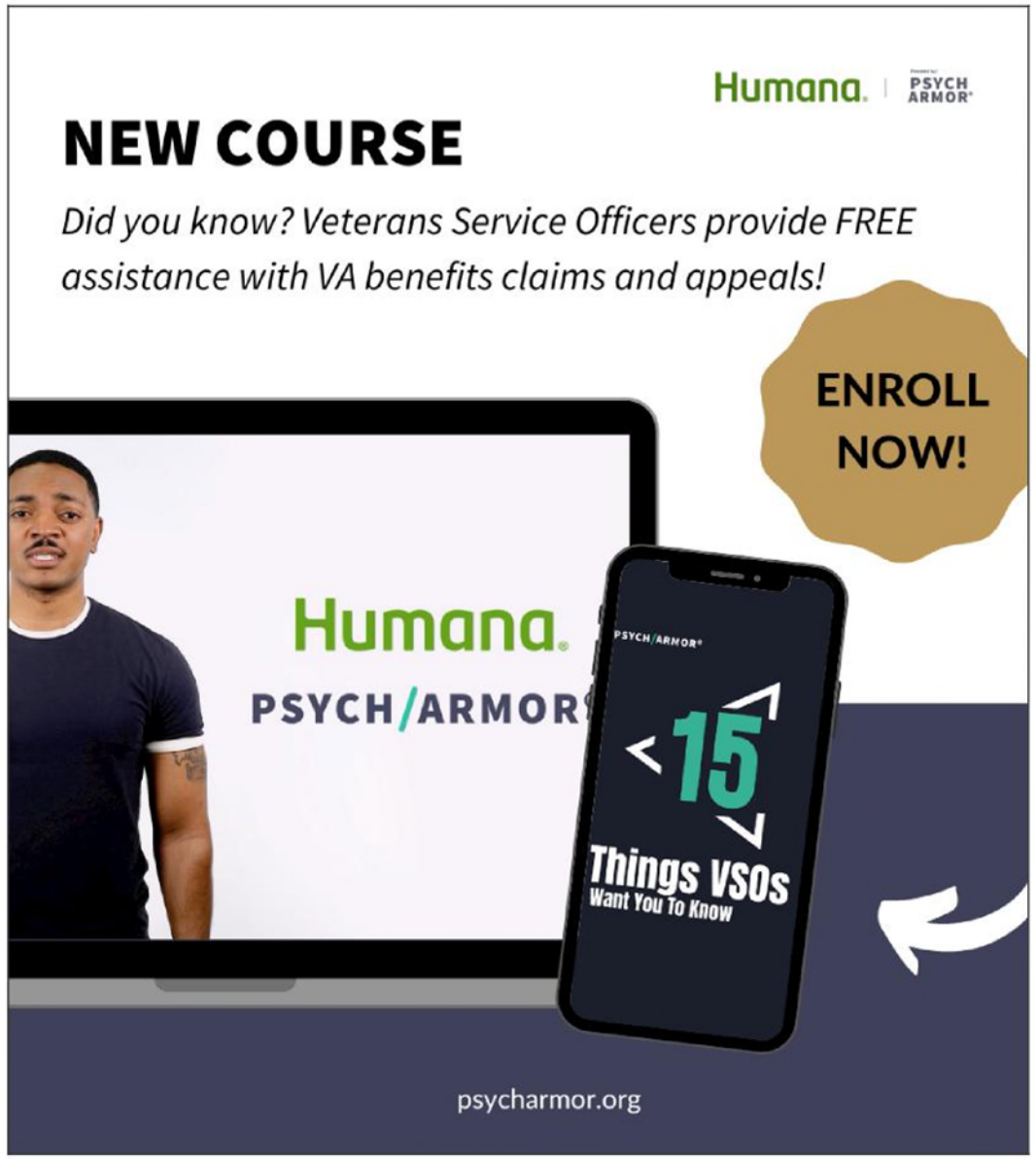


ZIP 40202 Search

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

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- **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

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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

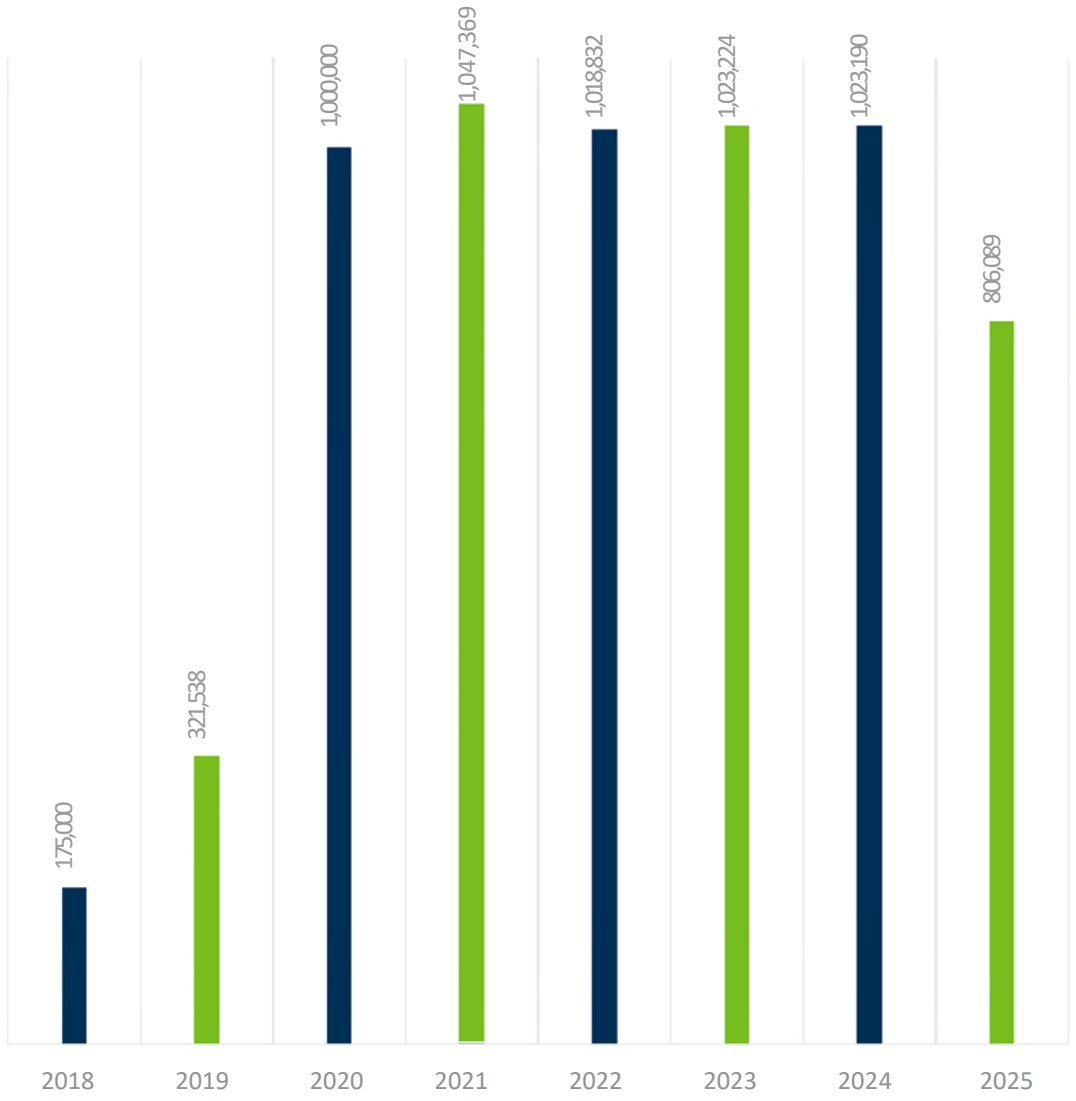
Expanded scope to include food insecurity and homelessness



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

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Our Partnership

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USAA AGENCY PARTNERSHIP

- Broker for Humana Medicare Advantage since 2006
- USAA trained our Veteran Service Team, DUOS, CenterWell associates

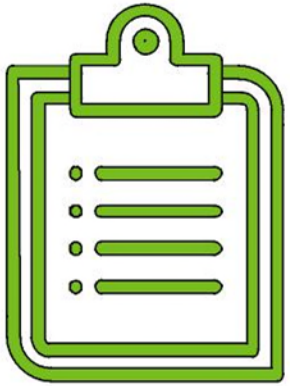
USAA EVENTS PARTNERSHIP

- 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

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Thank you!

Getting to know Medicare

A guided tour and introduction for veterans and their families



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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

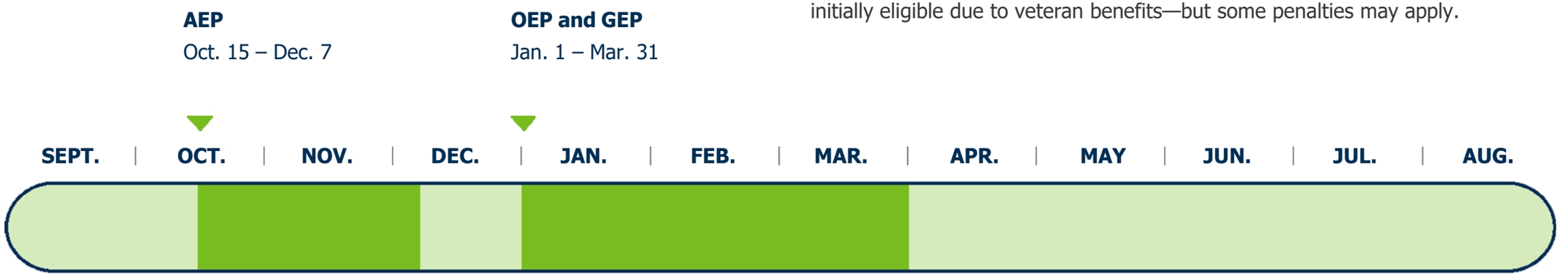
Jan. 1 – March 31

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.

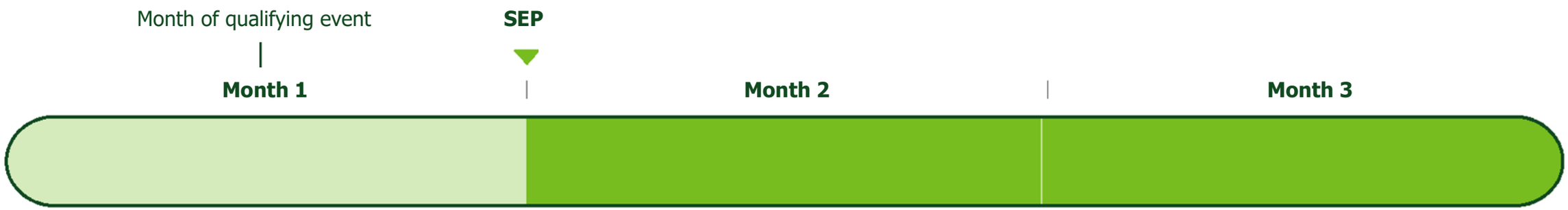


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Special Election Period

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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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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VETERANS OF FOREIGN WARS®

EDUCATION BENEFITS OVERVIEW

TOPICS

- VA Education Programs
- VR&E (Chapter 36)
- Fry Scholarship
- VA Training Programs
- VFW Programs
- Q & A

VA EDUCATION PROGRAMS

- Post 9-11 GI Bill
- Forever GI Bill
- Montgomery GI Bill
- Survivor & Dependent Benefits
- Work Study
- Tutorial Assistance
- Non-College Degree Programs

POST 9-11 GI BILL

- **ELIGIBILITY**
  - Served at least *90 aggregate* days on active duty* after 9/11/2001
  - Honorable discharge from active duty for a service-connected disability after serving *30 continuous* days following 9/11/2001
- **BENEFITS**
  - Based on number of months served on AD
  - Tuition & Fees paid to School
    - Public School – All Tuition & Fees for In-State Student
    - Private School - $23,671.94 per year maximum
    - *$24,476.79 Effective August 1, 2019

POST 9-11 GI BILL

Member Serves	Percentage of Maximum Benefit Payable
At least 36 months	100%
At least 30 continuous days on active duty and must be discharged due to service-connected disability	100%
At least 30 months, but less than 36 months	90%
At least 24 months, but less than 30 months	80%
At least 18 months, but less than 24 months	70%
At least 12 months, but less than 18 months	60%
At least 06 months, but less than 12 months	50%
At least 90 days, but less than 06 months	40%

POST 9-11 GI BILL

BENEFITS (Continued)

- Book Stipend - $500 per semester/$1K year
- Monthly Housing Allowance (MHA)
  - Based on E-5 w/Dependents Rate
  - Zip Code of campus – majority of classes
- One-time Payment – Rural Benefit - $500
- Transferability Option
- Yellow Ribbon Program

https://www.benefits.va.gov/gibill/education_programs.asp

TRANSFERABILITY

Allows transfer of all or some unused benefits to spouse or dependent children

Any member of the Armed Forces (AD or RC, officer or enlisted) on or after 1 August 2009, who is eligible for the Post-9/11 GI Bill, **AND**

Has at least 6 years but not more than 16 years of service in the Armed Forces on the date of election **and** agrees to serve 4 additional years from the date of election, **OR**

Has at least 10 years of service in the Armed Forces (AD or RC) on the date of election, is precluded by either standard policy (service or DoD) or statute from committing to 4 additional years, **AND** agrees to serve for the maximum amount of time allowed by such policy or statute

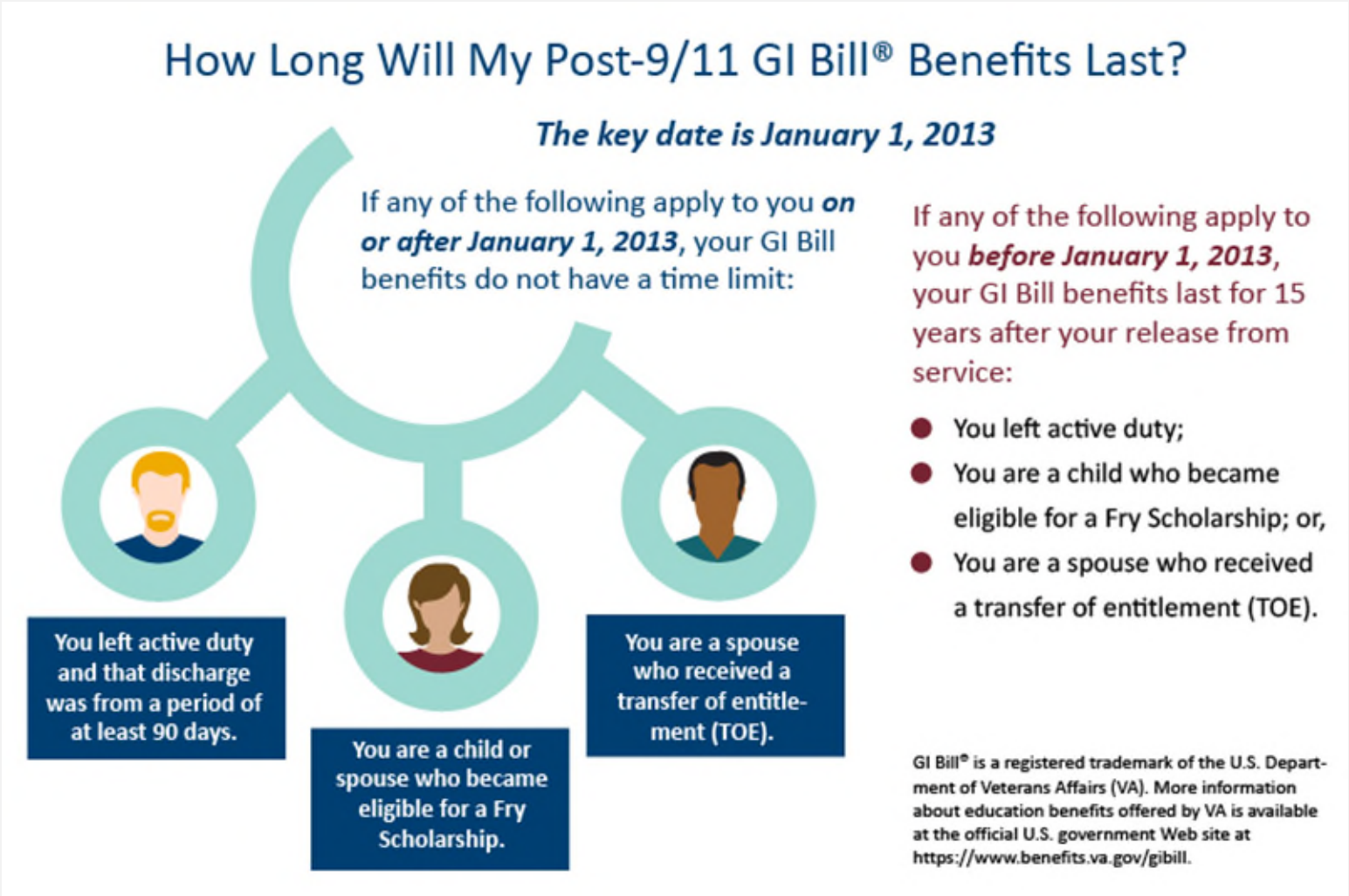
Transfer requests must be submitted & approved **while the member is on active duty**

https://www.va.gov/education/transfer-post-9-11-gi-bill-benefits/

FOREVER GI BILL (FGIB)

- Harry W. Colmery Veterans Educational Assistance Act
- 34 provisions improves and extends benefits
  - Eliminates the 15-year expiration date:
    - Veterans who departed AD on or after 1 January 2013
- Restoration of benefits due to school closures
- Transfer of Reserve Benefits to Post 9/11 GI Bill
- Work Study Programs permanently authorized
- Independent Study Programs authorized

FOREVER GI BILL



FOREVER GI BILL - IMPACTS

VA started implementing provisions in August 2017. Some highlights include:

- **School Closure Eligibility Restoration.** VA is authorized to restore benefits to Veterans affected by school closures or some program disapprovals.
  - Restore entitlement used during the term when the school closed
  - Can continue receiving housing payments until the original end of the term or for 120 days (whichever occurs sooner)
- **Priority Enrollment.** Certain schools offer priority enrollment for Veterans with the GI Bill Comparison Tool. Visit the VA.GOV website
- **Reserve Educational Assistance Program (REAP) Eligibility Credited Toward Post-9/11 GI Bill Program.** The individuals who lost their eligibility to REAP may apply for the Post-9/11 GI Bill. VA sent letters with instructions to the eligible individuals.

FOREVER GI BILL - IMPACTS

- **Active Duty and Housing Allowance**

Those leaving active duty are eligible for the Post-9/11 GI Bill housing allowance day of discharge

- **Purple Heart Recipients**

100% Post-9/11 GI Bill benefits if served on or after September 11, 2001. Regardless of length of service.

- **Yellow Ribbon for Purple Heart and Fry Recipients**

May use beginning August 1, 2018

- **Informing Schools About Beneficiary Entitlement**

VA will share entitlement information with schools, students can opt out

- **Less Entitlement Charged for License and Certification** No longer taking an entire month of benefits

FOREVER GI BILL - IMPACTS

- **Changes to Survivors' and Dependents' Educational Assistance (DEA) Program.**

The new law increases the amount of educational assistance payable under DEA but decreases the amount of entitlement that new eligible individuals will receive from 45 months to 36 months

- **Changes to Transfer of Benefits (TEB).**

Veterans who transferred entitlement to a dependent can now designate a new dependent if the original dependent dies. If the Veteran dies, a dependent who received transferred entitlement can now designate a new eligible dependent of the Veteran to transfer any of the dependent's remaining entitlement.

- **GI Bill Monthly Housing Allowance.**

Housing will be paid based on the **"campus"** where the student attends the majority of classes.

GI BILL COMPARISON TOOL

VETERANS OF FOREIGN WARS.

Explore and Apply for Benefits | Manage Your Health and Benefits | Request Your Records | Find VA Locations

Home › Education Benefits › GI Bill

GI Bill® Comparison Tool

Learn about education programs and compare benefits by school.

What is your military status?

Veteran

Which GI Bill benefit do you want to use? (Learn more)

Post-9/11 GI Bill (Ch 33)

Cumulative Post-9/11 active duty service (Learn more)

36+ months: 100% (includes BASIC)

How do you want to take classes?

- Online only
- In person only
- In person and online

Enter a city, school or employer name

What's your plan?

Transitioning to civilian life takes preparation, research, planning, and the right tools. We're here to help you make the right decisions on where to use your hard earned benefits!



Get started with CareerScope

Get help choosing a school

Submit a complaint through our Feedback System

Apply for education benefits

MONTGOMERY GI BILL

- First entered active duty on or after 1 July 1985
- Minimum 2 years of service
- *Paid $1200 to participate in the program
- Has an Honorable period of qualifying service
- Obtained a high school diploma, or GED or equivalent, prior to applying for the benefits
- $600 Buy-Up Option = $5400 additional benefits

* Refundable if eligible for Post 9/11 GI Bill

https://www.benefits.va.gov/gibill/mgib_ad.asp

MGIB AD - BENEFITS

- Up to 36 months of benefits, up to 10 years following release from active duty
- Benefits may be applied to;
  - degree and certificate programs
  - flight training
  - apprenticeship/on the job training
  - correspondence courses
  - Funds are paid to the student

https://www.benefits.va.gov/gibill/mgib_ad.asp

CURRENT RATE OF PAY

Institutional Training	
Training Time	**Monthly rate**
Full time	$2,122.00
¾ time	$1,591.50
½ time	$1,061.00
less than ½ time more than ¼ time	$1,061.00**
¼ time or less	$530.50**

As of October 1, 2020

** Tuition & Fees only. Cannot exceed this amount

https://www.benefits.va.gov/GIBILL/resources/benefits_resources/rates/ch30/ch30rates100120.asp

MGIB – RESERVE COMPONENT

- Montgomery GI Bill Selected Reserve Chapter 1606
    - 6 year commitment (after 6/30/1985)
    - 36 months of eligibility (max)
    - Paid to the student
    - Ends upon ETS from selected reserve

https://www.benefits.va.gov/gibill/mgib_sr.asp

ELIGIBILITY

First entered active duty after 30 June 1985 and did not decline MGIB

Veterans entitled to Chapter 34 under Vietnam era GI Bill

Certain veterans involuntarily separated under certain conditions and those separated under VSI (Voluntary Separation Incentive) or SSB (Special Separation Benefit)

Former Veterans Educational Assistance Program (VEAP) participants who converted to MGIB

https://www.benefits.va.gov/gibill/mgib_sr.asp

CURRENT RATE OF PAY

Institutional Training	
Training Time	**Monthly rate**
Full time	$397.00
3/4 time	$297.00
1/2 time	$198.00
Less than 1/2 time	$99.25

https://www.benefits.va.gov/GIBILL/resources/benefits_resources/rates/ch1606/ch1606rates100120.asp

SURVIVOR AND DEPENDENT EDUCATION ASSISTANCE

- Marine Gunnery Sergeant John David Fry Scholarship
- Survivors and Dependents' Educational Assistance Program (Chapter 35)

https://www.benefits.va.gov/gibill/survivor_dependent_assistance.asp

FRY SCHOLARSHIP

- Eligibility
  - Children and surviving spouses of A/D who *died in the line of duty* on or after Sept 11, 2001
    - Children Ages 18 to 33
    - Spouses have a *delimiting period of 15 years from date of death. Eligibility is lost upon remarriage
- Must make an irrevocable choice between Fry and DEA.
- Surviving spouses are eligible to receive DIC while using the Fry Scholarship
- Children in receipt of DIC must relinquish it upon use of Fry Scholarship
- May now use the Yellow Ribbon Program also

*Delimiting date removed if eligibility began after 1/1/2013

https://www.benefits.va.gov/GIBILL/Fry_scholarship.asp

YELLOW RIBBON PROGRAM

- Allows approved institutions of higher learning & the VA to partially *or* fully fund tuition & fee expenses that exceed the established thresholds under the Post-9/11 GI Bill
  - Matching Funds by the School & VA to cover the difference
- Tuition & Fees only – Not Room & Board
- School must participate, but is limited w/the number of quotas that it allocates

SURVIVOR AND DEPENDENT EDUCATION (CHAPTER 35)

- Chapter 35 provides education benefits to the spouse and children of:
  - Service members who died on Active Duty
  - Veterans who died or are permanently & totally (P&T) disabled due to a service connected (S/C) disability
  - Veterans who have died from any cause while such P&T S/C disability existed

https://www.benefits.va.gov/GIBILL/DEA.asp

SURVIVOR AND DEPENDENT EDUCATION (CHAPTER 35)

- Benefit expiration
  - Surviving spouses - Veteran
    - 10 years from date of eligibility or death of Veteran
    - If VA rated Veteran 100% P/T within 3 years of discharge – 20 years
  - Surviving Spouses – Service Members
    - 20 years from date of death
  - Children
    - Ages 18-26

https://www.benefits.va.gov/GIBILL/DEA.asp

SURVIVOR AND DEPENDENT EDUCATION

VETERANS OF FOREIGN WARS.

- Service member MIA or captured by hostile force.
- Service member forcibly detained or interned in the line of duty by a foreign government.
- Service member who is hospitalized or receiving outpatient treatment for a S/C P&T disability and is likely to be discharged for that disability
- If child qualifies for both Fry and DEA
  - May be eligible for both, but only use one at a time
  - 81 months total of full-time training (not concurrent)

https://www.benefits.va.gov/GIBILL/DEA.asp

CHAPTER 35 RATES

Institutional Training

Training Time	Monthly rate
Full time	$1,265.00
¾ time	$1000.00
½ time	$734.00
less than ½ time and more than ¼ time	$734.00 **
¼ time or less	$316.25 **

As of October 1, 2020

https://www.benefits.va.gov/GIBILL/resources/benefits_resources/rates/ch35/ch35rates100120.asp

WORK STUDY

Training on a full time or ¾ time basis

- Post-9/11 GI Bill--(Chapter 33) (Veterans and transfer-of-entitlement recipients)
- Montgomery GI Bill--Active Duty (Chapter 30)
- REAP Participants
- Montgomery GI Bill--Selected Reserve (Chapter 1606)
- VEAP (Chapter 32)
- Dependents' Educational Assistance Program (Chapter 35)
- National Call to Service Participants
- Vocational Rehabilitation & Employment Program -- (Chapter 31)

https://www.benefits.va.gov/gibill/workstudy.asp

WORK STUDY

- VFW service offices can request to have a work study assist in the office
- Though they would not be accredited, individuals using the work study program can help with administrative duties in the office
- Contact your VARO Voc Rehab department to see if there is any availability for your office

NON-COLLEGE DEGREE PROGRAMS

- Available for training at non-college-degree institutions
  - HVAC Repair
  - Truck Driving Schools
  - EMT Training
  - Barber/Beautician/Cosmetology School
- Benefit based on number of clock hours attended each week of month
- Payments are issued after the training is complete

https://www.benefits.va.gov/gibill/non_college_degree.asp

VA TRAINING PROGRAMS

- Flight
- Co-Op
- National Testing
- Licensing and Credentialing

FLIGHT TRAINING

- Must have a private pilot license and medical certification certificates
- Payments are issued after the training is completed and the school submits your enrollment information to VA.
- Payment Amounts Under the Montgomery GI Bill
- If using the Montgomery GI Bill, VA will reimburse 60% of the approved charges.
- If using Post 9/11 GI Bill, payments will be based on the type of school (public, private, or vocational)

https://www.benefits.va.gov/gibill/flight_training.asp

CO-OP TRAINING

- Attending school part-time and working full-time
- Payment amount varies based on the GI Bill Program utilized
  - Post 9/11
    - Public - in-state tuition & fees
    - Private – Lesser of national maximum or in-state tuition & fees
  - Other GI Bills
    - Monthly rate varies based on program and how long qualifying service was

https://www.benefits.va.gov/gibill/coop_training.asp

NATIONAL TESTING

- Reimbursement for mandatory national tests
- Registration, Fees, Admin Fees for tests such as:
  - SAT
  - LSAT
  - GRE
  - GMAT
  - CLEP
  - ACT
  - MCAT
- Reduces overall GI Bill Benefit

https://www.benefits.va.gov/gibill/national_testing.asp

LICENSING & CREDENTIALING

- Additional licensing and credentialing required for employment
- Up to $2000 per test - Reimbursed
- Unlimited number of attempts, but it reduces your GI Bill Benefit
- Apply for reimbursement within one-year of test date

https://www.benefits.va.gov/gibill/licensing_certification.asp

VETERAN READINESS & EMPLOYMENT (VR&E)

- Program offers personalized counseling and support
  - Career path
  - Goal accomplishment
  - Most effective use of VA benefits
- Veteran Employment Tracks
  - Reemployment
  - Rapid Access to Employment
  - Self-Employment
  - Employment through long-term services
  - Independent living

https://www.benefits.va.gov/VOCREHAB/index.asp

VETERAN READINESS & EMPLOYMENT (VR&E)

- ELIGIBILITY
  - Active Duty
    - Expect to receive Honorable/Other than Dishonorable Discharge
    - Memo rating of 20% or more VA Disability
  - Veterans
    - Other than dishonorable discharge
    - Minimum 10% SC Disabled
  - Expires 12 years from separation from Active Duty* **or**
  - Date veteran was first notified of a VA SC disability rating

* May be extended due to serious employment handicap

https://www.benefits.va.gov/vocrehab/eligibility_and_entitlement.asp

VETERAN READINESS & EMPLOYMENT (VR&E)

- ENTITLEMENT DETERMINATION
  - Veteran meets with Veteran Rehabilitation Counselor (VRC) to determine if employment handicap exists
    - Assessment of Veteran's interest, aptitudes and abilities
    - Assessment of whether SC disabilities impair the Vet's ability to find and/or hold a job using occupational skills already developed
    - Vocational exploration and goal development leading to employment and/or max independence
  - Employment Handicap
    - Determine transferable skills, aptitudes, and interests
    - Identify viable employment and/or independent living options
    - Explore labor market and wage information
    - Develop individualized rehab plan to achieve goals

https://www.benefits.va.gov/vocrehab/eligibility_and_entitlement.asp

VFW PROGRAMS

- Voice of Democracy
- Patriot's Pen
- VFW/SVA Fellowship
- 1 Student Veteran
- Sports Clips – Scholarship

VFW PROGRAMS - VOICE OF DEMOCRACY

- Available scholarships for High School students
- 3-5 min audio essay – Patriotic Theme (Changes Each Year)
- Submitted to Department (State) NLT - 31 October
  - Must be in grades 9-12 by the deadline
- Minimum $1K for each Department (State) Winner
  - All expense paid trip to Washington DC – March
  - First-place winner - $30K Paid to College/University

https://www.vfw.org/community/youth-and-education/youth-scholarships

VFW PROGRAMS – PATRIOT'S PEN

- Available for Middle School students (Grades 6-8)
- Written Essay no less than 300 but no more than 400 words
  - Patriotic Theme – changes every year
- Submitted to VFW Post NLT – 31 October
- Minimum $500 for each Department winner
  - All expense paid trip to Washington DC – March
  - First-place winner - $5K

https://www.vfw.org/community/youth-and-education/youth-scholarships

VFW PROGRAMS – VFW/SVA FELLOWSHIP

- Partnership with Student Veterans of America
- 10 Fellows selected each year
- Must be eligible for VFW membership
- Active SVA chapter at college/university
- Essay submission of advocacy proposal on four priority issues for the veteran community

https://www.vfw.org/studentfellowship

VFW PROGRAMS – 1 STUDENT VETERAN

- Partnership with Student Veterans of America
- Provides resources and guidance to student veterans
  - Difficulties with benefit payments
  - Explanation of benefits
- 1StudentVeteran@vfw.org

https://www.vfw.org/assistance/student-veterans-support

VFW PROGRAMS – HELP-A-HERO SCHOLARSHIP

- Sponsored by Sport Clips
- Scholarships up to $5000 to qualified applicants
- Honorably discharged, retired, active duty, reserve component
  - Separated with or currently hold military rank of E-5 or below
  - Completed Basic Training and follow-on training (AIT, Tech School, etc.)
- Demonstrate a need for financial assistance
- Currently participating in, accepted, or enrolled in VA-approved program or school at an accredited post-secondary institution
- Paid directly to schools for tuition and fees only

https://www.vfw.org/assistance/student-veterans-support

RESOURCES

- VA Education Hotline – 888-442-4551
- https://www.benefits.va.gov/WARMS/bookg.asp (VR&E)
- 1studentveteran@vfw.org (VFW Student Support)
- www.benefits.va.gov (General Benefits Info)
- https://www.benefits.va.gov/GIBILL/FGIBSummaries.asp (FGIB)
- https://benefits.va.gov/benefits/factsheets.asp
- https://iris.custhelp.va.gov/ (IRIS Support System)

VETERANS OF FOREIGN WARS®

QUESTIONS?

VETERANS OF FOREIGN WARS®

WRITING APPEAL ARGUMENTS

LESSON OBJECTIVES

- Learn how to use the appeal writing method: IRAC
  - Identifying the Issue(s): rewrite and recognize
  - Listing the rules
  - Analyzing the facts
  - Concluding with the desired outcome
- Review tips on writing clearly and persuasively

WHAT IS AN APPEAL ARGUMENT?

An appeals argument is your opportunity to explain to the VA in writing why the claim was incorrectly decided

Remember: Even though it is called an “argument” you should not be argumentative when writing

WHAT IS AN APPEAL ARGUMENT?

VETERANS OF FOREIGN WARS.

An appeal argument should clearly list the following:

- The issue on appeal
- What the VA did wrong or failed to do in making their decision, citing objective evidence to support your argument
- What will satisfy the appellant (what does he/she want)
- What does the appellant want VA to do?

**If possible, limit your argument to no more than 2-3 paragraphs for each issue

WHEN TO WRITE AN ARGUMENT

ALL appeals should be accompanied by an appeals argument prepared by the representative.

This includes:

- Supplemental Claims (21-0995)
- Higher Level Review (21-0996)
- Appeals to the BVA (101-82)

***Remember there is a difference between argument and evidence**

BEFORE WE BEGIN WRITING

Prior to writing an appeals argument, you must review the claims file to determine:

- The issue on appeal
- The reason why the benefit was denied
- What evidence/action is needed to grant the benefit

IRAC APPEAL WRITING METHOD

IRAC stands for:

Issue – What is the issue on appeal?
Rule – What rules/regulations apply to this claim?
Analysis – What are the facts of the case?
Conclusion – What will resolve the issue?

Though this method is not mandatory, it will help keep your argument organized

IDENTIFYING THE ISSUE

- Locate the rating decision narrative that addresses the veteran's issue
- The issue is already presented to you in a numbered list in the decision being appealed and is phrased in terms of "entitlement to" the issue
- The rating decision narrative will also include the reasons for the denial

Why are the reasons for denial important?

IDENTIFYING THE ISSUE

Kendall Johnstone was recently granted a 0% service-connected rating for headaches. She wants to appeal the rating. The rating decision states the following:

We have assigned a noncompensable evaluation for your headaches based on:

- *With less frequent attacks*

A higher evaluation of 10 percent is not warranted unless there are characteristic prostrating attacks averaging one in 2 months over the last several months.

- What is the issue on appeal?
- Why was the benefit not awarded?
- What evidence/action is needed to grant the benefit?

IDENTIFYING THE ISSUE

What is the issue on appeal?

- The assigned rating percentage

Why was the benefit (increased rating) not awarded?

- VA determined that the medical evidence showed symptoms corresponding to a 0% rating

What evidence/action is needed to grant the benefit?

- Current proof of the frequency and severity of the headaches

IDENTIFYING THE ISSUE

Some of the most overlooked/misstated issues are:

- **Earlier effective date of a rating vs increased rating or earlier effective date for service connection**

Example: Veteran appeals 50% rating for PTSD. Is awarded 70% rating after 3 years in appeals, but only as of exam date. Continues appeal asking not for 100%, but earlier date of 70% rating.

- **Separate ratings vs increased ratings**

Example: you cannot receive a rating higher than 40% under the diagnostic code for a certain condition based on limitation of motion, but you also have neuropathy that should be rated under another diagnostic code

- **Disagreement with the creation of an overpayment vs Request for a waiver of an overpayment**

You may have both issues in an appeal, but they are very different arguments: the fact that you never owed anything v. telling VA it was not your fault/you have a hardship so you should not have to pay

RECOGNIZING THE RULE(S)

Same types of claims will typically use the same rules, some of which will be stated in the rating decision

- However, there are many exceptions in veterans' law, which the rating decision may leave out

After identifying the issue, you can either:

- Start with the facts, and match up which rules apply to those facts, or
- Start with every possible rule, and see if the facts support that rule

STARTING WITH THE RULE

Issue is entitlement to compensation with aid and attendance. The veteran is service connected at 100% for loss of use of the arm, hypertension, and erectile dysfunction.

- The rules are:
  - Veteran must need aid and attendance of another person
  - For at least two activities of daily living
  - Due solely to service-connected conditions
  - And the rating for compensation purposes generally needs to be at least 100%
- Now we can review the rating decision and the claims file to see which rules VA thought the veteran did not meet, based on the evidence presented.

STARTING WITH THE FACTS

If the rating decision does not tell you a lot, starting with the facts may be easier

Issue is service connection for a right shoulder condition denied due to no event in service.

Facts: Veteran claims he injured his shoulder during combat mission in Afghanistan. Post-deployment health assessment shows complaint of upper extremity problem after deployment. Veteran was activated Guard member and did not have a separation physical. Right shoulder arthritis diagnosed 10 months post service.

STARTING WITH THE FACTS

In this example, the facts lead you to the rules:

- Combat veteran presumption can apply and presume event in service **(38 CFR 3.304)**
- While the STRs do not show diagnosis/injury, the post-deployment assessment is consistent with veteran's complaints
- Arthritis was diagnosed within one year of veteran's release from active duty. If veteran had at least 90 days continuous active service, chronic condition presumptive rule should apply to show nexus
- **(38 CFR 3.307 & 3.309(a))**

NON-MERITORIOUS APPEALS

It’s inevitable:

You **will** come across issues that have no merit.

NON-MERITORIOUS APPEALS

A non-meritorious appeal fails to meet the necessary criteria for a grant – there is no way to argue or change the facts.

Examples:

- NSC Pension when the veteran has no wartime service
- DIC when the veteran and spouse were divorced at the time of death and have no children
- Service connection cases where the veteran does not have the claimed disability

WITHDRAWAL OF APPEALS

If there are no facts to support the applicable rules, you **MUST** explain this to the client and suggest how the evidence can be improved or suggest either not appealing or withdrawing the appeal.

Per NVS Policy & Procedure, ***the client must sign*** if withdrawing the appeal, not the service officer, even though VA rules allow it.

DO NOT refuse to represent the veteran if you feel there is no merit to the claim.

NON-MERITORIOUS APPEALS

If the veteran is adamant about continuing the appeal:

- Outline the facts of the case
- Restate the veteran’s contentions
- State that the VFW supports the veteran's right to appeal.

ANALYSIS/ARGUMENT

If you have facts that support the client's claim, compare them with the previous rating and explain where VA erred in their decision.

Example:

The veteran has a current diagnosis of arthritis of the right shoulder that was diagnosed 10 months after he was released from active duty. In the September 1, 2021, rating decision, VA denied service connection due to a lack of an in-service incident or injury. However, the veteran's right shoulder arthritis should be considered service connected since it occurred during the veteran's combat service, as evidenced by the veteran's post-deployment assessment of 3/1/2015.

ANALYSIS/ARGUMENT

You may have the same analysis/argument for multiple issues. For example, if VA did not find the veteran's service records, that failure of the duty to assist will likely impact all claims for service connection.

Example:

The issues of service connection for hearing loss, tinnitus, PTSD, and a bilateral knee condition should all be resolved by VA requesting the veteran's complete service record and then re-adjudicating the claim. Previously, only the records of his first period of service were obtained, but service treatment records from 2010-2013 were not obtained. Please obtain these records and then re-adjudicate the claim.

COMMON ARGUMENTS

VETERANS OF FOREIGN WARS.

Reasonable Doubt (38 CFR 3.102)

a.k.a. Benefit of the Doubt

"When, after careful consideration of all procurable and assembled data, a reasonable doubt arises regarding service origin, the degree of disability, or any other point, such doubt will be resolved in favor of the claimant. By reasonable doubt is meant one which exists because of an ***approximate balance of positive and negative evidence*** *which does not satisfactorily prove or* disprove the claim.

COMMON ARGUMENTS

VETERANS OF FOREIGN WARS.

Reasonable Doubt (38 CFR 3.102)

a.k.a. Benefit of the Doubt

- Should only be used when the evidence is approximately equal on both sides (equipoise)
- If the evidence is 51% or more on the veteran's side, **DO NOT** argue benefit of the doubt
- Allows you to say the evidence is equal so the tie should go to the veteran.
- Benefit of the doubt should not be cited routinely and should **NEVER** be used in non-meritorious cases.
- If you believe that benefit of the doubt applies to your claim:
  - Discuss the evidence in **FAVOR** of the claim
  - Discuss the evidence **AGAINST** the claim
  - Explain that the evidence is in **EQUAL BALANCE** "for" and "against" the claim so VA should grant the claim.

COMMON ARGUMENTS

Example:

In the April 4, 2021, C&P examination, the examiner opined that the veteran's left knee instability was not related to his service-connected left ankle sprain. However, in a medical statement from the veteran's primary care doctor dated April 11, 2021, Dr. Jones stated that the residuals of the veteran's left ankle sprain directly contributed to the instability of the left knee.

Both medical opinions are from doctors who have examined the veteran, so they should be given equal consideration. According to 38CFR 3.102, if there is an approximate balance of positive and negative evidence, reasonable doubt should be resolved in favor of the veteran. Therefore, we request that service connection be granted for the veteran's left knee instability secondary to his service-connected left ankle sprain.

VETERANS OF FOREIGN WARS.

Failure of the Duty to Assist (DTA) (38 CFR 3.159(c))

- A DTA error is a failure by VA to properly apply the provisions of 38 CFR 3.159 for gathering evidence. This can include omitting development or failing to request certain examinations or opinions.
- Remember, a HLR or BVA appeal can only identify previous DTA errors
- State that records have been identified but were not obtained, or a medical opinion is warranted because the evidence meets the threshold for providing an exam in 38 CFR 3.159(c).
- Common reasons that records are not obtained: wrong name, wrong address, did not find all duty periods

Inadequate medical exam/opinion (38 CFR 3.326)

- Once VA provides a medical exam or opinion, that exam or opinion must be adequate
- Common reasons exams are inadequate:
  - did not consider positive evidence of record
  - did not consider veteran's lay statements
  - did not complete all required tests (especially in musculoskeletal claims)
  - did not consider all theories of service connection
  - relied only on results of one examination versus the disability over time
  - did not give rationale (reasons) for medical opinion
  - did not review all records

COMMON ARGUMENTS

If you determine that an examination or medical opinion is inadequate, explain why in your argument.

Example:

In the examination dated July 12, 2021, the examiner offered a medical opinion that the veteran's bilateral hearing loss is less likely than not related to service. However, the examiner did not offer any rationale for this opinion. Therefore, we ask that this claim be sent back to the medical examiner to determine a rationale for the medical opinion

CITATIONS

- Cite to the CFR and general principles such as duty to assist, adequacy of exams, secondary service connection, etc.
- Also cite to the M21-1 if it helps you, at either the RO or the Board of Veterans Appeals (BVA).
- VA Office of General Counsel Precedent Opinions and court cases can also be helpful.
- No need to go overboard, one good citation that helps you is better than three that may or may not.

CONCLUSION

Your conclusion should ask for an outcome based on the analysis of the rule and the evidence

You may ask the VA to:

- Grant the benefit
- Restore the benefit
- Provide additional development such as requesting records, providing an examination or medical opinion

**If there is no merit to the appeal, restate the veteran's contentions and state that we support their right to appeal

CONCLUSION

You can ask for more than one outcome:

- For example, you can ask for VA to grant the benefit, or if there is not sufficient evidence to immediately grant, correct a duty to assist error and then re-adjudicate the claim.

- You can also ask for more than one development task to be completed: such as obtaining federal records, requesting a new opinion based on those records, and considering a new theory of the claim.

CONCLUSION

Example Conclusion:

The veteran meets all criteria of service connection: he has a current diagnosis of right shoulder arthritis, an in-service injury during combat, and a nexus to military service. The veteran's right shoulder arthritis was diagnosed in December 2009, within a year of his release from active duty in February 2009. Service-connected compensation should be granted on a presumptive basis for right shoulder arthritis according to 38 CFR 3.309(a).

CLEAR WRITING

Why is clear writing important?

- So that the reader understands it the first time they read it – raters and judges have many claims to decide and limited time
- It can save time in claim/appeal process and eliminate unnecessary hearings, letters, telephone calls

Which is better?

The veteran's service treatment records show onset of her conditions.

The veteran's separation physical of July 2004 shows diagnoses of hypothyroidism and bilateral carpal tunnel syndrome which began during active service.

CLEAR WRITING

Elements of clear writing

- Logical organization
- Short sentences
- Short paragraphs
- Common, everyday words
- Active voice
- Use of headings
- Reading ease

CLEAR WRITING

Use Spell Check & Grammar Check every time you write an argument.

APPEALS ARGUMENTS TIPS

DO:

- Address all of the issues that are on appeal
- Use Spellcheck
- Only include pertinent evidence
- Cite only applicable law and evidence that supports the claim in the argument
- Tell VA what will satisfy the claimant
- If issue(s) has no merit and you cannot give credible argument rooted in fact or law, paraphrase the veteran's contentions

APPEALS ARGUMENTS TIPS

VETERANS OF FOREIGN WARS.

DO NOT:

- Argue issues that are not part of the appeal
- Bring up new issues in an appeals argument
- Do not cite regulations, law, or case law that do not apply
- Belittle, condescend, or be rude/unprofessional in your argument

TEMPLATES

- Many representatives save templates to help speed up the writing process
- This practice is not prohibited, but you still must research the appeal prior to crafting the argument
- If you use a template, make sure you are not using the same “boilerplate” argument for all appeals

SCENARIO 1

Mr. Pennyworth is a 66-year-old veteran who is appealing his denial of Non-Service-Connected Pension. He served in the Army from 1979 to 1982 and received an honorable discharge. He was not discharged due to a service-connected disability and has no income other than a small social security check of $500 a month.

SCENARIO 1 – WHAT IS WRONG WITH THIS ARGUMENT?

After reviewing the facts of the case, the service officer provided the following argument:

The veteran contends that his service in the Army from 1979 to 1982 is sufficient to establish eligibility to non-service conected pension. Being that he is under the VA prescribed income limit and is over 65 years old, the VFW asks that the VA make a special excepion to the wartime service requirement and grant non-service connected pension to this veteran. We also ask that all benefit of the doubt be resolved in favor of the veteran in accordance with 38 CFR 3.120.

SCENARIO 1 – WHAT IS WRONG WITH THIS ARGUMENT?

What is wrong with this argument?

- There were 2 obvious spelling errors: exception & connected
- The service officer asked the VA to make a “special exception” to a regulation
- It appears that the VFW is supporting a case without merit
- The service officer referenced benefit of the doubt without good cause and used the wrong citation number

SCENARIO 1 – WHAT IS WRONG WITH THIS ARGUMENT?

Instead, the service officer should have written something like this:

The veteran contends that his service in the Army from 1979 to 1982, low income, and age (66) are sufficient to establish eligibility to non-service connected pension. The VFW supports the veteran's right to appeal this issue and thanks the Board for their time and consideration.

Notice that nowhere in this argument does the service officer state that the veteran should be granted pension. By writing the argument this way, you save yours and the VFW's reputation while still showing that you support the veteran's rights and reviewed the facts of the case.

SCENARIO 2

Cyrus Cage is a Marine veteran that served from 1968 to 1971. Mr. Cage deployed to Vietnam and years later developed type 2 diabetes mellitus. In a report dated 1/8/21, his private doctor, George Smith, stated he is on a restricted diet, must take insulin daily, and is no longer allowed to do strenuous outdoor activities for more than 20 minutes at a time.

The VA granted service connection for type 2 diabetes mellitus at 20%. Mr. Cage appealed the decision, believing that he should be at a higher rating and sent you his brother's Board decision that granted 40% for diabetes. Mr. Cage stated that his brother was also in Vietnam and now has diabetes just like his.

SCENARIO 2

After reviewing the evidence and appropriate regulations, your appeal argument should look something like this:

The veteran contends that his diabetes mellitus is severe enough to warrant a rating higher than 20%. In a medical statement dated January 8, 2021, Dr. Smith stated that Mr. Cage has a diagnosis of diabetes mellitus that requires a restricted diet, daily insulin, and regulation of activities. Based on this medical evidence, the VFW requests that the veteran's rating for diabetes be increased in accordance with 38 CFR 4.119 DC 7913. We thank you for your time and consideration in this matter.

SCENARIO 2

- As you can see, there was no mention of the veteran's Vietnam service because the issue of service connection has already been addressed and granted. Instead, the argument simply references the medical opinion that shows Mr. Cage has regulation of activities which would allow for a 40% rating.

- Also notice that there was no mention of his brother's Board decision as it has no bearing on the case.

FINAL THOUGHTS

When writing an appeals argument:

- Ensure you've addressed all the issues on appeal, looked up rules that apply, cited to pertinent evidence, and asked for an outcome
- Cite to evidence in the file to support your argument and make it easy for the reader to find
- Short and clear arguments are more persuasive than long and confusing arguments
- Remember to keep tone pleasant and professional; never insult or be derogatory towards VA in your arguments

VETERANS OF FOREIGN WARS®

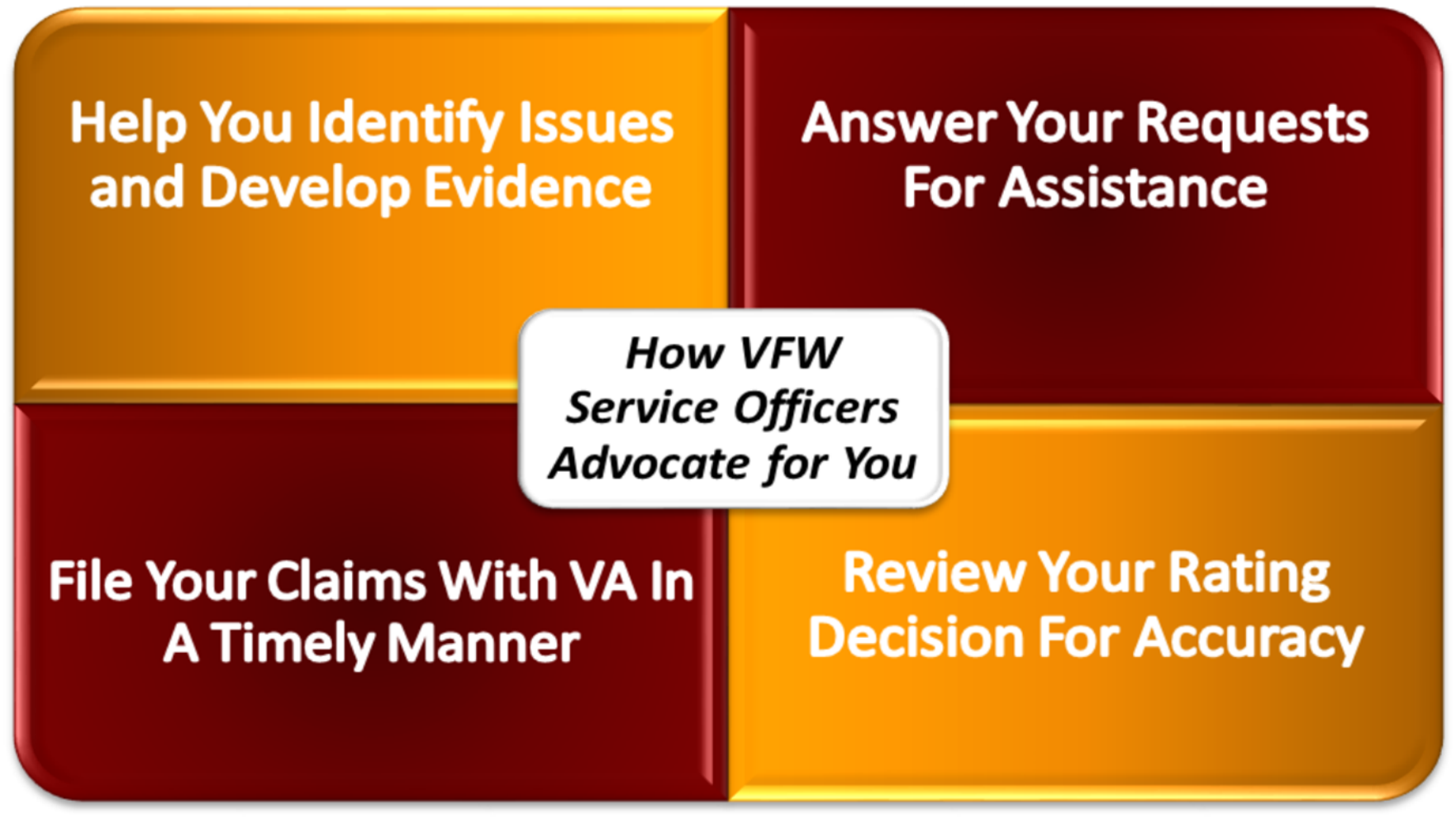
WORKLOAD MANAGEMENT

WORKLOAD MANAGEMENT

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

The suggestions made in this class are NOT mandatory rather you should use what you feel will help make your workday easier

The Four Core Tasks



FILE CLAIMS TIMELY

The most important task of a Service Officer is to ensure that all forms are completed correctly and filed in a timely manner.

If a claim is filed late, the veteran or claimant could miss out on benefits

What does timely mean?

FILE CLAIMS TIMELY

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

- Structure your day – If you have a routine, you will remember to complete your tasks (more on this later)

- Give yourself ample time to complete your tasks and understand that even the best schedule can be shattered by the unexpected

FILE CLAIMS TIMELY

- Don’t hold onto submissions – as soon as it is ready to submit, get it submitted!
- Use electronic submission methods – They are more secure, faster, and easier to track than faxing
- Ensure that you and your clients know their deadlines!

MEET WITH VETERANS AND DEVELOP EVIDENCE

When you meet with veterans, ensure that you are providing them with a safe and professional environment to discuss their claim.

MEET WITH VETERANS AND DEVELOP EVIDENCE

Whether you are meeting with the veteran face to face, over the phone, or virtually using Zoom or Teams you must always ensure that the veteran is your priority during your meeting.

Phone calls, emails, and other distractions can wait until after your meeting.

Privacy should be of the utmost concern – ensure that your conversation remains within the room

MEET WITH VETERANS AND DEVELOP EVIDENCE

- Review all of the evidence the veteran provided prior to submitting it to VA.
- **NEVER** submit evidence without reviewing it first
- If the evidence is detrimental to the claim, explain why and offer suggestions on how to obtain better evidence.
- If the veteran is adamant about submitting negative evidence, remember it's their claim; we are here to advise.

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.

Ensure that the veteran understands when you need the information back from them

If a veteran needs a medical nexus, provide the Medical Nexus Fact Sheet that is available on the VFW Online Learning Portal

ANSWER REQUESTS FOR ASSISTANCE

- All phone calls and emails should be returned within 1-2 business days.
- Outgoing messages on email and voicemail should be current and give the veteran basic information
- Template emails can be very helpful, but ensure they are relevant and tailored to the situation
- Give the veteran a “Goal Date” to follow up

REMEMBER YOUR ROUTINE!!!

SETTING EXPECTATIONS

- Managing expectations is important for managing your time - veterans who don’t understand the process will spend a lot of time contacting you.
- Explain the process and give claimants a realistic timeline.
- Don’t overpromise on what you can do, be genuine to the veteran.
  - It is better to paint a realistic picture than give false hope
- Let the veteran know how they can help you. For example: obtaining records or lay statements. Writing it down for them whether on paper or email, will assist in follow up.

SETTING EXPECTATIONS

Explaining the claims process thoroughly NOW will help prevent numerous phone calls or emails LATER!

REVIEWING DECISIONS AND ADVOCATING FOR VETERANS

VETERANS OF FOREIGN WARS.

- Reviewing decisions for accuracy is one of the most important functions of a VFW representative

WHY?

- Be sure that you determine what the rating should be before approaching the VA or contacting the veteran

- When approaching VA about an issue research it completely and know which regulations apply

REVIEWING DECISIONS AND ADVOCATING FOR VETERANS

VETERANS OF FOREIGN WARS.

- As an accredited representative you are there to look out for the veteran's best interest
  - This sometimes includes telling veterans what they don't want to hear

- Whenever advocating for a veteran be professional
  - Though its easy to get frustrated and angry with VA, you must still approach VA with a collaborative attitude

OFFICE ESSENTIALS – ACCOUNTABILITY

- You must keep a record of who has visited your office
  - Verifying when a veteran received assistance
- Sign in logs are the tried and true method
- Once a sign in sheet is filled, keep an electronic record of it

Why are sign in sheets important?

OFFICE ESSENTIALS – ACCOUNTABILITY

- Whenever you meet with VA you must keep a record of the interaction

For general VA meetings:

Take good notes during your meetings with VA, then write up a brief summary, keep an electronic copy and distribute it to those who need the information

For meetings about a specific veteran or claim:

Take good notes, write up a brief summary and upload it to either communications or documents in the veteran's file

OFFICE ESSENTIALS – ACCOUNTABILITY

Return Receipts

- If you are in an office that accepts submissions directly, request that the VA date stamp a copy of a submission letter and return it to you, then scan it into TVB
- If you fax in claims, scan a copy of the fax transmission receipt into TVB
- When using the QuickSubmit, copy the confirmation number into the communications or documents tab in TVB
- When using SEP, take a screenshot of the confirmation and upload it to the documents section of TVB

Why are return receipts important?

TRAINING ESSENTIALS – NVS UPDATES

- Several times a year National Veterans Service publishes and distributes via email an update about subjects that are important to you
- NVS Updates can also be accessed on the Online Learning Portal in the Resources area
- Many VA law changes and VFW policy changes are explained in these updates, so it is imperative that you read them
- Once an update is published NVS hosts a virtual forum to discuss the topics and answer any questions
- If you are not receiving the NVS Update please contact Chris Macinkowicz at cmacinkowicz@vfw.org

TRAINING ESSENTIALS – VARO TRAINING

- Most VAROs will provide training on various topics to VSOs if asked.

- Coordinate with other VSOs and the VSCM or Change Management Agent (CMA), to provide training.

TRAINING ESSENTIALS –
Online Learning Portal

VETERANS OF FOREIGN WARS.

- You should set aside time at least once a month for 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

WORKPLACE ESSENTIALS – WELLNESS

- Make sure that you take your breaks
- Burnout can and does happen
- Recognize your coworkers hard work and offer help if they need it

It’s ok to take a few minute breather between appointments or calls

WORKPLACE ESSENTIALS
VARO RELATIONSHIP

- We are all on the same team, it is not VFW vs VA
- Before approaching the VA with an issue, research it and have a plan with a potential solution
- Recognize and show appreciation for the VA's work

What are some ways to show appreciation at the VARO?

MANAGING YOUR OFFICE

- Don’t micromanage! 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
- Communication is key. Inform your coworkers of your status and schedule in order to help the office run smoother
- Remember, the VFW is a team, you **MUST** work together

MANAGING VFW Referrals

VFW has started receiving digital referrals for VA claims assistance from veterans and their families which need to be addressed in a timely manner.

Offices with TVB have these referrals organized in the **Veteran Intake Queue** which can be found on the TVB Column under **Queues**. These referrals need to be addressed daily as they are real people asking for our assistance.

Offices without TVB will receive their referrals from their RQAS.

Please be sure to answer referrals only that are displayed in your state **including those marked as BDD**

Establish office management routines and stick to them.

- Routine tasks need routine procedures; if you want to stay organized and keep things running smoothly.
- Set up routines for handling paperwork and reviewing decisions – this will help you to remember to complete your tasks
- For instance, every piece of paper that comes into your office should be handled, acted upon, and filed – not haphazardly piled on a desk.

What are some routines in your office that help you keep organized?

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.

Take a walk through your office and have a seat.

- When you walk through the office, do you have to detour around obstacles or run the risk of tripping over something?
- When you sit down at a desk, can you work comfortably there? Are things logically arranged so that the things that you would use most at the desk are closest at hand?
- Sit on the other side of your desk too and look around… What do you see?
- Things like dead plants, broken office equipment, trash, and clutter have no place in the office.

CONTROLLING THE CHAOS

All personally identifiable information must be secured and out of sight from the veteran.



EMERGENCY PLANNING

- Veterans may get frustrated with you and the VA
- Though this is rare, if a veteran gets violent, you need to be able to escape and call the police / security
- Ensure that you have a clear route to the exit in case you need to leave quickly
- Know what to do in a medical emergency
- Talk to your facilities manager about panic buttons and other emergency protocols

A FEW HELPFUL HINTS…

- Keep things simple
  - Make sure that you don’t overcomplicate things. If something seems simple, it probably is.
- Learn from your mistakes
  - Everybody makes mistakes.
  - Don’t hide from your mistakes; learn from them
- Admit when you need help
  - Everybody needs a little help now and then
  - If you feel like you are overloaded or falling behind, don’t be afraid to ask for help.

VETERANS OF FOREIGN WARS®

Veterans Benefits Management System (VBMS) and Notification Queue

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.

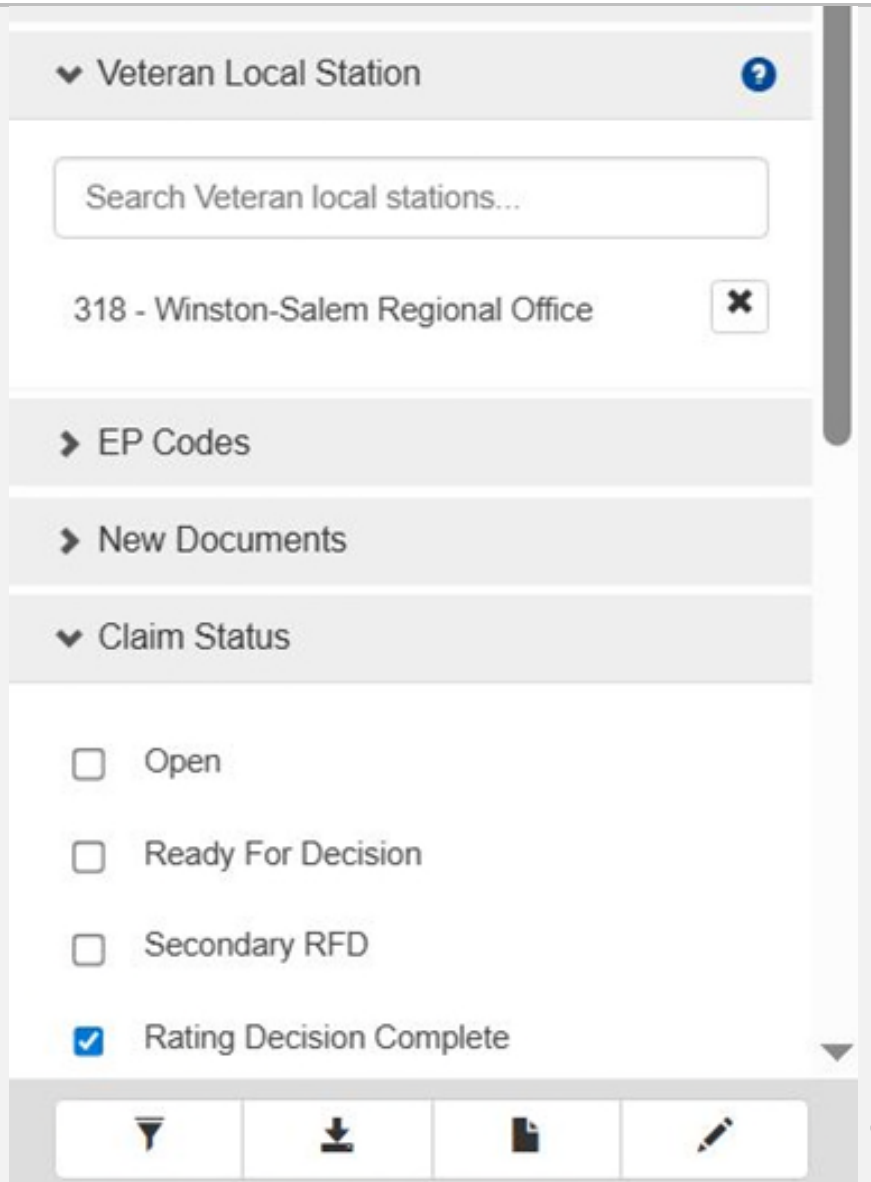
Setting up the All Claims Queue Filters

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.

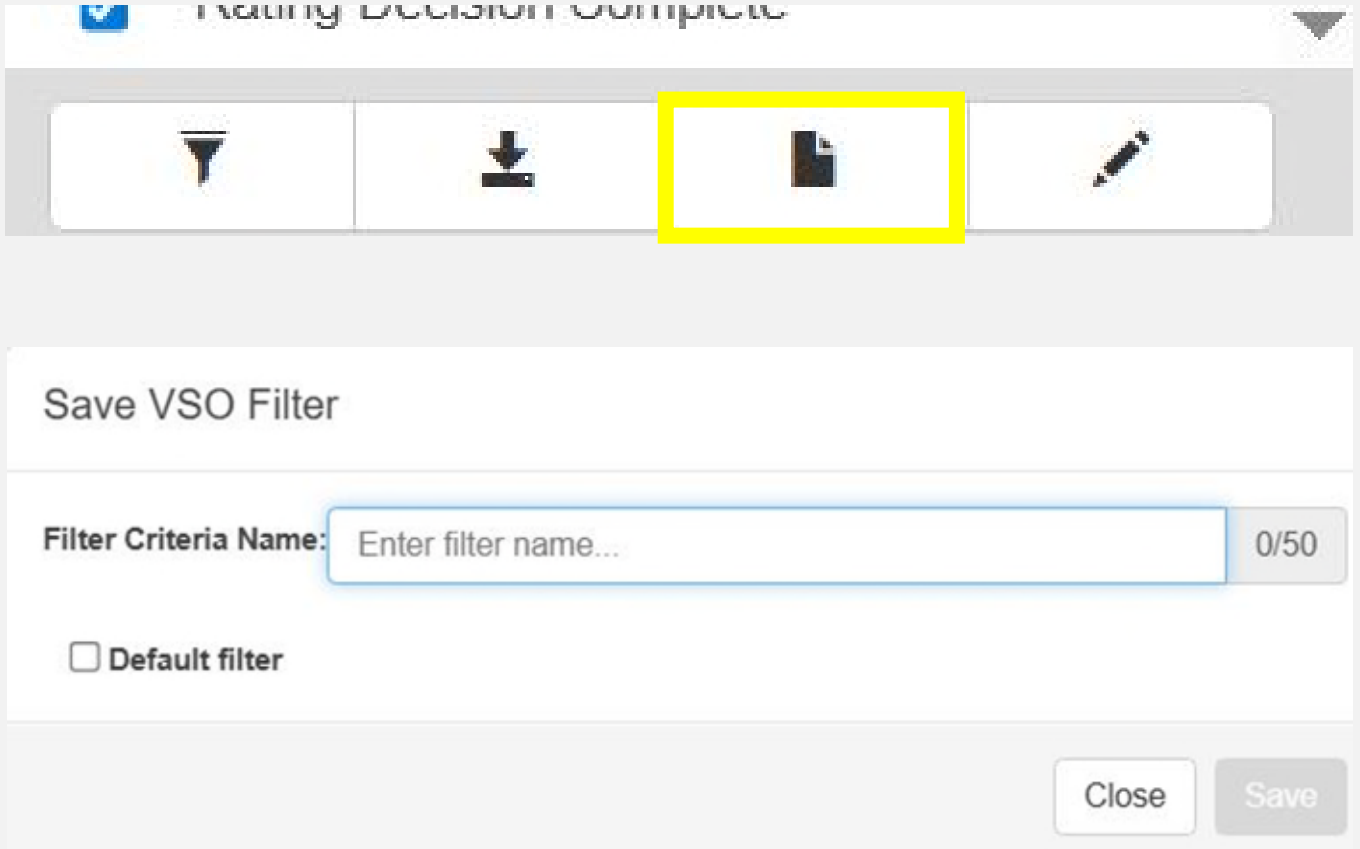
Local Station: The VARO located in the area the veteran resides in.

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)

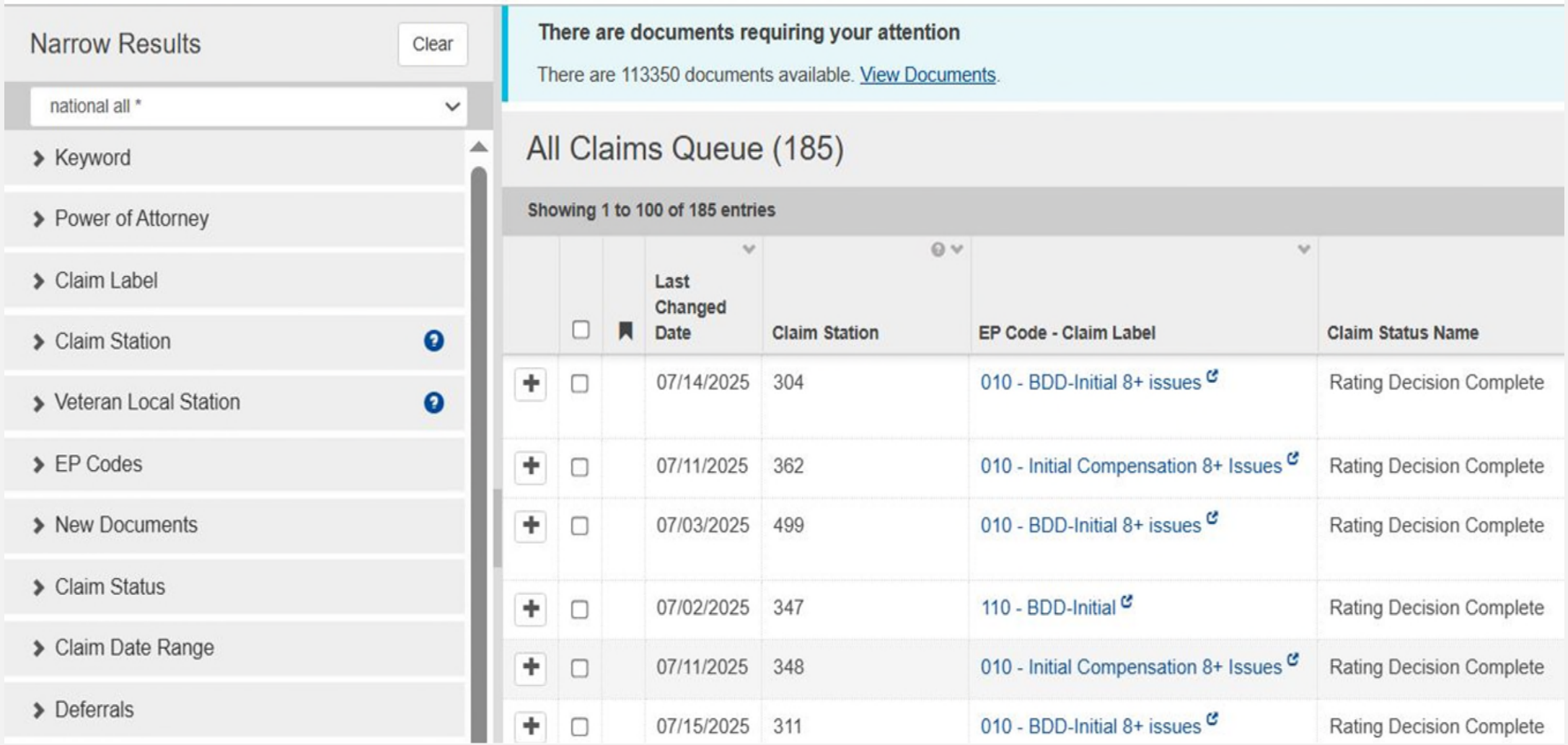
Setting up the All Claims Queue Filters

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.

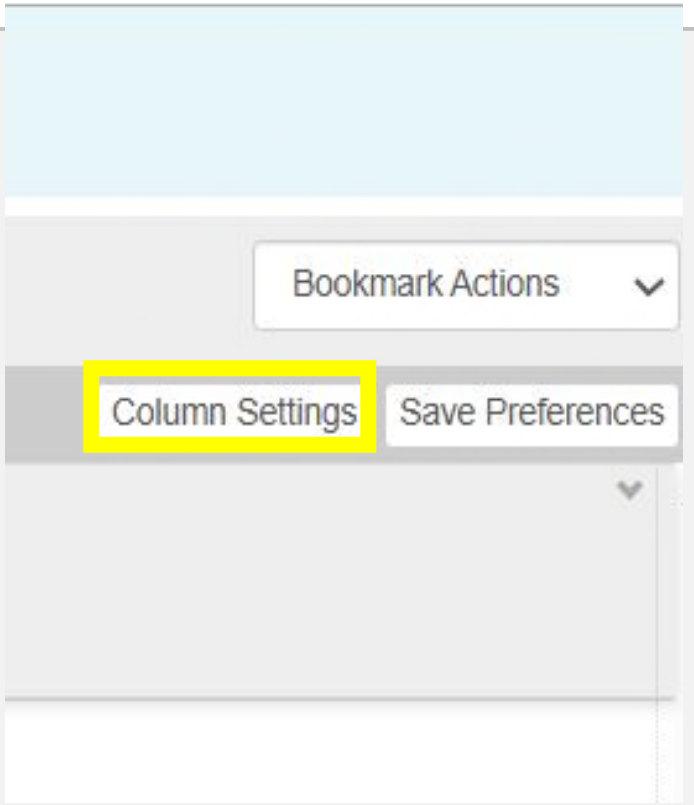


The VBMS Home Page



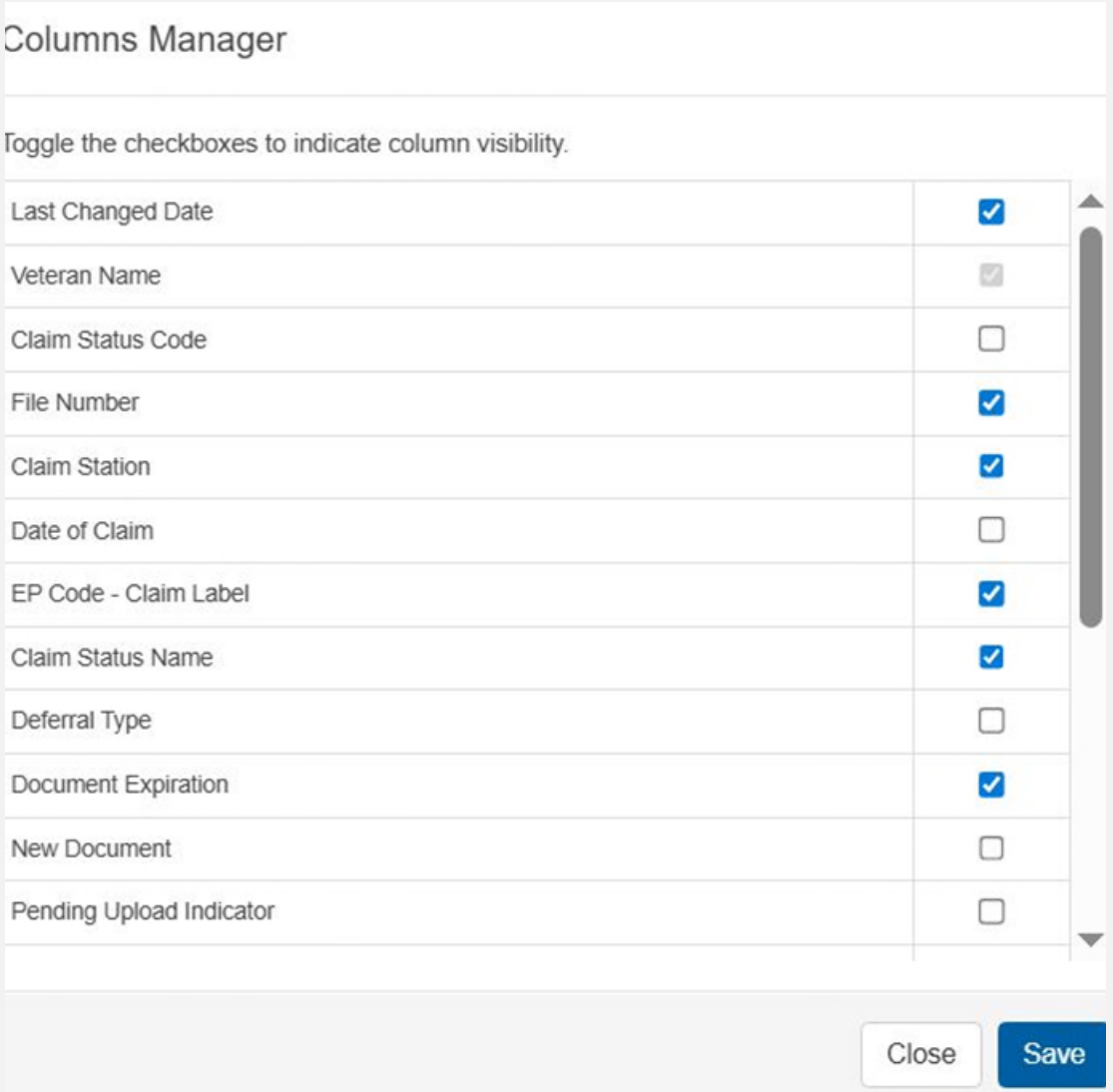
VBMS Home Page Personalization

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



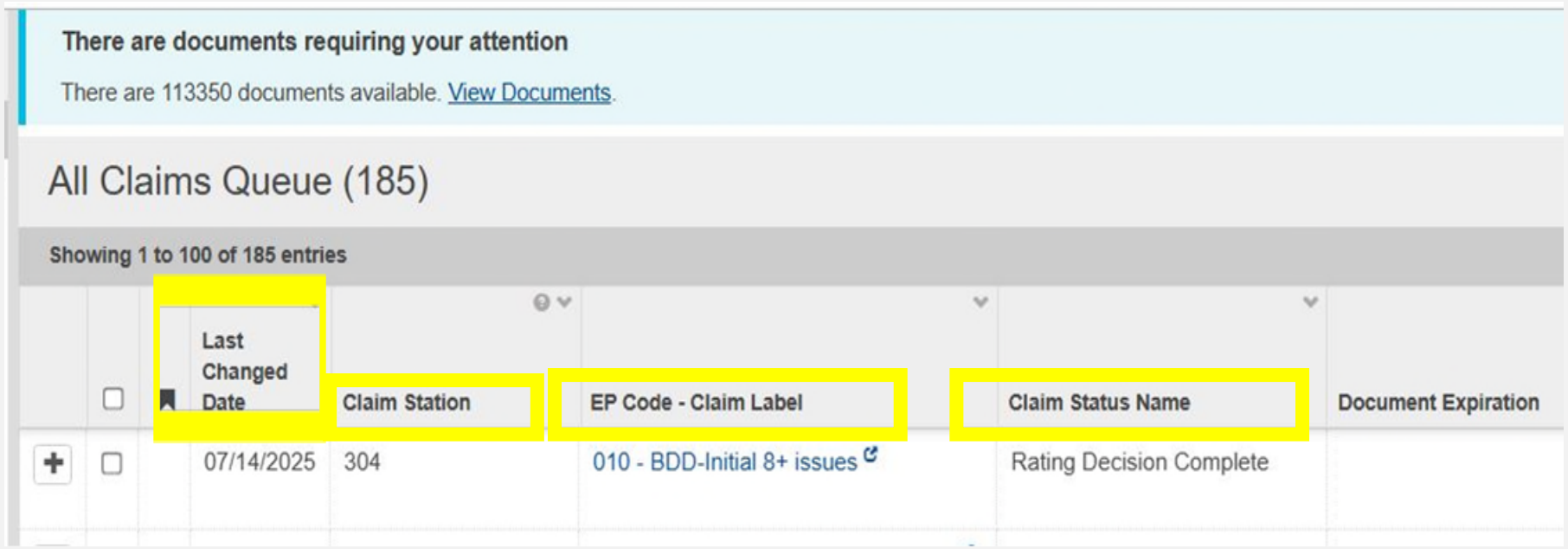
VBMS Home Page Personalization

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

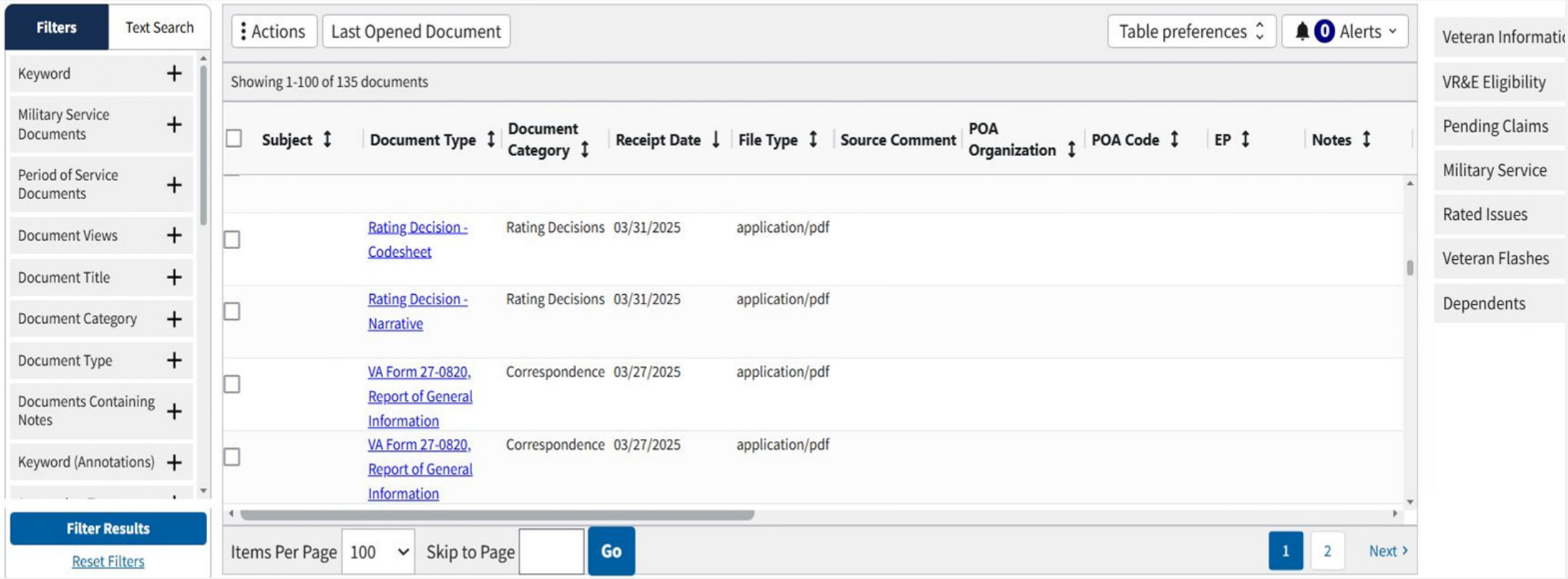


The VBMS Home Page

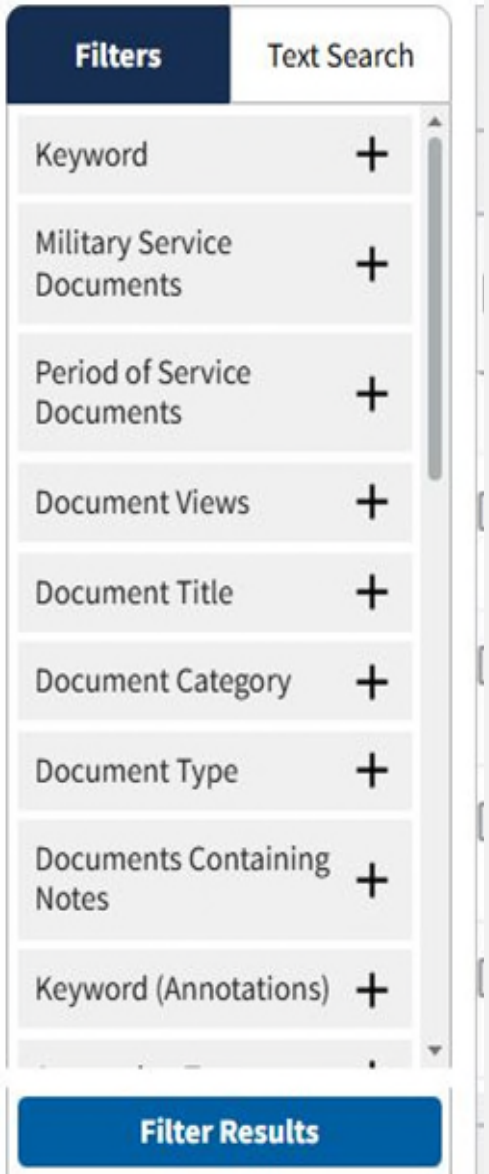
The Columns that users have added can be placed in whatever order the users would like by clicking and holding on the column and dragging it into position.



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

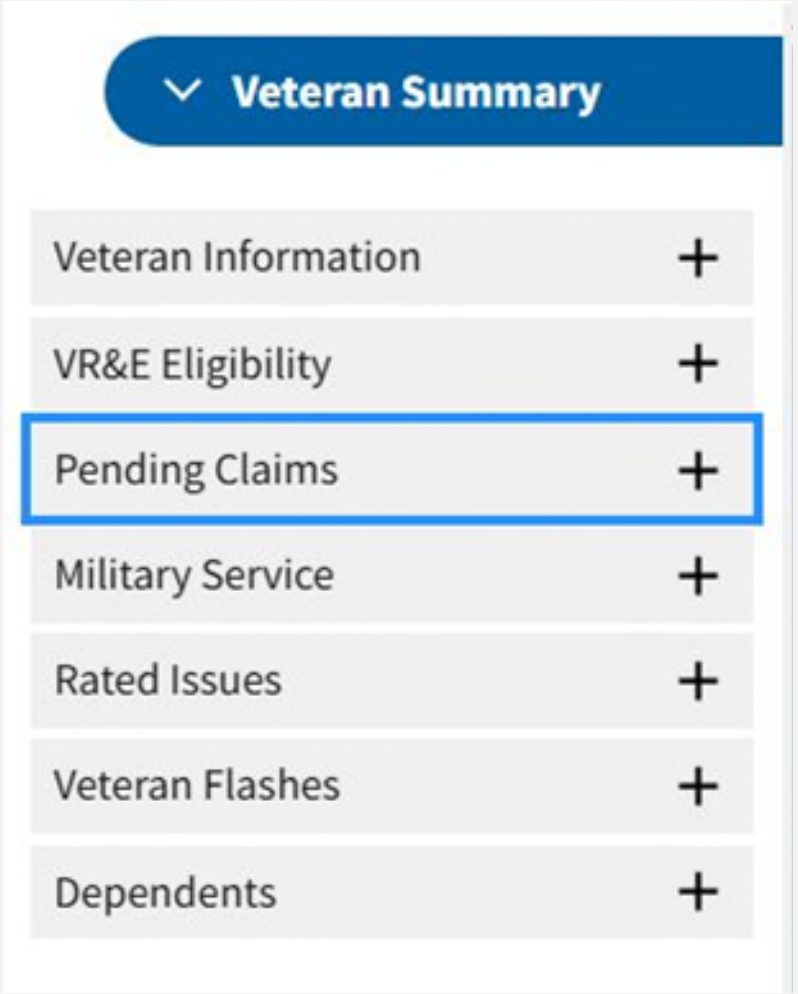


Columns in the Veteran Folder can also be personalized by clicking on Table Preferences and dragged into position like in the VBMS Home Screen.

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

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

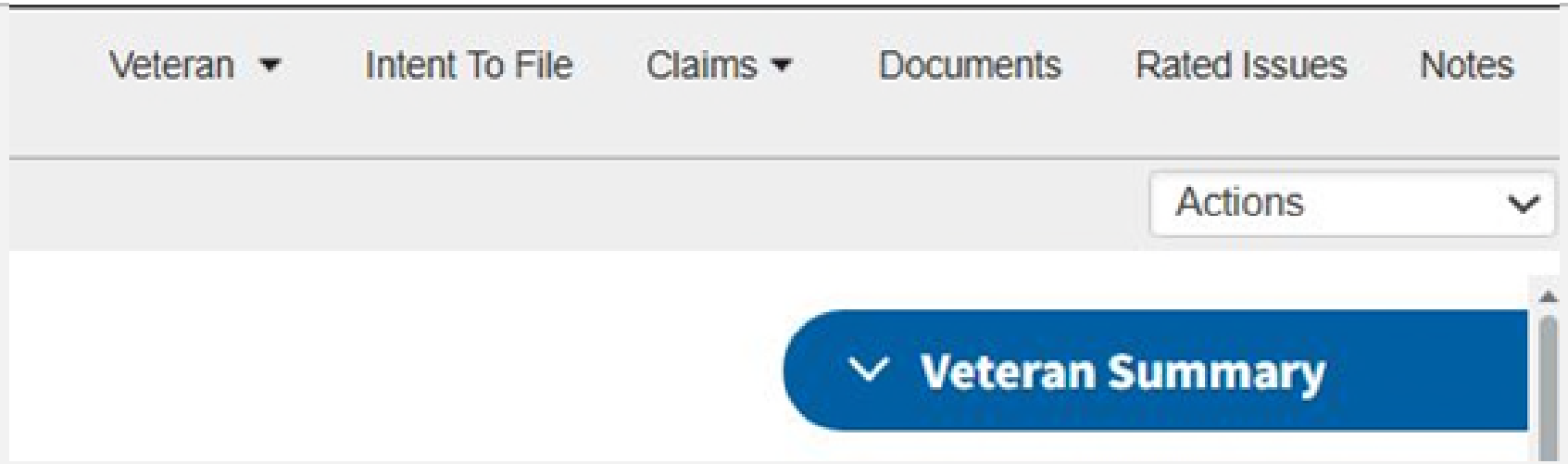
Using VBMS Documents to check a claim status is the first step in understanding what is happening; to do this follow these steps:

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:



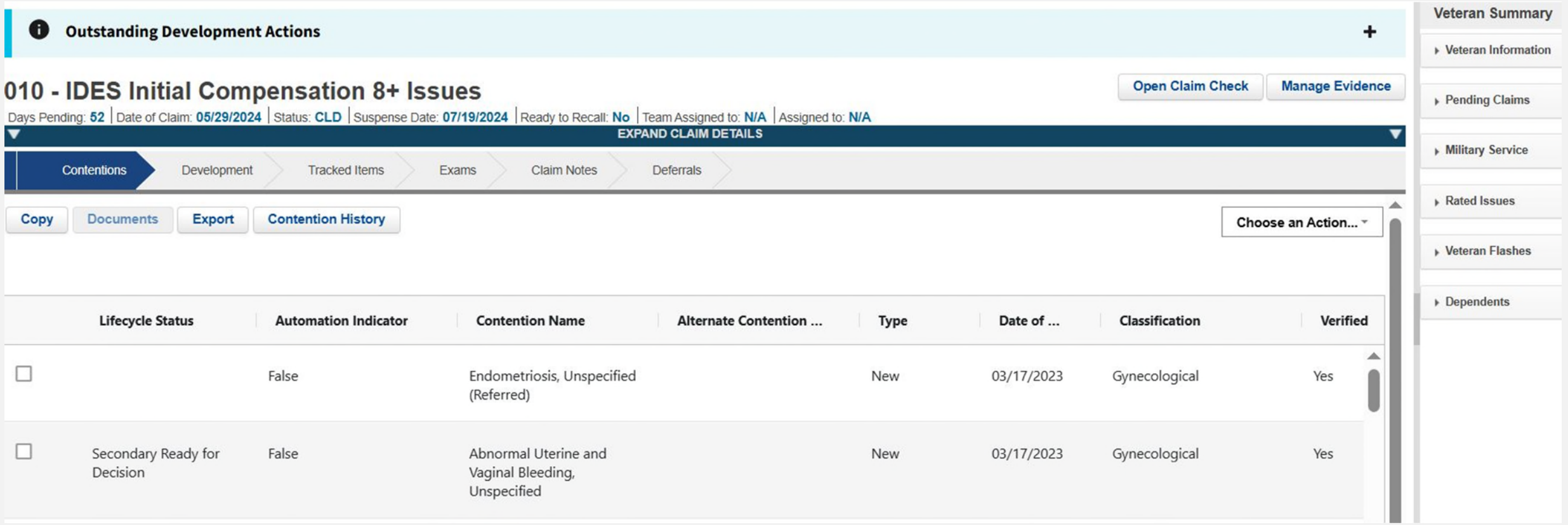
Veteran: Shows additional information such as dependents and military service

Intent to File: Shows if there is an active ITF

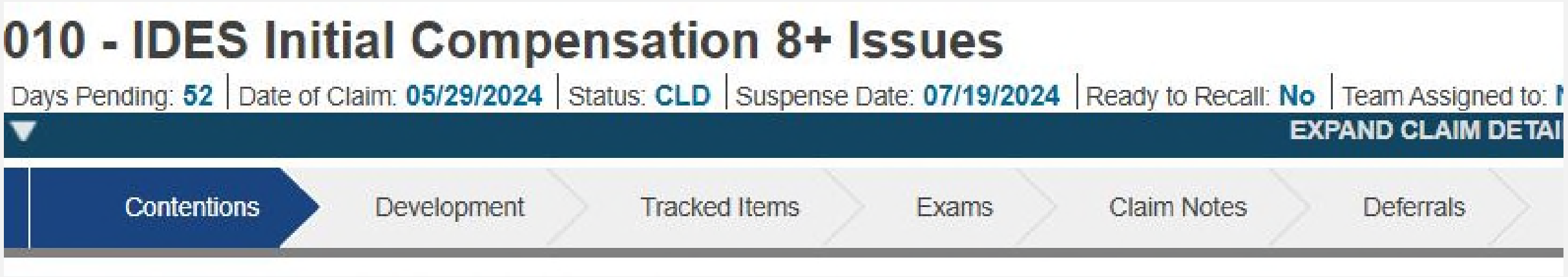
Claims: Shows Active EP and legacy Ep codes for the veteran's claim

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:



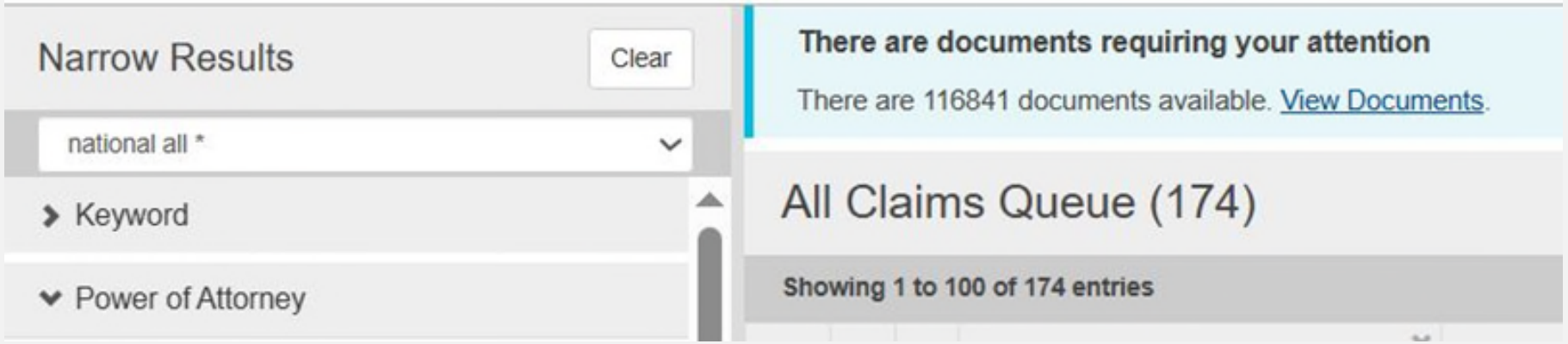
Claim EP's and their Chevrons



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

VBMS Live Demonstration

For this live Demon 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

VETERANS OF FOREIGN WARS®

VA Health Care

Katherine Cassell
Assistant Director, NVS

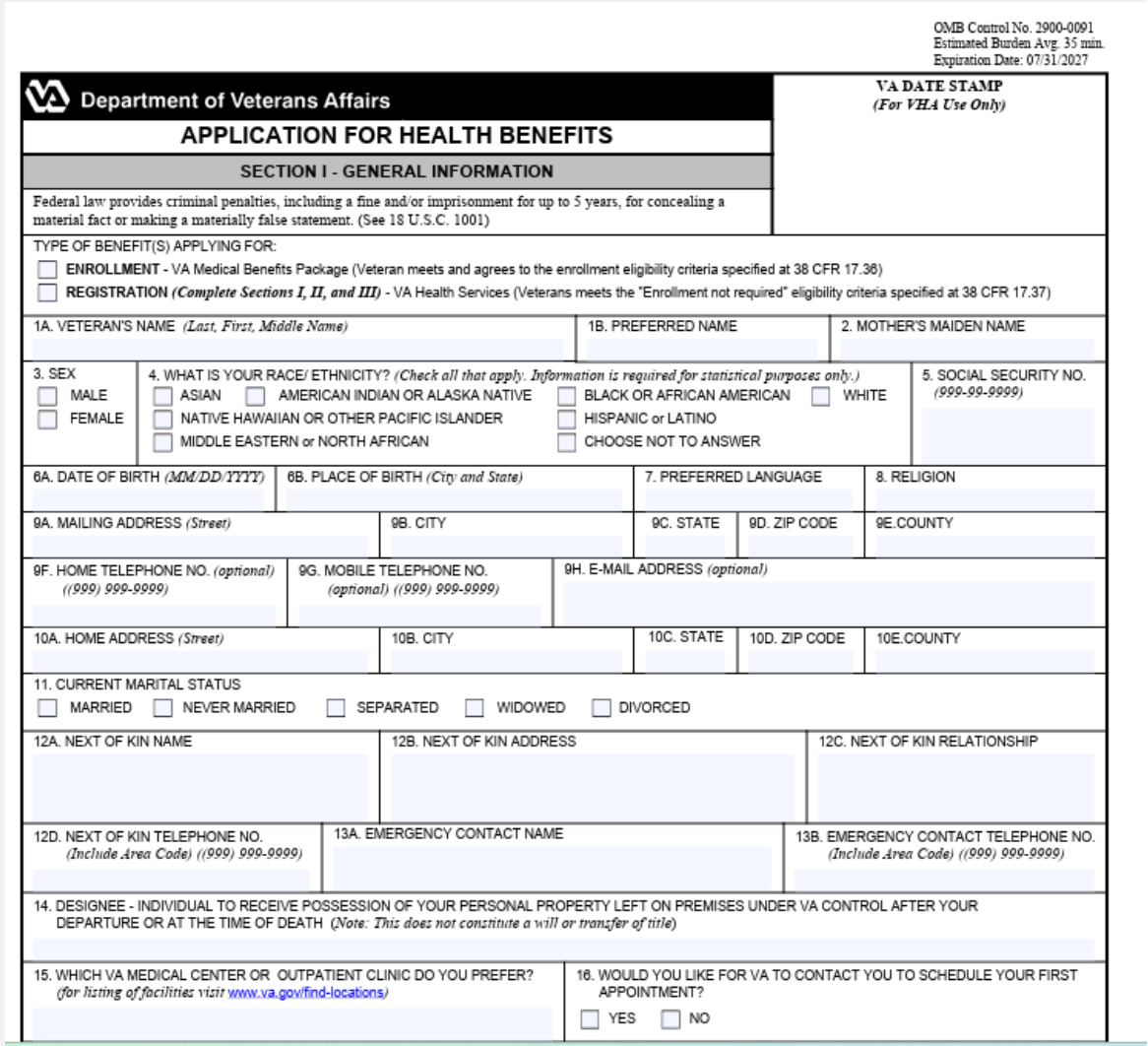
Objectives

- Enrolling/Registering for VA health care for transitioning Service Members or veterans
- What to expect at the first visit to VA
- How Service connection plays a role in health care
- Priority Groups
- Patient Advocate and their role
- CHAMPVA for Service Member's families
- Foreign Medical Program
- Navigating VA Health Care

VA Health Care
Enrolling & Registering

Enrolling vs Registering in VA Health Care

- What does “Enrolling in VA health care” mean?
  - Applying for and being approved to receive health benefits.
    - Allows veteran to access VA services
- What does “Registering for VA health care” mean?
  - This is the act of requesting medical care (medical appointments/Primary Care) at a specific VA facility.
  - A veteran may need to register multiple times throughout their lifetime
    - Initial registration/enrollment
    - Move locations – which requires care at new VA location/facility
    - Leave/terminate VA care – reinitiate to return to care



OMB Control No. 2900-0091
Estimated Burden Avg. 35 min.
Expiration Date: 07/31/2027

Department of Veterans Affairs

VA DATE STAMP
(For VHA Use Only)

APPLICATION FOR HEALTH BENEFITS

SECTION I - GENERAL INFORMATION

Federal law provides criminal penalties, including a fine and/or imprisonment for up to 5 years, for concealing a material fact or making a materially false statement. (See 18 U.S.C. 1001)

TYPE OF BENEFIT(S) APPLYING FOR:

☐ **ENROLLMENT** - VA Medical Benefits Package (Veteran meets and agrees to the enrollment eligibility criteria specified at 38 CFR 17.36)

☐ **REGISTRATION** ***(Complete Sections I, II, and III)*** - VA Health Services (Veterans meets the "Enrollment not required" eligibility criteria specified at 38 CFR 17.37)

1A. VETERAN'S NAME *(Last, First, Middle Name)*	1B. PREFERRED NAME	2. MOTHER'S MAIDEN NAME

3. SEX	4. WHAT IS YOUR RACE/ ETHNICITY? *(Check all that apply. Information is required for statistical purposes only.)*	5. SOCIAL SECURITY NO. *(999-99-9999)*
☐ MALE ☐ FEMALE	☐ ASIAN ☐ AMERICAN INDIAN OR ALASKA NATIVE ☐ BLACK OR AFRICAN AMERICAN ☐ WHITE ☐ NATIVE HAWAIIAN OR OTHER PACIFIC ISLANDER ☐ HISPANIC or LATINO ☐ MIDDLE EASTERN or NORTH AFRICAN ☐ CHOOSE NOT TO ANSWER	

6A. DATE OF BIRTH *(MM/DD/YYYY)*	6B. PLACE OF BIRTH *(City and State)*	7. PREFERRED LANGUAGE	8. RELIGION

9A. MAILING ADDRESS *(Street)*	9B. CITY	9C. STATE	9D. ZIP CODE	9E.COUNTY

9F. HOME TELEPHONE NO. *(optional)* *((999) 999-9999)*	9G. MOBILE TELEPHONE NO. *(optional) ((999) 999-9999)*	9H. E-MAIL ADDRESS *(optional)*

10A. HOME ADDRESS *(Street)*	10B. CITY	10C. STATE	10D. ZIP CODE	10E.COUNTY

11. CURRENT MARITAL STATUS

☐ MARRIED ☐ NEVER MARRIED ☐ SEPARATED ☐ WIDOWED ☐ DIVORCED

12A. NEXT OF KIN NAME	12B. NEXT OF KIN ADDRESS	12C. NEXT OF KIN RELATIONSHIP

12D. NEXT OF KIN TELEPHONE NO. *(Include Area Code) ((999) 999-9999)*	13A. EMERGENCY CONTACT NAME	13B. EMERGENCY CONTACT TELEPHONE NO. *(Include Area Code) ((999) 999-9999)*

14. DESIGNEE - INDIVIDUAL TO RECEIVE POSSESSION OF YOUR PERSONAL PROPERTY LEFT ON PREMISES UNDER VA CONTROL AFTER YOUR DEPARTURE OR AT THE TIME OF DEATH *(Note: This does not constitute a will or transfer of title)*

15. WHICH VA MEDICAL CENTER OR OUTPATIENT CLINIC DO YOU PREFER? *(for listing of facilities visit www.va.gov/find-locations)*	16. WOULD YOU LIKE FOR VA TO CONTACT YOU TO SCHEDULE YOUR FIRST APPOINTMENT? ☐ YES ☐ NO

How to Register/Enroll for VA Health Care

- Enrollment into VA health care is not automatic upon leaving service
- Enroll by completing VA Form 10-10 (Application for Health Benefits)
- Application methods
  - Phone: 877-222-8387
  - Mail: Health Eligibility Center, PO Box 5207, Janesville, WI 53547-5207
  - In-person at nearest VA facility
  - Online at va.gov
  - Trained professional (accredited service officer, claims agent, accredited attorney)
- Process takes less than 1 week for VA to make determination
  - Will receive a benefits package in mail
  - Clinic/PCM assignment

Expectations for First Visit to VA

- What to bring
- Verification of eligibility
- Complete intake form with medical history
- Medical assessment
- Discuss concerns with VA provider
  - Establish a care plan based on eligibility and need
- Share medical records
- Benefits review & answer questions

How Service connection plays a role in health care

- Eligibility for benefits
  - Service-connected condition that was caused or made worse due to active military service – *VA required to provide care*
  - Condition that has no connection to your time in service - *VA not required to provide care*
- Establishes Priority of Care and Group assignment
  - Eight priority groups; category 1 is the highest
- Used by VA to prioritize care for conditions incurred or aggravated while on active duty

Service-Connected Benefits

HOW DISABILITY RATINGS WORK

SERVICE CONNECTED PERCENTAGE	DESCRIPTION
0%	• 10 point Veteran preference in federal hiring *Compensable & Non-Compensable* • No cost health care and prescription drugs for service connected disabilities (if income limits are met) *Compensable & Non-Compensable* • Travel allowance for scheduled appointments for care at a VA medical facility or VA authorized health care facility *Compensable & Non-Compensable* • Commissary and Exchange Privileges *Compensable & Non-Compensable* • Use of commissaries, exchanges, and morale, welfare and recreation (MWR) retail facilities, in-person and online. *Compensable & Non-Compensable* • Waiver of VA funding fee for VA home loan *Compensable* • Burial and plot allowance *Compensable*
10%	• No cost health care and prescription medications for service connected disabilities • Travel allowance for scheduled appointments for care at a VA medical facility or VA authorized health care facility • Waiver of VA funding fee for home loan • 10 point Veteran preference in federal hiring • Vocational Rehabilitation & Employment (with a serious employment handicap) • Burial and plot allowance • Commissary and Exchange Privileges • Use of commissaries, exchanges, and morale, welfare and recreation (MWR) retail facilities, in-person and online.
20%	• No cost health care and prescription medications for service connected disabilities • Travel allowance for scheduled appointments for care at a VA medical facility or VA authorized health care facility • Waiver of VA funding fee for home loan • 10 point Veteran preference in federal hiring • Vocational Rehabilitation & Employment • Burial and plot allowance • Commissary and Exchange Privileges • Use of commissaries, exchanges, and morale, welfare and recreation (MWR) retail facilities, in-person and online.
30-40%	• No cost health care and prescription medications for service connected disabilities • Travel allowance for scheduled appointments for care at a VA medical facility or VA authorized health care facility • Waiver of VA funding fee for home loan • 10 point Veteran preference in federal hiring - Direct hire authority • Vocational Rehabilitation & Employment • Additional compensation for eligible dependents (may include aid and attendance for eligible spouse) • Burial and plot allowance • Commissary and Exchange Privileges • Use of commissaries, exchanges, and morale, welfare and recreation (MWR) retail facilities, in-person and online.
50%	• No cost health care and prescription medications • Travel allowance for scheduled appointments for care at a VA medical facility or VA authorized health care facility • Waiver of VA funding fee for home loan • 10 point Veteran preference in federal hiring - Direct hire authority • Vocational Rehabilitation & Employment • Additional compensation for eligible dependents (may include aid and attendance for eligible spouses) • Concurrent receipt of military retired pay • Burial and plot allowance • Commissary and Exchange Privileges • Use of commissaries, exchanges, and morale, welfare and recreation (MWR) retail facilities, in-person and online.
60-90%	• No cost health care and prescription medications • Travel allowance for scheduled appointments for care at a VA medical facility or VA authorized health care facility • Waiver of VA funding fee for home loan • 10 point Veteran preference in federal hiring - Direct hire authority • Vocational Rehabilitation & Employment • Additional compensation for eligible dependents (may include aid and attendance for eligible spouses) • Concurrent receipt of military retired pay • Individual Unemployability (must be unemployable due to service connected disabilities) - Dependents Educational Assistance (unemployable condition must be considered permanent) : Special restorative training, CHAMPVA–Civilian Health and Medical Program (unemployable condition must be considered permanent), Dental care (if rated unemployable) • Burial and plot allowance • Commissary and Exchange Privileges • Use of commissaries, exchanges, and morale, welfare and recreation (MWR) retail facilities, in-person and online.
100%	• No cost health care and prescription medications • Travel allowance for scheduled appointments for care at a VA medical facility or VA authorized health care facility • No cost dental care • Waiver of VA funding fee for home loan • 10 point Veteran preference in federal hiring - Direct hire authority • Vocational Rehabilitation & Employment • Additional compensation for eligible dependents (may include aid and attendance for eligible spouses) • Concurrent receipt of military retired pay • Dependents Education Assistance (must be considered permanent) - Special restorative training • CHAMPVA–Civilian Health and Medical Program (must be considered permanent) • Burial and plot allowance • Uniformed Services ID card
100% with an additional separate 60%	• Statutory Housebound • Commissary and Exchange Privileges • Use of commissaries, exchanges, and morale, welfare and recreation (MWR) retail facilities, in-person and online.

VFW VETERANS OF FOREIGN WARS.

Priority Groups

Priority Groups 1 & 2

Priority Group 1

- Service-connected disability rated as 50% or more disabling, **or**
- Service-connected disability that has been determined to make you unable to work (also called unemployable), **or**
- Medal of Honor (MOH) recipient

Priority Group 2

- Service-connected disability rated as 30% or 40% disabling

Priority Group 3

Priority Group 3

- Former Prisoner of War (POW), **or**
- Recipient of Purple Heart medal, **or**
- Discharged for a disability that was caused by – or got worse because of – your active-duty service, **or**
- Service-connected disability that we've rated at 10% or 20% disabling, **or**
- You were awarded special eligibility classification under Title 38, U.S.C § 1151, "benefits for individuals disabled by treatment or vocational rehabilitation

Priority Group 4 & 5

Priority Group 4

- Receiving VA aid and attendance or housebound benefits, **or**
- Receiving a VA determination of being catastrophically disabled

Priority Group 5

- Service-connected disability, or you have a non-compensable service-connected disability rated as 0% disabling, **and** *you have an annual income level that's below our adjusted income limits* (based on your residential zip code), **or**
- Receiving VA pension benefits, **or**
- Eligible for Medicaid programs

Priority Group 6

We may assign you to priority group 6 if any of these descriptions are true:

- You have a compensable service-connected disability that we've rated as 0% disabling, **or**
- You participated in Project 112/SHAD, **or**
- You served in World War II between December 7, 1941, and December 31, 1946, **or**
- You served in the Persian Gulf War between August 2, 1990, and November 11, 1998, **or**
- You served on active duty at Camp Lejeune for at least 30 days between August 1, 1953, and December 31, 1987

Priority Group 6 – cont.

VETERANS OF FOREIGN WARS.

We may assign you to priority group 6 if any of these descriptions are true:

- You served in a theater of combat operations after November 11, 1998, and
- You were discharged from active duty on or after October 1, 2013, and
- You meet the minimum active-duty service requirement

*You'll have 10 years of enhanced eligibility from the date of your discharge or release; after that you'll be assigned to the highest priority group you qualify for.

Priority Group 6
Toxic Exposure Risk Activity (TERA)

VETERANS OF FOREIGN WARS.

We may assign you to priority group 6 if you were assigned to a duty station (including airspace above) in certain locations during specific periods:

- On or after August 2, 1990, in Bahrain, Iraq, Kuwait, Oman, Qatar, Saudi Arabia, Somalia, or the United Arab Emirates, or
- On or after September 11, 2001, in Afghanistan, Djibouti, Egypt, Jordan, Lebanon, Syria, Yemen, Uzbekistan, or any other country that we determine is relevant

Priority Group 6 – Toxic Exposure Risk Activity (TERA)

VETERANS OF FOREIGN WARS.

We may assign you to priority group 6 if you were deployed in support of any of these operations:

- Operation Enduring Freedom, or
- Operation Freedom's Sentinel, or
- Operation Iraqi Freedom, or
- Operation New Dawn, or
- Operation Inherent Resolve, or
- Resolute Support Mission

Priority Group 6 – Toxic Exposure Risk Activity (TERA)

VETERANS OF FOREIGN WARS.

We may assign you to priority group 6 if you were exposed to ionizing radiation in any of these ways:

- During atmospheric testing, or
- During the occupation of Hiroshima and Nagasaki, or
- While conducting cleanup of Enewetak Atoll between January 1, 1977, and December 31, 1980, or
- While participating in onsite response efforts in Palomares, Spain, between January 17, 1966, and March 31, 1967, or
- While participating in onsite response efforts on Thule Air Force Base, Greenland between January 21, 1968, and September 25, 1968

Priority Group 6 – Toxic Exposure Risk Activity (TERA)

VETERANS OF FOREIGN WARS.

We may assign you to priority group 6 if you were exposed to Agent Orange and served in any of these locations and time periods:

- The Republic of Vietnam between January 9, 1962, and May 7, 1975, or
- Thailand at any United States or Royal Thai base between January 9, 1962, and June 30, 1976, or
- Laos between December 1, 1965, and September 30, 1969, or
- Cambodia at Mimot or Krek, Kampong Cham Province between April 16, 1969, and April 30, 1969, or
- Guam or American Samoa or in the territorial waters off of Guam or American Samoa between January 9, 1962, and July 31, 1980, or
- Johnston Atoll or on a ship that called at Johnston Atoll between January 1, 1972, and September 30, 1977

Priority Group 7 & 8

Priority Group 7

- Your gross household income is below the geographically adjusted income limits (GMT) for where you live, **and**
- You agree to pay copays

Priority Group 8

- Your gross household income is above VA income limits and geographically adjusted income limits for where you live, **and**
- You agree to pay copays

Patient Advocate

Patient Advocate and their Role

- Available at every VA Medical Center
- Highly trained professionals who can help resolve concerns about aspects of your health care experience
  - Listen to questions, problems, or special needs you may have
  - Refer concerns to appropriate staff for resolution, assist in filing an appeal for a review of your concern
    - Particularly those that cannot be resolved at the point of care
- Oversight of VHA Benefits programs
- Positive/Negative feedback to VA via their website at “Ask VA” (https://ask.va.gov/)

CHAMPVA

What is CHAMPVA

Civilian Health and Medical Program of the Department of Veterans Affairs (CHAMPVA):

- 37 CFR 17.270 is the governing regulation
- ChampVA is not an insurance plan, it is a cost share program in which VA shares the cost of covered health care services and supplies with eligible beneficiaries.
- Affordable Care Act (ACA) designates CHAMPVA as fulfilling minimum essential coverage requirements
  - TRICARE
  - VA Health Care

CHAMPVA Eligibility

- Spouse or child of a Veteran who has been rated by VA as having a permanent and total service-connected disability, **or**
- Surviving spouse or child of a Veteran who died from a VA-rated service-connected disability, **or**
- Surviving spouse or child of a Veteran who was at the time of death rated permanently and totally disabled from a service-connected disability, **or**
- Surviving spouse or child of a service member who died in the line of duty, not due to misconduct*,

How to Apply for CHAMPVA

Required Documents:

- VA Form 10-10d (Application for CHAMPVA Benefits
- VA Form 10-7959c (CHAMPVA – Other Health Insurance (OHI) Certification
- Copy of Medicare card for individuals who are eligible

Optional Documents: (copies only)

- VBA decision showing permanent and total status, or death rating
- Veteran's DD-214(Certificate of Release of Discharge from Active Duty)
- Proof of Dependents
  - Marriage license, birth certificates, 18-23 years school certification for full-time enrollment (original)

How to Apply for CHAMPVA

- Apply online at VA.GOV digital portal
- Mail your application, and associated documents, to:

  VHA Office of Community Care

  CHAMPVA Eligibility

  PO Box 137

  Spring City, PA 19475

- Or fax your forms: 303-331-7809

Foreign Medical Program

What is the Foreign Medical Program

- 37 CFR 17.35 is the governing regulation
- Furnishes care to veterans for service-connected disabilities who are living or traveling outside USA
  - A condition that aggravates a service-connected disability
  - The veteran participates in the Veteran Readiness and Employment (VR&E) program, the VA may pay for care for other conditions.
- Community Care Program strictly for the veteran
  - Telehealth is not an option for this program
  - Prescription medications approved by FDA are covered
- You can use FMP only for care you get in a foreign country. It won't cover care or supplies you get in or from the U.S. or U.S. territories.

How to Apply for FMP

- VA Form 10-7959f-1 (Foreign Medical Program (FMP) Registration form
- Submit form
  - VA.GOV digital portal
  - By mail: VHA Office of Integrated Veteran Care (OIVC)
    Foreign Medical Program (FMP)
    P.O. Box 200
    Spring City, PA 19475
  - By Fax: 303-331-7803

Navigating
VA Health Care

Navigating VA Health Care

If you are working with a veteran who needs assistance with their healthcare needs:

1. Try to resolve the issue using primary care team
2. Local resources such as Patient Advocate or Chief of Service.
   - ASK VA
   - MyVA411: (800) 698-2411
3. Use the VA Health Connect service
4. File a Health Care Appeal
5. Veterans Service Organization – limited capabilities due to HIPAA

Common Health Care Issues

- Medical or Mental Health Crisis: Go to local emergency room (VA or non-VA) in the United States; if overseas seek medical guidance from FMP program manager (hotline). *Call 988 press 1 for mental health crisis!*
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- Disruptive Behavior Flags: Call your assigned facility and work with Patient Advocate/Patient Care team for specific guidance and support to access care.

Are there any questions?

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VETERANS OF FOREIGN WARS®

VA Health Care

Katherine Cassell
Assistant Director, NVS

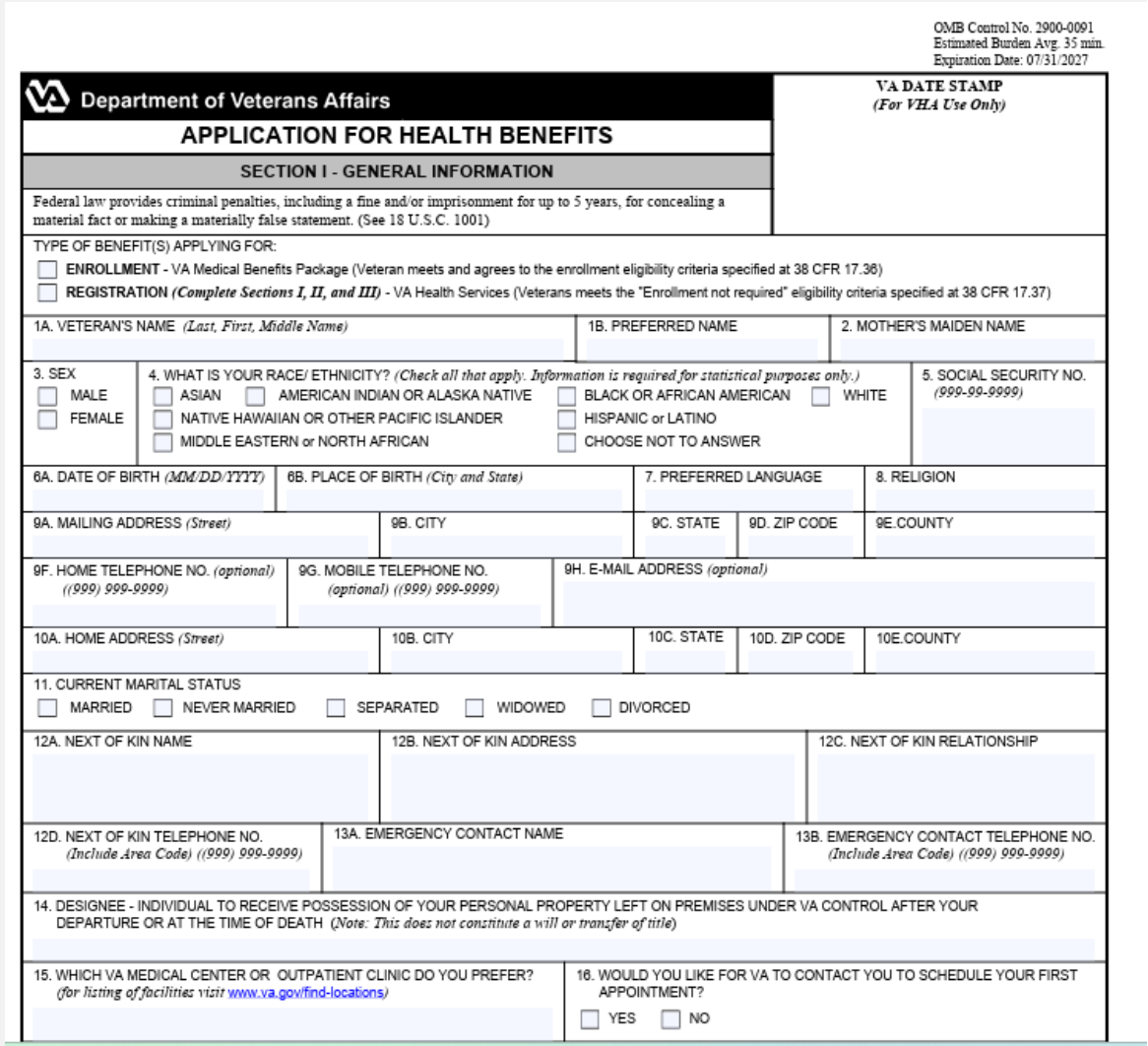
Objectives

- Enrolling/Registering for VA health care for transitioning Service Members or veterans
- What to expect at the first visit to VA
- How Service connection plays a role in health care
- Priority Groups
- Patient Advocate and their role
- CHAMPVA for Service Member's families
- Foreign Medical Program
- Navigating VA Health Care

VA Health Care
Enrolling & Registering

Enrolling vs Registering in VA Health Care

- What does “Enrolling in VA health care” mean?
  - Applying for and being approved to receive health benefits.
    - Allows veteran to access VA services
- What does “Registering for VA health care” mean?
  - This is the act of requesting medical care (medical appointments/Primary Care) at a specific VA facility.
  - A veteran may need to register multiple times throughout their lifetime
    - Initial registration/enrollment
    - Move locations – which requires care at new VA location/facility
    - Leave/terminate VA care – reinitiate to return to care



OMB Control No. 2900-0091
Estimated Burden Avg. 35 min.
Expiration Date: 07/31/2027

Department of Veterans Affairs

VA DATE STAMP
(For VHA Use Only)

APPLICATION FOR HEALTH BENEFITS

SECTION I - GENERAL INFORMATION

Federal law provides criminal penalties, including a fine and/or imprisonment for up to 5 years, for concealing a material fact or making a materially false statement. (See 18 U.S.C. 1001)

TYPE OF BENEFIT(S) APPLYING FOR:

☐ **ENROLLMENT** - VA Medical Benefits Package (Veteran meets and agrees to the enrollment eligibility criteria specified at 38 CFR 17.36)

☐ **REGISTRATION** ***(Complete Sections I, II, and III)*** - VA Health Services (Veterans meets the "Enrollment not required" eligibility criteria specified at 38 CFR 17.37)

1A. VETERAN'S NAME *(Last, First, Middle Name)*	1B. PREFERRED NAME	2. MOTHER'S MAIDEN NAME

3. SEX	4. WHAT IS YOUR RACE/ ETHNICITY? *(Check all that apply. Information is required for statistical purposes only.)*	5. SOCIAL SECURITY NO. *(999-99-9999)*
☐ MALE ☐ FEMALE	☐ ASIAN ☐ AMERICAN INDIAN OR ALASKA NATIVE ☐ BLACK OR AFRICAN AMERICAN ☐ WHITE ☐ NATIVE HAWAIIAN OR OTHER PACIFIC ISLANDER ☐ HISPANIC or LATINO ☐ MIDDLE EASTERN or NORTH AFRICAN ☐ CHOOSE NOT TO ANSWER	

6A. DATE OF BIRTH *(MM/DD/YYYY)*	6B. PLACE OF BIRTH *(City and State)*	7. PREFERRED LANGUAGE	8. RELIGION

9A. MAILING ADDRESS *(Street)*	9B. CITY	9C. STATE	9D. ZIP CODE	9E.COUNTY

9F. HOME TELEPHONE NO. *(optional)* *((999) 999-9999)*	9G. MOBILE TELEPHONE NO. *(optional) ((999) 999-9999)*	9H. E-MAIL ADDRESS *(optional)*

10A. HOME ADDRESS *(Street)*	10B. CITY	10C. STATE	10D. ZIP CODE	10E.COUNTY

11. CURRENT MARITAL STATUS

☐ MARRIED ☐ NEVER MARRIED ☐ SEPARATED ☐ WIDOWED ☐ DIVORCED

12A. NEXT OF KIN NAME	12B. NEXT OF KIN ADDRESS	12C. NEXT OF KIN RELATIONSHIP

12D. NEXT OF KIN TELEPHONE NO. *(Include Area Code) ((999) 999-9999)*	13A. EMERGENCY CONTACT NAME	13B. EMERGENCY CONTACT TELEPHONE NO. *(Include Area Code) ((999) 999-9999)*

14. DESIGNEE - INDIVIDUAL TO RECEIVE POSSESSION OF YOUR PERSONAL PROPERTY LEFT ON PREMISES UNDER VA CONTROL AFTER YOUR DEPARTURE OR AT THE TIME OF DEATH *(Note: This does not constitute a will or transfer of title)*

15. WHICH VA MEDICAL CENTER OR OUTPATIENT CLINIC DO YOU PREFER? *(for listing of facilities visit www.va.gov/find-locations)*	16. WOULD YOU LIKE FOR VA TO CONTACT YOU TO SCHEDULE YOUR FIRST APPOINTMENT? ☐ YES ☐ NO

How to Register/Enroll for VA Health Care

- Enrollment into VA health care is not automatic upon leaving service
- Enroll by completing VA Form 10-10 (Application for Health Benefits)
- Application methods
  - Phone: 877-222-8387
  - Mail: Health Eligibility Center, PO Box 5207, Janesville, WI 53547-5207
  - In-person at nearest VA facility
  - Online at va.gov
  - Trained professional (accredited service officer, claims agent, accredited attorney)
- Process takes less than 1 week for VA to make determination
  - Will receive a benefits package in mail
  - Clinic/PCM assignment

Expectations for First Visit to VA

- What to bring
- Verification of eligibility
- Complete intake form with medical history
- Medical assessment
- Discuss concerns with VA provider
  - Establish a care plan based on eligibility and need
- Share medical records
- Benefits review & answer questions

How Service connection plays a role in health care

- Eligibility for benefits
  - Service-connected condition that was caused or made worse due to active military service – *VA required to provide care*
  - Condition that has no connection to your time in service - *VA not required to provide care*
- Establishes Priority of Care and Group assignment
  - Eight priority groups; category 1 is the highest
- Used by VA to prioritize care for conditions incurred or aggravated while on active duty

Service-Connected Benefits

HOW DISABILITY RATINGS WORK

SERVICE CONNECTED PERCENTAGE	DESCRIPTION
0%	• 10 point Veteran preference in federal hiring *Compensable & Non-Compensable* • No cost health care and prescription drugs for service connected disabilities (if income limits are met) *Compensable & Non-Compensable* • Travel allowance for scheduled appointments for care at a VA medical facility or VA authorized health care facility *Compensable & Non-Compensable* • Commissary and Exchange Privileges *Compensable & Non-Compensable* • Use of commissaries, exchanges, and morale, welfare and recreation (MWR) retail facilities, in-person and online. *Compensable & Non-Compensable* • Waiver of VA funding fee for VA home loan *Compensable* • Burial and plot allowance *Compensable*
10%	• No cost health care and prescription medications for service connected disabilities • Travel allowance for scheduled appointments for care at a VA medical facility or VA authorized health care facility • Waiver of VA funding fee for home loan • 10 point Veteran preference in federal hiring • Vocational Rehabilitation & Employment (with a serious employment handicap) • Burial and plot allowance • Commissary and Exchange Privileges • Use of commissaries, exchanges, and morale, welfare and recreation (MWR) retail facilities, in-person and online.
20%	• No cost health care and prescription medications for service connected disabilities • Travel allowance for scheduled appointments for care at a VA medical facility or VA authorized health care facility • Waiver of VA funding fee for home loan • 10 point Veteran preference in federal hiring • Vocational Rehabilitation & Employment • Burial and plot allowance • Commissary and Exchange Privileges • Use of commissaries, exchanges, and morale, welfare and recreation (MWR) retail facilities, in-person and online.
30-40%	• No cost health care and prescription medications for service connected disabilities • Travel allowance for scheduled appointments for care at a VA medical facility or VA authorized health care facility • Waiver of VA funding fee for home loan • 10 point Veteran preference in federal hiring - Direct hire authority • Vocational Rehabilitation & Employment • Additional compensation for eligible dependents (may include aid and attendance for eligible spouse) • Burial and plot allowance • Commissary and Exchange Privileges • Use of commissaries, exchanges, and morale, welfare and recreation (MWR) retail facilities, in-person and online.
50%	• No cost health care and prescription medications • Travel allowance for scheduled appointments for care at a VA medical facility or VA authorized health care facility • Waiver of VA funding fee for home loan • 10 point Veteran preference in federal hiring - Direct hire authority • Vocational Rehabilitation & Employment • Additional compensation for eligible dependents (may include aid and attendance for eligible spouses) • Concurrent receipt of military retired pay • Burial and plot allowance • Commissary and Exchange Privileges • Use of commissaries, exchanges, and morale, welfare and recreation (MWR) retail facilities, in-person and online.
60-90%	• No cost health care and prescription medications • Travel allowance for scheduled appointments for care at a VA medical facility or VA authorized health care facility • Waiver of VA funding fee for home loan • 10 point Veteran preference in federal hiring - Direct hire authority • Vocational Rehabilitation & Employment • Additional compensation for eligible dependents (may include aid and attendance for eligible spouses) • Concurrent receipt of military retired pay • Individual Unemployability (must be unemployable due to service connected disabilities) - Dependents Educational Assistance (unemployable condition must be considered permanent) : Special restorative training, CHAMPVA–Civilian Health and Medical Program (unemployable condition must be considered permanent), Dental care (if rated unemployable) • Burial and plot allowance • Commissary and Exchange Privileges • Use of commissaries, exchanges, and morale, welfare and recreation (MWR) retail facilities, in-person and online.
100%	• No cost health care and prescription medications • Travel allowance for scheduled appointments for care at a VA medical facility or VA authorized health care facility • No cost dental care • Waiver of VA funding fee for home loan • 10 point Veteran preference in federal hiring - Direct hire authority • Vocational Rehabilitation & Employment • Additional compensation for eligible dependents (may include aid and attendance for eligible spouses) • Concurrent receipt of military retired pay • Dependents Education Assistance (must be considered permanent) - Special restorative training • CHAMPVA–Civilian Health and Medical Program (must be considered permanent) • Burial and plot allowance • Uniformed Services ID card
100% with an additional separate 60%	• Statutory Housebound • Commissary and Exchange Privileges • Use of commissaries, exchanges, and morale, welfare and recreation (MWR) retail facilities, in-person and online.

VFW VETERANS OF FOREIGN WARS.

Priority Groups

Priority Groups 1 & 2

Priority Group 1

- Service-connected disability rated as 50% or more disabling, **or**
- Service-connected disability that has been determined to make you unable to work (also called unemployable), **or**
- Medal of Honor (MOH) recipient

Priority Group 2

- Service-connected disability rated as 30% or 40% disabling

Priority Group 3

Priority Group 3

- Former Prisoner of War (POW), **or**
- Recipient of Purple Heart medal, **or**
- Discharged for a disability that was caused by – or got worse because of – your active-duty service, **or**
- Service-connected disability that we've rated at 10% or 20% disabling, **or**
- You were awarded special eligibility classification under Title 38, U.S.C § 1151, "benefits for individuals disabled by treatment or vocational rehabilitation

Priority Group 4 & 5

Priority Group 4

- Receiving VA aid and attendance or housebound benefits, **or**
- Receiving a VA determination of being catastrophically disabled

Priority Group 5

- Service-connected disability, or you have a non-compensable service-connected disability rated as 0% disabling, **and** *you have an annual income level that's below our adjusted income limits* (based on your residential zip code), **or**
- Receiving VA pension benefits, **or**
- Eligible for Medicaid programs

Priority Group 6

We may assign you to priority group 6 if any of these descriptions are true:

- You have a compensable service-connected disability that we've rated as 0% disabling, **or**
- You participated in Project 112/SHAD, **or**
- You served in World War II between December 7, 1941, and December 31, 1946, **or**
- You served in the Persian Gulf War between August 2, 1990, and November 11, 1998, **or**
- You served on active duty at Camp Lejeune for at least 30 days between August 1, 1953, and December 31, 1987

Priority Group 6 – cont.

VETERANS OF FOREIGN WARS.

We may assign you to priority group 6 if any of these descriptions are true:

- You served in a theater of combat operations after November 11, 1998, and
- You were discharged from active duty on or after October 1, 2013, and
- You meet the minimum active-duty service requirement

*You'll have 10 years of enhanced eligibility from the date of your discharge or release; after that you'll be assigned to the highest priority group you qualify for.

Priority Group 6
Toxic Exposure Risk Activity (TERA)

VETERANS OF FOREIGN WARS.

We may assign you to priority group 6 if you were assigned to a duty station (including airspace above) in certain locations during specific periods:

- On or after August 2, 1990, in Bahrain, Iraq, Kuwait, Oman, Qatar, Saudi Arabia, Somalia, or the United Arab Emirates, or
- On or after September 11, 2001, in Afghanistan, Djibouti, Egypt, Jordan, Lebanon, Syria, Yemen, Uzbekistan, or any other country that we determine is relevant

Priority Group 6 – Toxic Exposure Risk Activity (TERA)

VETERANS OF FOREIGN WARS.

We may assign you to priority group 6 if you were deployed in support of any of these operations:

- Operation Enduring Freedom, or
- Operation Freedom's Sentinel, or
- Operation Iraqi Freedom, or
- Operation New Dawn, or
- Operation Inherent Resolve, or
- Resolute Support Mission

Priority Group 6 – Toxic Exposure Risk Activity (TERA)

VETERANS OF FOREIGN WARS.

We may assign you to priority group 6 if you were exposed to ionizing radiation in any of these ways:

- During atmospheric testing, or
- During the occupation of Hiroshima and Nagasaki, or
- While conducting cleanup of Enewetak Atoll between January 1, 1977, and December 31, 1980, or
- While participating in onsite response efforts in Palomares, Spain, between January 17, 1966, and March 31, 1967, or
- While participating in onsite response efforts on Thule Air Force Base, Greenland between January 21, 1968, and September 25, 1968

Priority Group 6 – Toxic Exposure Risk Activity (TERA)

VETERANS OF FOREIGN WARS.

We may assign you to priority group 6 if you were exposed to Agent Orange and served in any of these locations and time periods:

- The Republic of Vietnam between January 9, 1962, and May 7, 1975, or
- Thailand at any United States or Royal Thai base between January 9, 1962, and June 30, 1976, or
- Laos between December 1, 1965, and September 30, 1969, or
- Cambodia at Mimot or Krek, Kampong Cham Province between April 16, 1969, and April 30, 1969, or
- Guam or American Samoa or in the territorial waters off of Guam or American Samoa between January 9, 1962, and July 31, 1980, or
- Johnston Atoll or on a ship that called at Johnston Atoll between January 1, 1972, and September 30, 1977

Priority Group 7 & 8

Priority Group 7

- Your gross household income is below the geographically adjusted income limits (GMT) for where you live, **and**
- You agree to pay copays

Priority Group 8

- Your gross household income is above VA income limits and geographically adjusted income limits for where you live, **and**
- You agree to pay copays

Patient Advocate

Patient Advocate and their Role

- Available at every VA Medical Center
- Highly trained professionals who can help resolve concerns about aspects of your health care experience
  - Listen to questions, problems, or special needs you may have
  - Refer concerns to appropriate staff for resolution, assist in filing an appeal for a review of your concern
    - Particularly those that cannot be resolved at the point of care
- Oversight of VHA Benefits programs
- Positive/Negative feedback to VA via their website at “Ask VA” (https://ask.va.gov/)

CHAMPVA

What is CHAMPVA

Civilian Health and Medical Program of the Department of Veterans Affairs (CHAMPVA):

- 37 CFR 17.270 is the governing regulation
- ChampVA is not an insurance plan, it is a cost share program in which VA shares the cost of covered health care services and supplies with eligible beneficiaries.
- Affordable Care Act (ACA) designates CHAMPVA as fulfilling minimum essential coverage requirements
  - TRICARE
  - VA Health Care

CHAMPVA Eligibility

- Spouse or child of a Veteran who has been rated by VA as having a permanent and total service-connected disability, **or**
- Surviving spouse or child of a Veteran who died from a VA-rated service-connected disability, **or**
- Surviving spouse or child of a Veteran who was at the time of death rated permanently and totally disabled from a service-connected disability, **or**
- Surviving spouse or child of a service member who died in the line of duty, not due to misconduct*,

How to Apply for CHAMPVA

Required Documents:

- VA Form 10-10d (Application for CHAMPVA Benefits
- VA Form 10-7959c (CHAMPVA – Other Health Insurance (OHI) Certification
- Copy of Medicare card for individuals who are eligible

Optional Documents: (copies only)

- VBA decision showing permanent and total status, or death rating
- Veteran's DD-214(Certificate of Release of Discharge from Active Duty)
- Proof of Dependents
  - Marriage license, birth certificates, 18-23 years school certification for full-time enrollment (original)

How to Apply for CHAMPVA

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  CHAMPVA Eligibility

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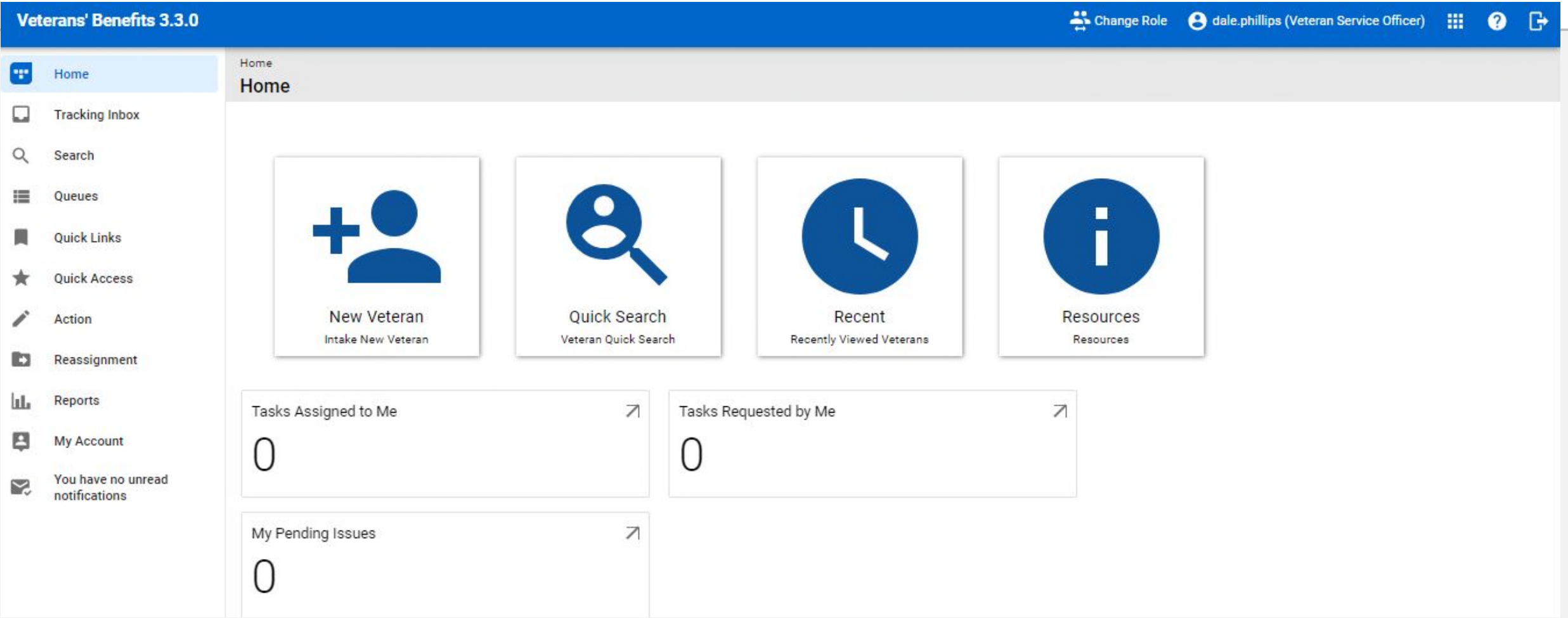


Introduction to TVB Claims Management System

Lesson Objectives

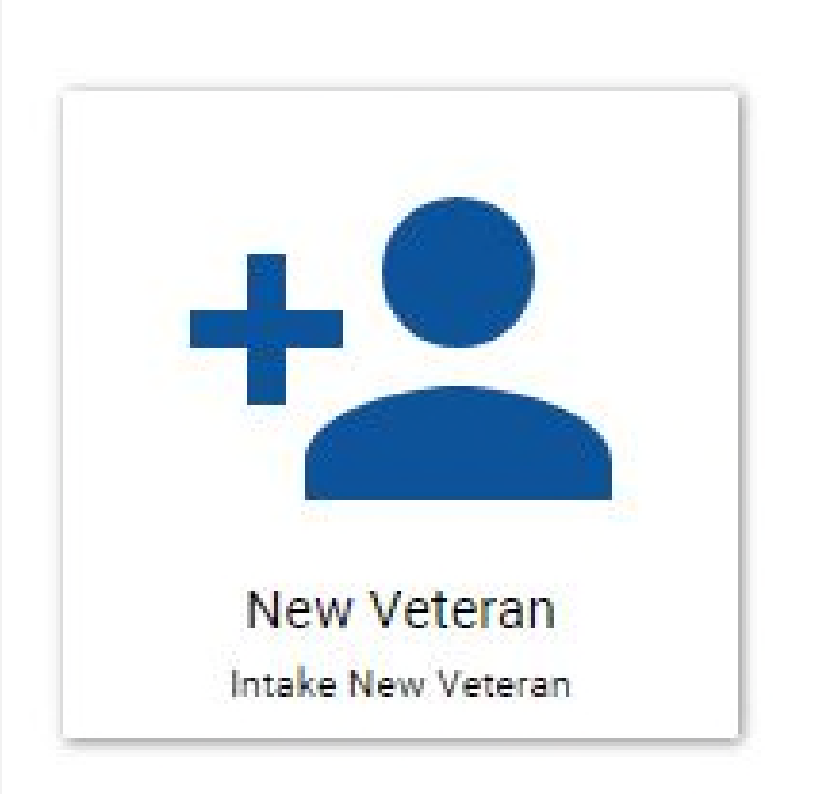
- TVB Home Screen click and explain each tile and column button
- Creating a new veteran folder
- Assigning a Veteran
- Tabs in the veteran’s folder
- The traditional TVB Claim submission process
- VA Benefits Claims Log in Process
- How to check POA Status
- Using VA Benefits claims to submit ITF, POA and 526EZ

TVB Home Screen



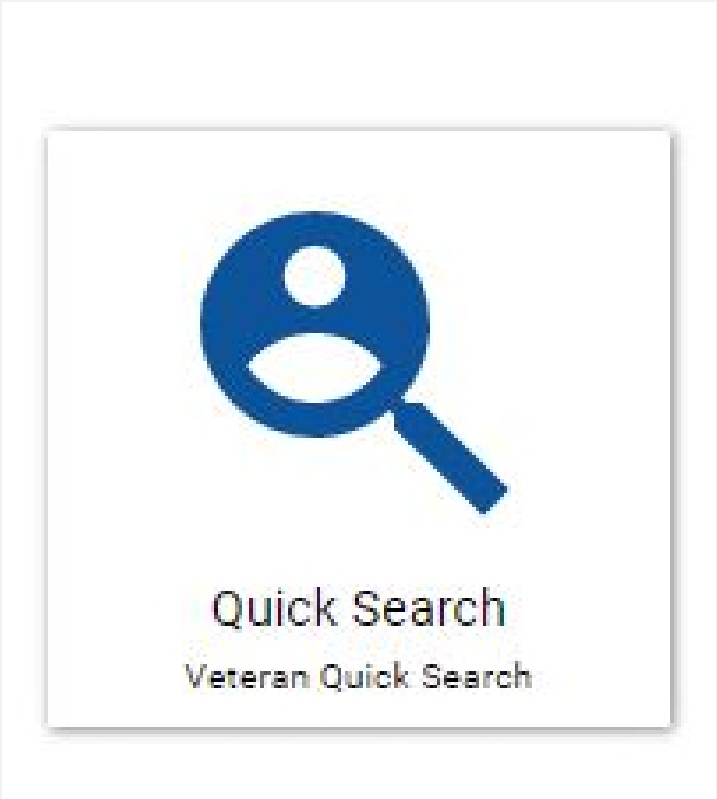
TVB Home Screen New Veteran

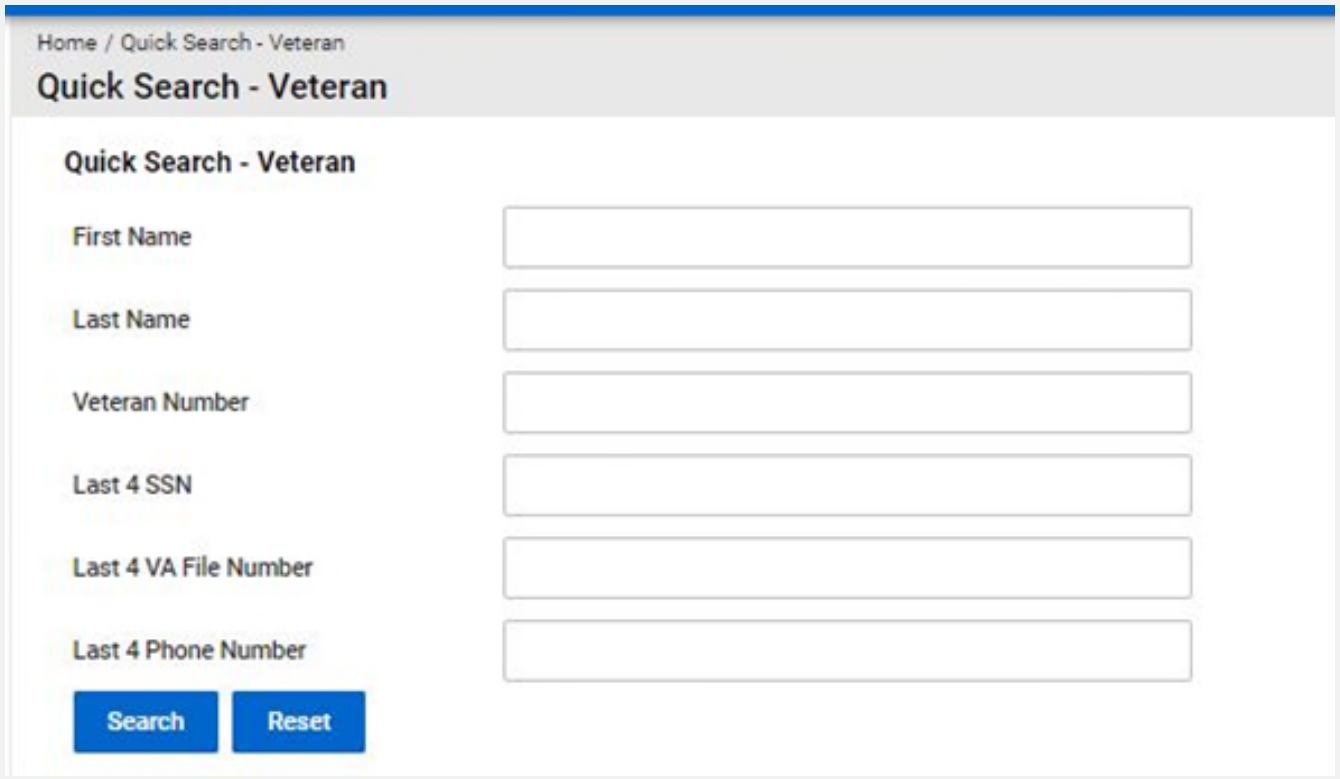
The New Veteran Button is used to create new veteran folders



TVB Home Screen Quick Search

The Quick Search function allows users to search for veteran folders

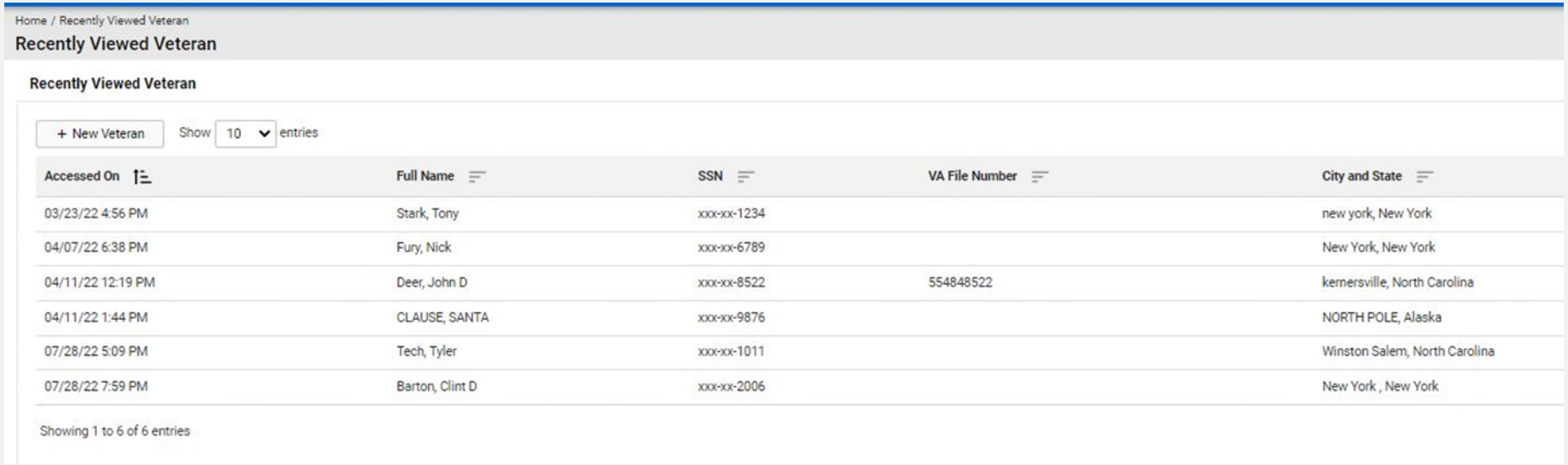




TVB Home Recent

The Recent function takes users to a listing of recent veteran folders they visited





Home / Recently Viewed Veteran

Recently Viewed Veteran

Recently Viewed Veteran

+ New Veteran Show 10 entries

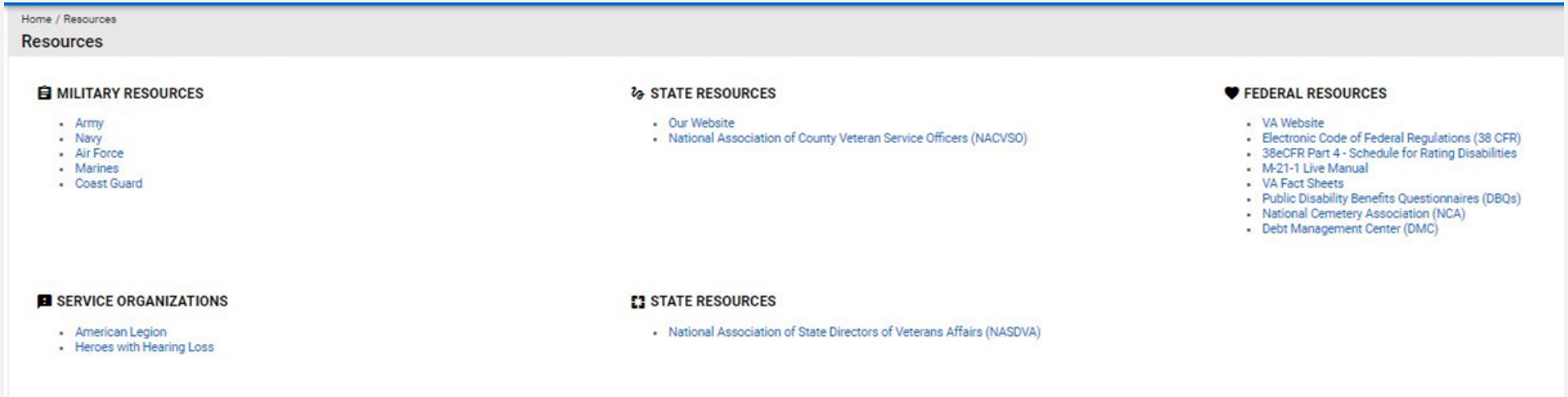
Accessed On	Full Name	SSN	VA File Number	City and State
03/23/22 4:56 PM	Stark, Tony	xxx-xx-1234		new york, New York
04/07/22 6:38 PM	Fury, Nick	xxx-xx-6789		New York, New York
04/11/22 12:19 PM	Deer, John D	xxx-xx-8522	554848522	kernersville, North Carolina
04/11/22 1:44 PM	CLAUSE, SANTA	xxx-xx-9876		NORTH POLE, Alaska
07/28/22 5:09 PM	Tech, Tyler	xxx-xx-1011		Winston Salem, North Carolina
07/28/22 7:59 PM	Barton, Clint D	xxx-xx-2006		New York , New York

Showing 1 to 6 of 6 entries

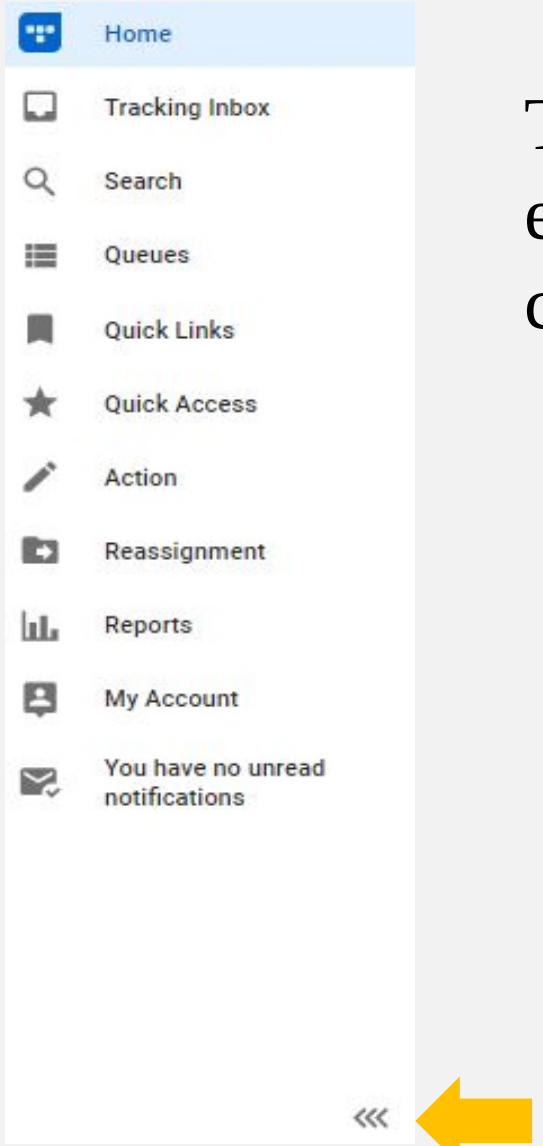
TVB Home Resources

The Resources function takes users to a listing of DOD and VA resources



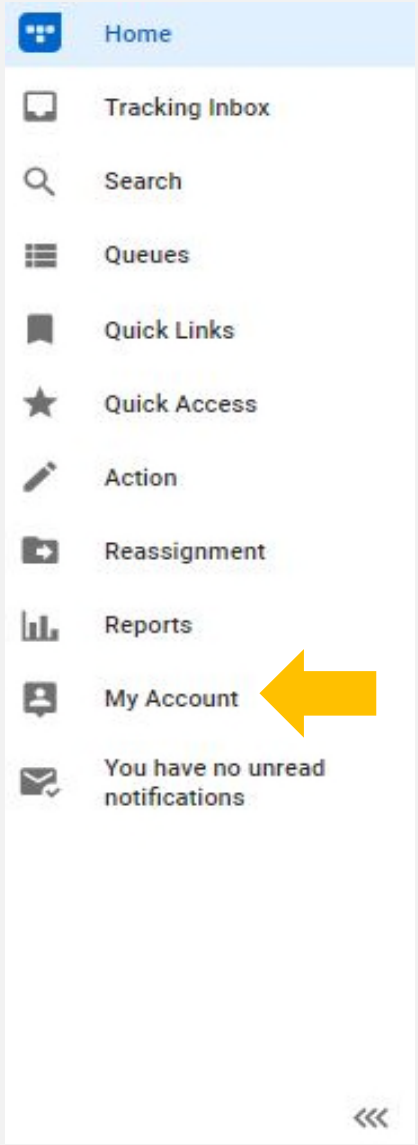


TVB Home Screen Columns



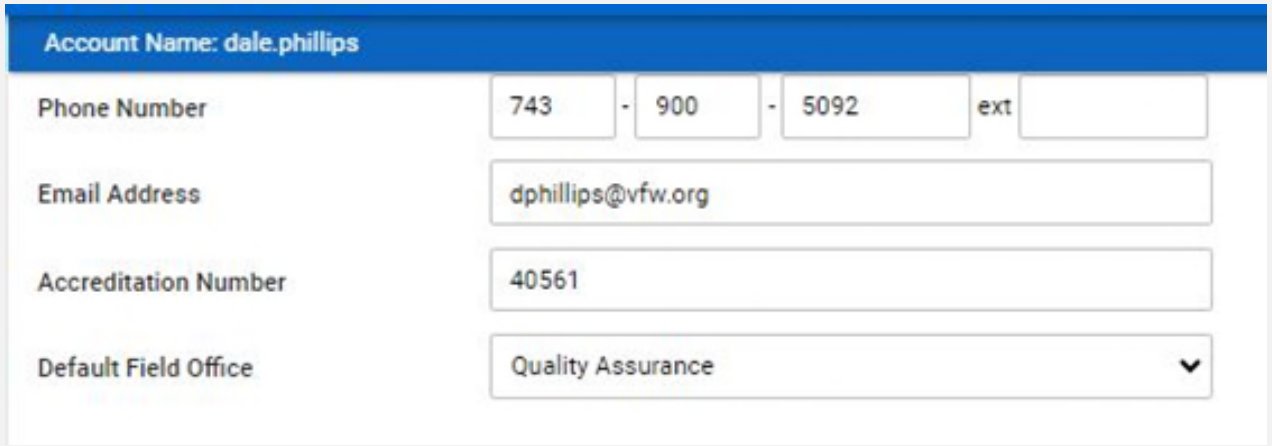
The home screen displays a column with icons. To expand this to show what each icon is named, click on the arrows marked below.

My Account Set Up



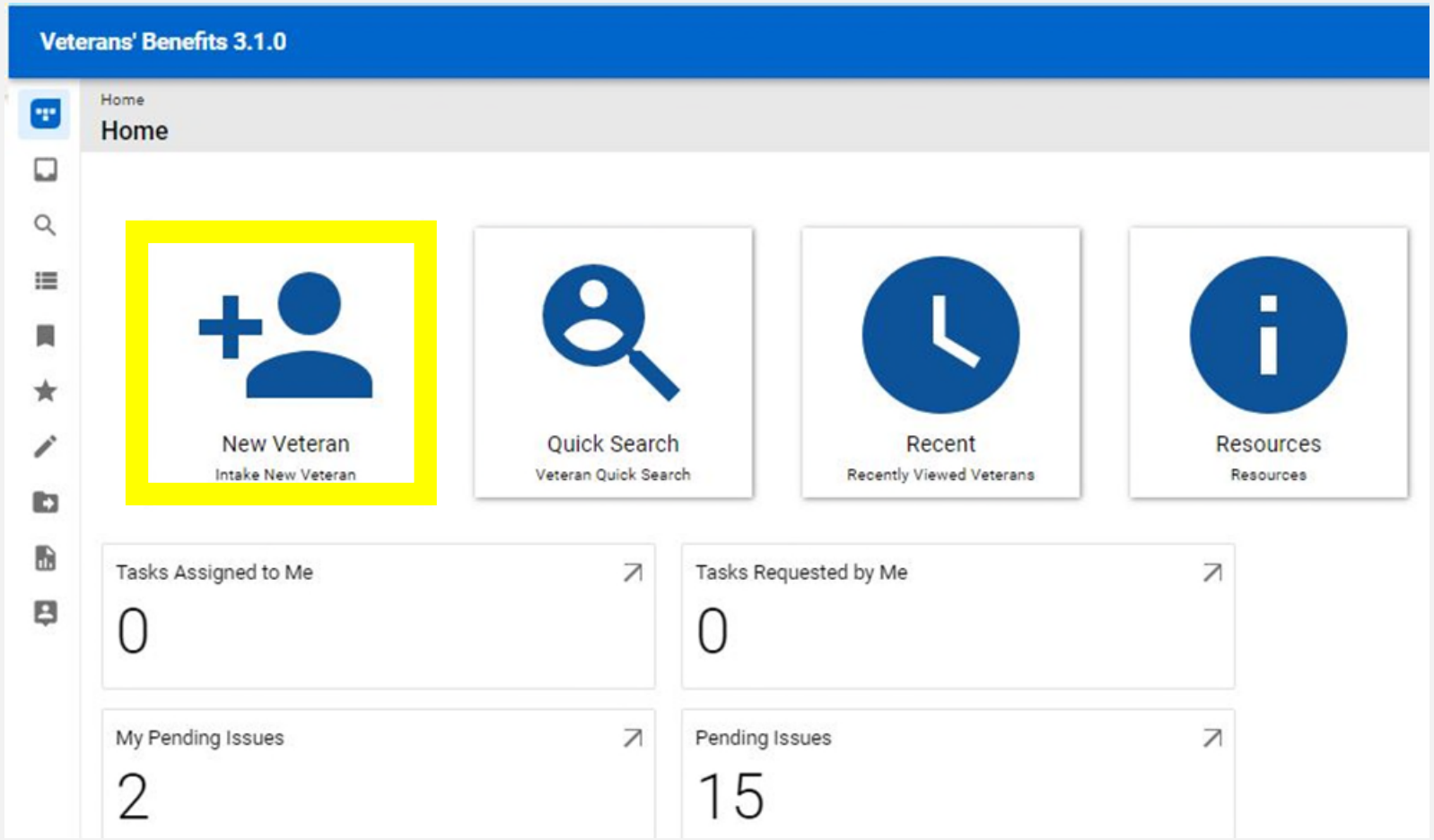
The first time a user logs into TVB they will need to access their account found on the TVB Column. From there they will need to update their information including **Default Field Office.**

**** Your Field Office is the state your office is located in****



Adding a new Veteran

To add a new veteran from the home screen click on the icon titled: **“+ New Veteran”**



Things to consider when adding a veteran

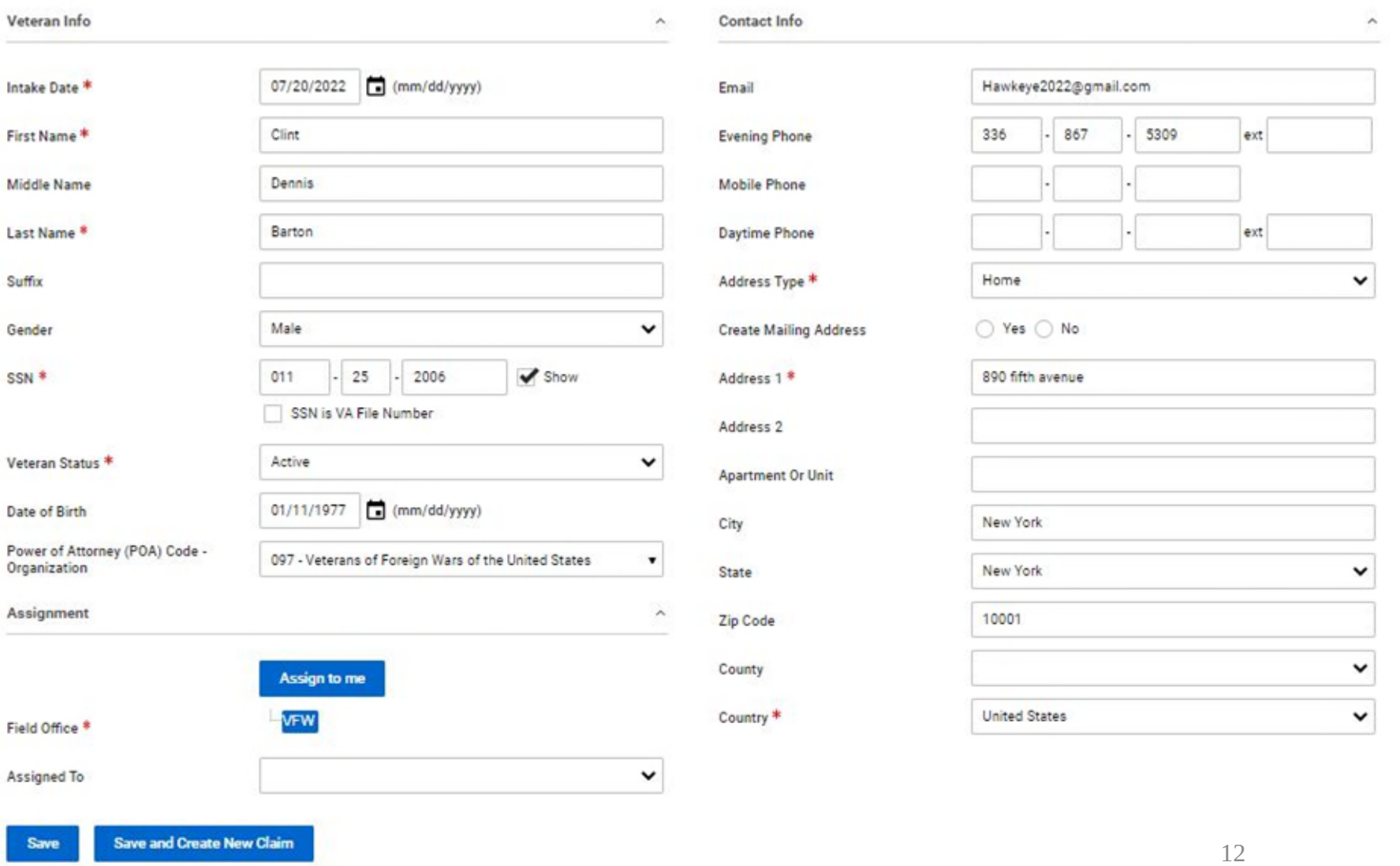
Not all the fields are required to create a record, but it is encouraged to fill out all applicable fields because:

- Missing fields on veteran screen = missing fields on future claim forms submitted from TVB
- If data such as contact information is omitted, users may not be able to contact the veteran.
- The data will need to be captured at some point; capture it correctly in the beginning.
- The more data captured, the easier it is to track trends and search for specific situations
- The data is only as good as the data entered “Garbage in Garbage out”

Creating a veteran folder

Once all veteran data has been captured, the last step is to **Assign** the veteran to the correct **Field Office** and **VSO.**

If the user Updated Their Account to reflect their Field Office they may click the “Assign to Me” and it will auto populate.



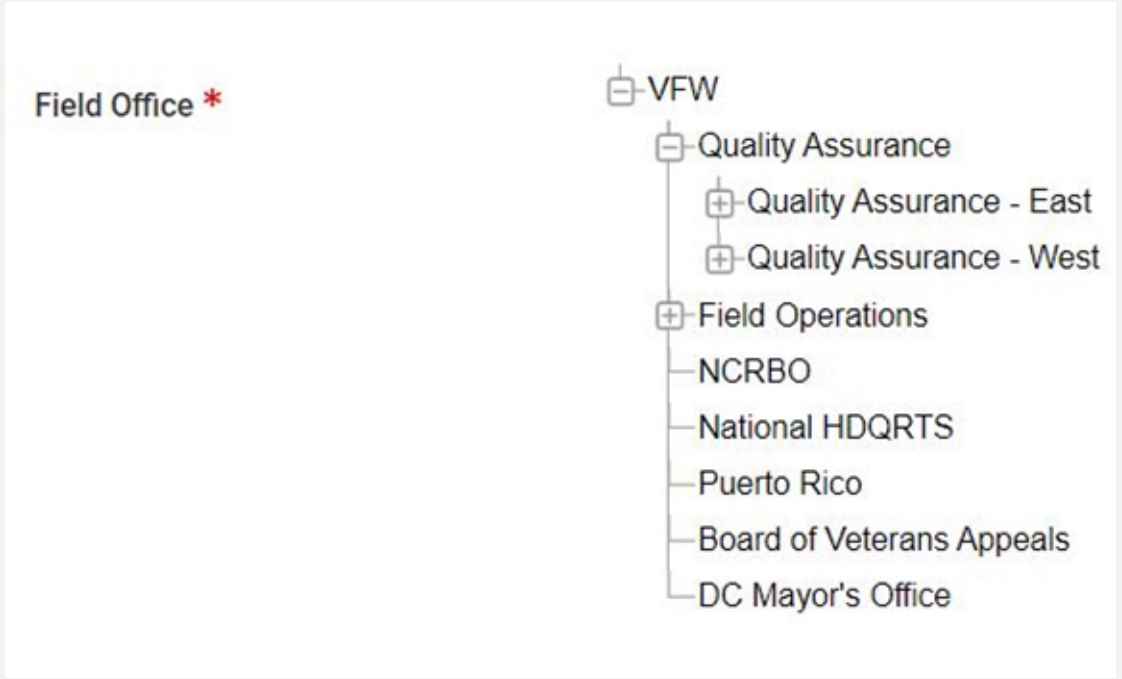
Assigning a Veteran

The foundation for TVB is in properly assigning claims to the correct **Field Office** and **Service Officer**. Failure to do this results in reports not being able to be run and extra work through repeated steps later.

Assigning a Veteran to the Field Office

When creating a new veteran folder in TVB, follow these steps to assign the veteran to the correct **Field Office**:

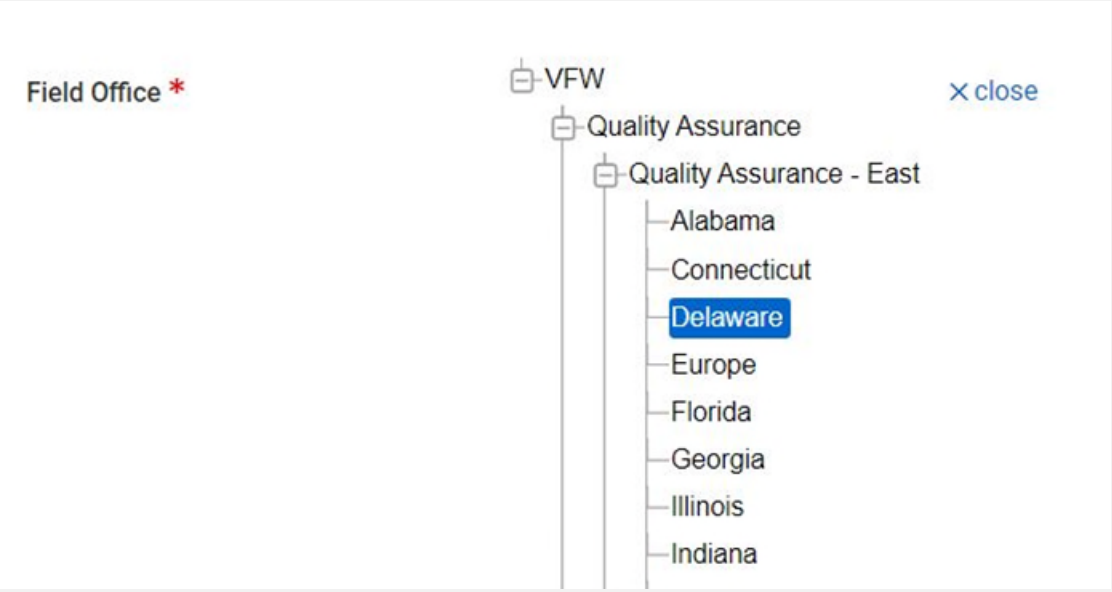
1) In the required area of Field Office, Select the + next to VFW to expand the drop-down menu
2) Click **Quality Assurance (QA)**.
3) Click on the region your office is located in **QA East** or **QA West**



Assigning a Veteran to the Field Office

With the correct Quality Assurance Region Selected a new dropdown will populate with that region's states.

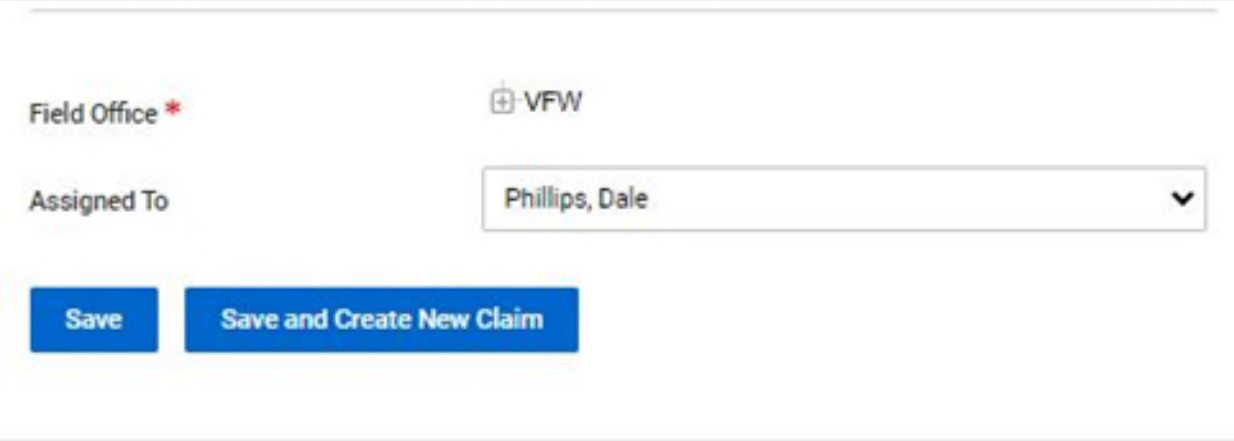
Select the **State** your office is located in to correctly assign the **Field Office**



Assigning a Veteran to the VSO

With the field office correctly assigned the VSO can now assign the veteran to their TVB profile by:

1) Click the dropdown box next to Assigned To and select **Your Name**.
2) Click either Save or Save and Create New Claim to complete process.

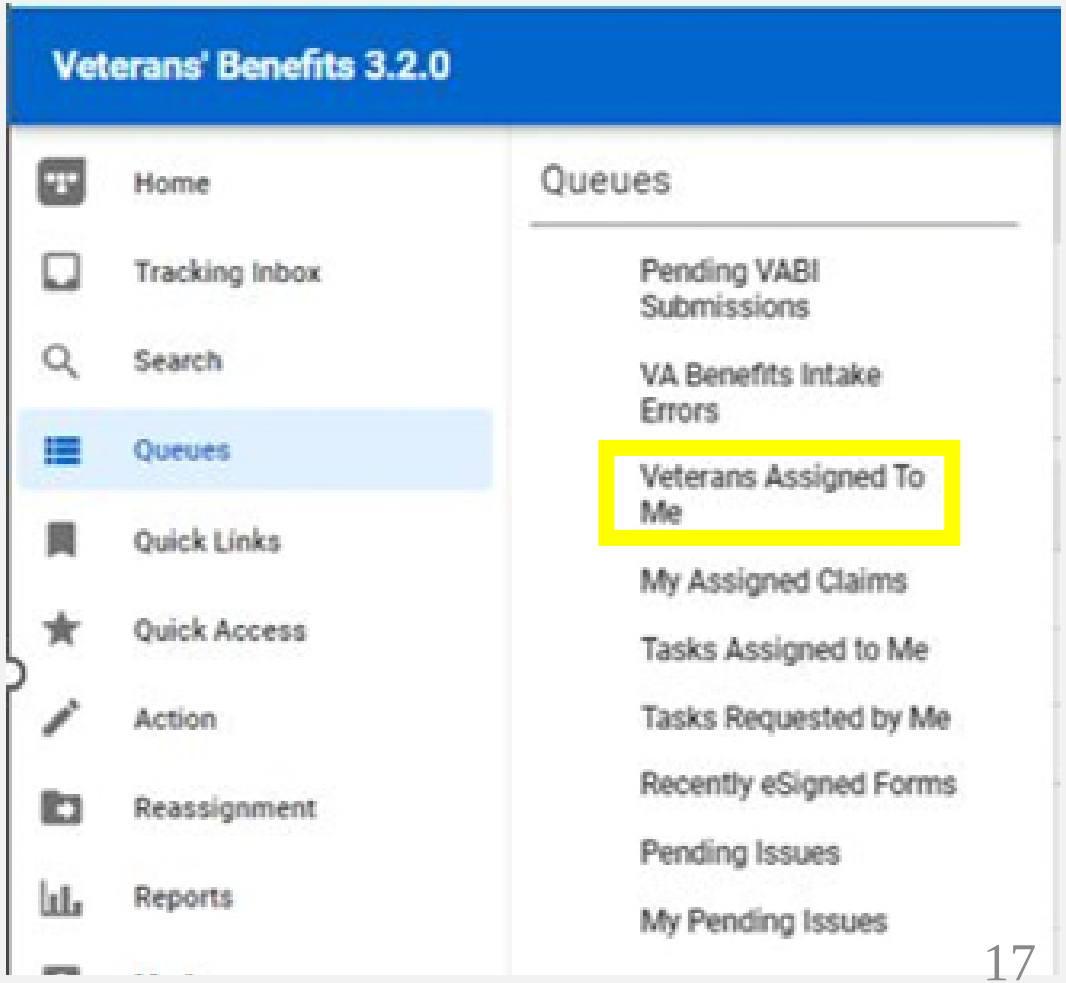


Veterans Assigned to Me

All veterans that are assigned to the user can be viewed in one location in TVB.

To view these veterans click:

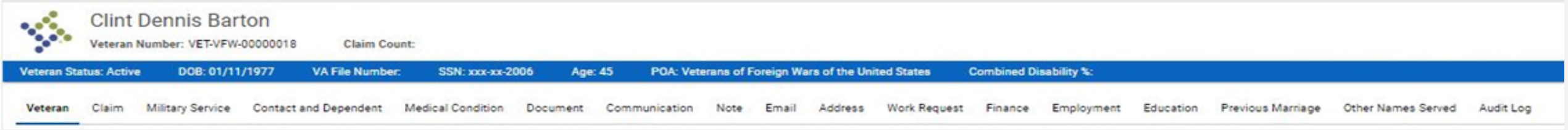
1. Queues
2. Veterans Assigned to Me



The Veteran's Folder

Once in a Veteran's folder, users will see a header with tabs that take them to other aspects of the veteran's folder.

Special Note** When clicking a tab, to enter data into the corresponding section, you must click +New



- Claim
- Military Service
- Contact and Dependent
- Medical Condition
- Document
- Communication
- Note
- Email
- Address
- Work Request
- Finance
- Employment
- Education
- Previous Marriage
- Other Names Served
- Audit Log

Tabs in the veteran's folder



- **Claim:** Used to submit a claim through TVB
- **Military Service:** Documents military service and VFW membership
- **Contact and Dependent:** Captures dependent information
- **Medical Condition:** Will be used to enter and track conditions to assist with claim submission. Currently not active – will be active in a future update
- **Document:** Houses the veteran's documents
- **Communication:** Used to enter a communication about veteran
- **Note:** For general use
- **Email:** TVB can compose and send an email from the program but cannot receive email.

Tabs in the veteran's folder



- **Address:** Used to capture veteran's address
- **Work Request:** Used to assign a claim or action from one VSO to another
- **Finance:** Captures veteran's financial records
- **Employment:** Captures veteran's employment records
- **Education:** Captures veteran's education records
- **Previous Marriage:** Captures veteran's previous marriage
- **Other Names Served:** Captures veteran's aliases
- **Audit Log:** Provides a history of actions taken by account users in the veteran's folder

Tabs in Veteran Folder: Medical Condition

The current version of TVB has entry-level steps for Application Programming Interface (API) using the Medical Condition Tab.

Currently, this API is not ready for use but once it is, we will release training material on how to utilize this advanced functionality.

Tabs in Veteran Folder: Communication

The Communication tab in TVB provides a history of VFW's interaction with the veteran.

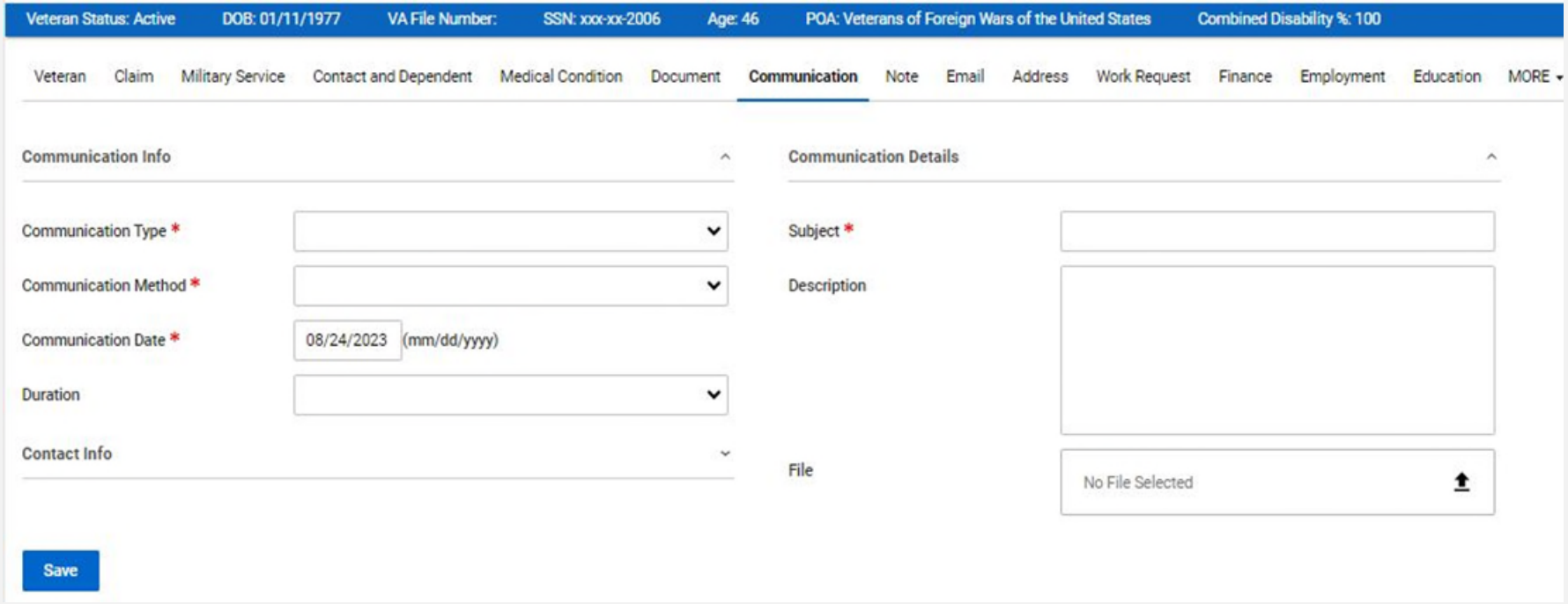
All Communications must be captured in TVB to when communicating with a veteran.

A **General Communication** can be created using the following:
TVB Column—Action—New Communication

Tabs in Veteran Folder: Communication

Required fields consist of:

- **Communication Type**
- **Communication Method**
- **Communication Date**
  (Auto populates to today's date)
- **Subject**



Files uploaded into a communication **DO NOT** populate into Veteran's
Documents folder OR in the Claim Package Tab.

Submitting a claim to VA using TVB

From the veteran folder click on the **Claim** tab at the top.



Submitting a claim to VA using TVB

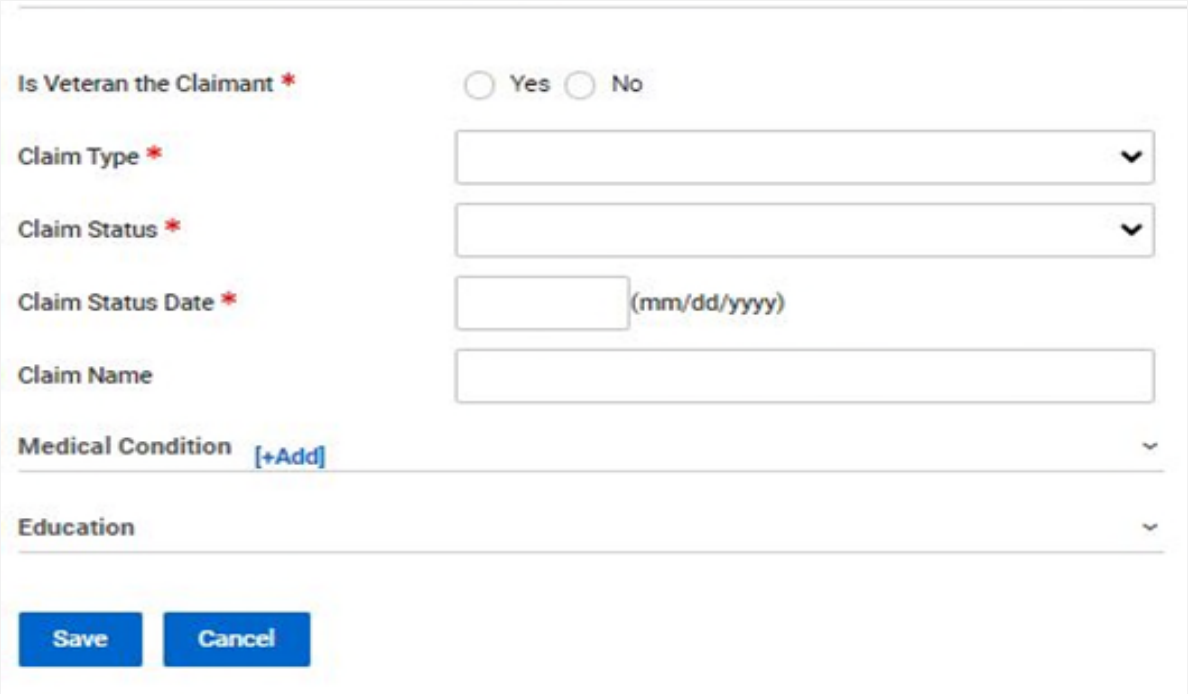
The page will now display the claim page and the user may begin selecting a form to generate in TVB.

Claim Type: Compensation, DIC, Education, NSC Pension etc.

Claim Status: Active, HLR, ITF, Supplemental claim and Incomplete claim

Claim Status Date: Date the claim was generated

Save: Saves the pages and allows users to advance



Claim Status

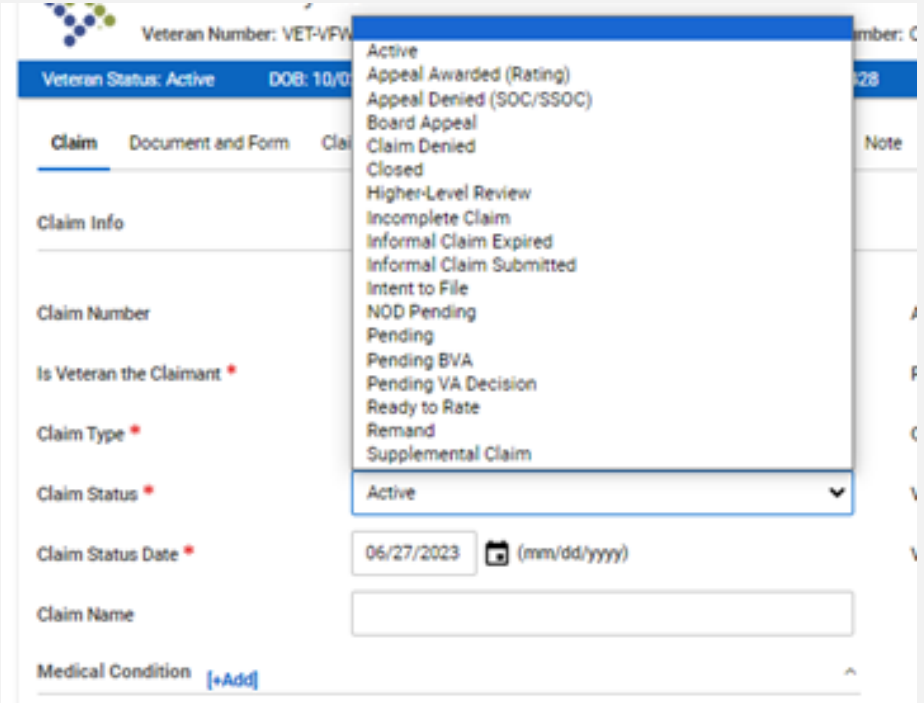
When submitting claims through TVB, it is **Required** to select from the appropriate claim status selection:
Active: 21-526EZ, 686C, 21P-530, 10-10EZ, 21P-527EZ, 21P-534EZ

Higher Level Review: 20-0996

Intent to File: 21-0966

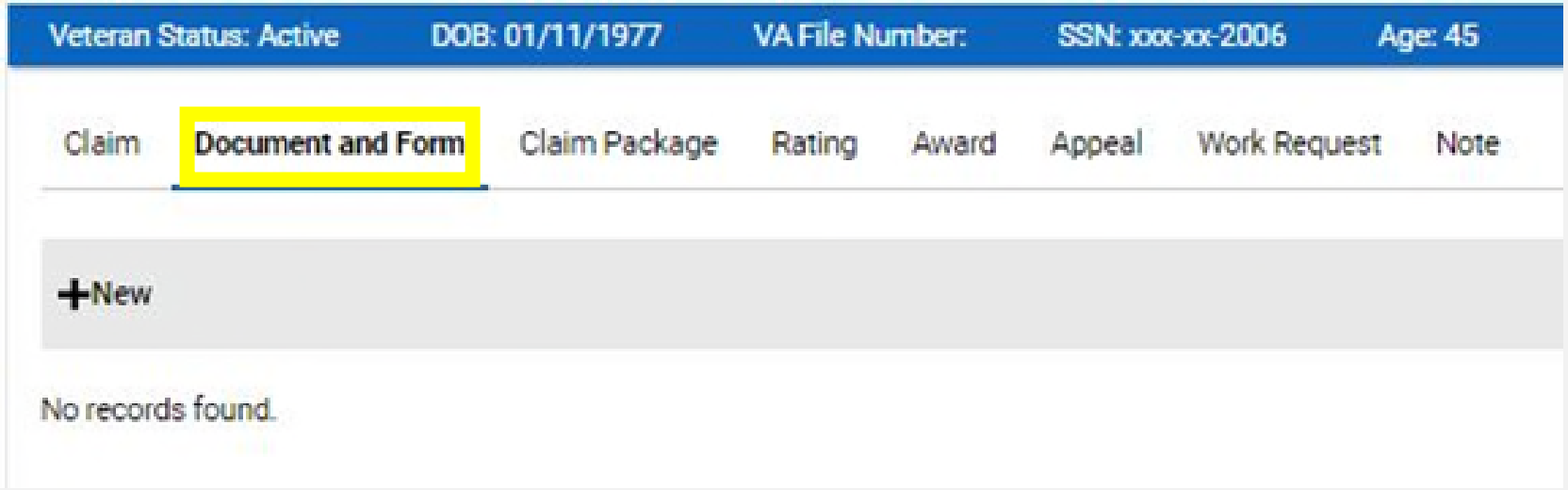
Supplemental Claim: 20-0995

Incomplete claim: 21-22 and any other documents or supporting forms submitted to VA



Submitting a claim to VA using TVB

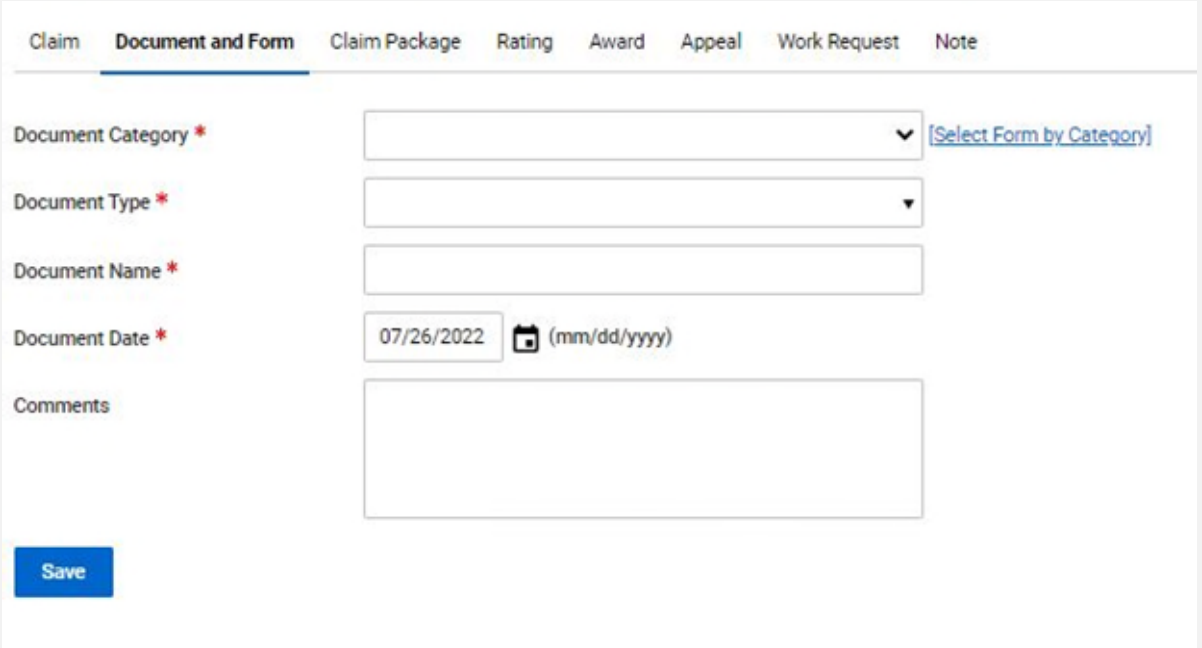
Once the Claim Tab is saved users advance to the , "**Document and Form**" Tab and press **+New**



Submitting a claim to VA using TVB

Pressing **+New** takes you to this page where you will fill in the required fields

Document Category: Forms, General Correspondence, Other
Document Type: If Forms was previously selected VA Forms Populate this section
Document Name: does not auto populate
Document Date: This auto-populates to today's date.



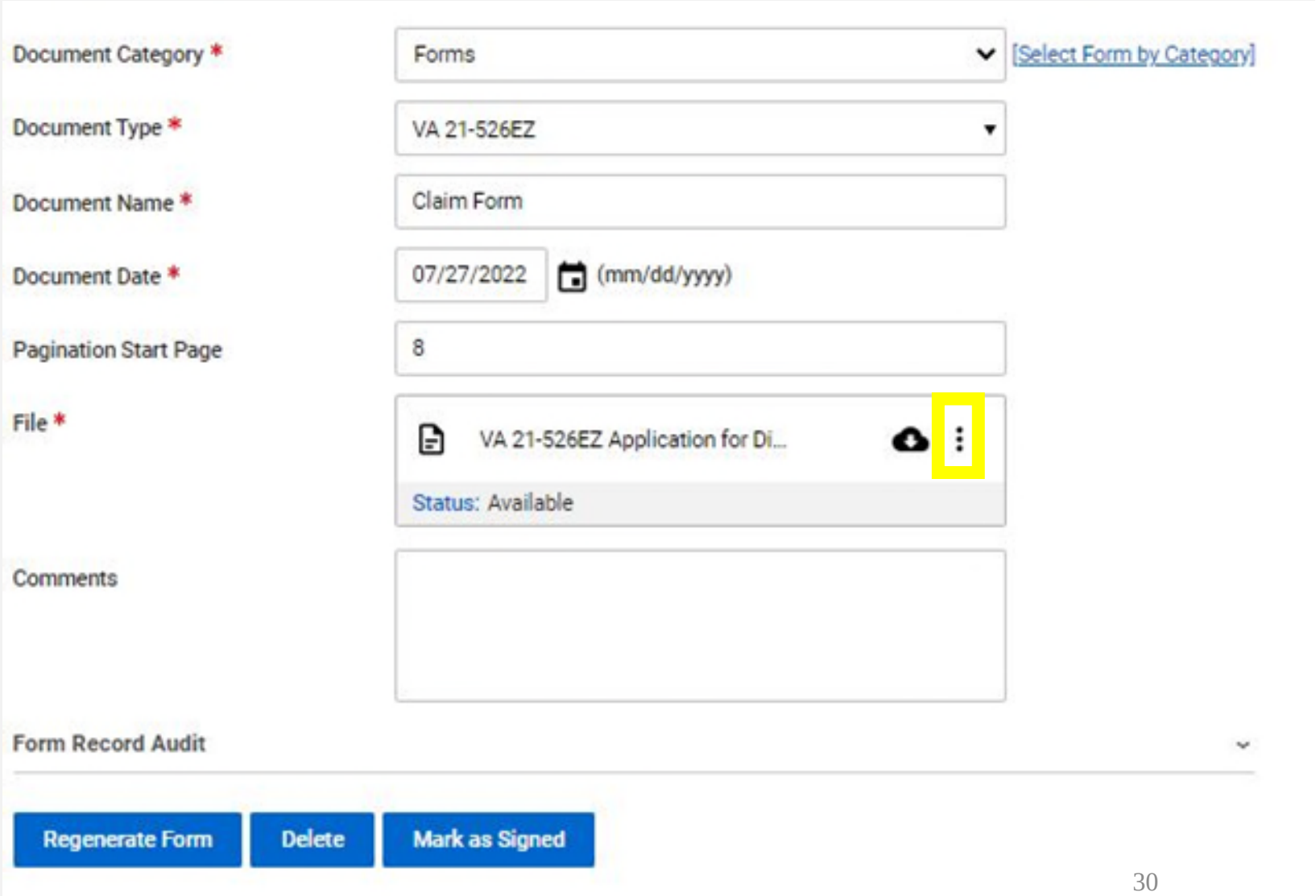
Submitting a claim to VA using TVB



Once the form has been generated, TVB will redirect you to the “Document and Form” Page and display your recently completed form.

Submitting a claim to VA using TVB

With the required fields completed users can **Edit** the document by clicking the 3 circles



Submitting a claim to VA using TVB

At the bottom of the page you will see 4 symbols:

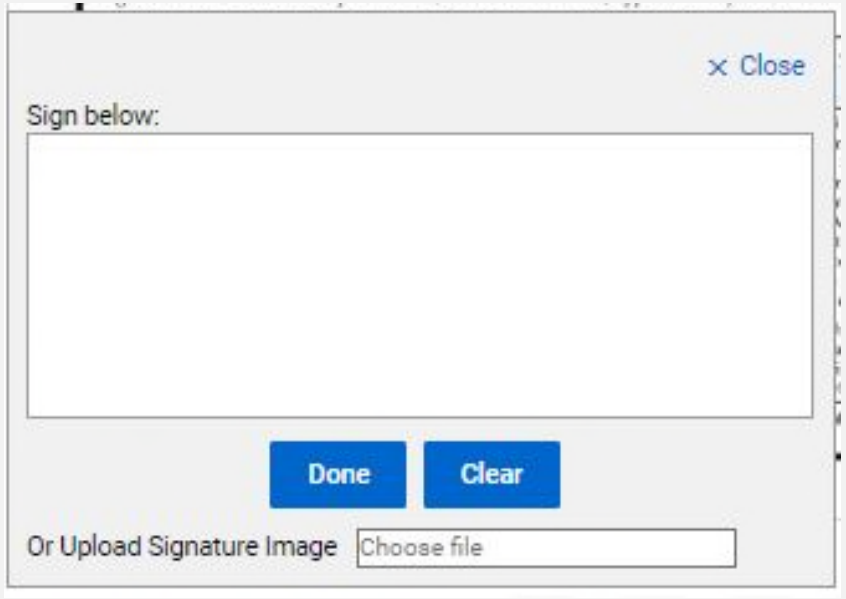


Submitting a claim to VA using TVB

Once the form is complete, it will need to be signed. To do this click “Add Signature” which will pop up the signature box.

In the signature box you can either manually create a signature using your mouse or upload a **signature image**. Once finished click save.



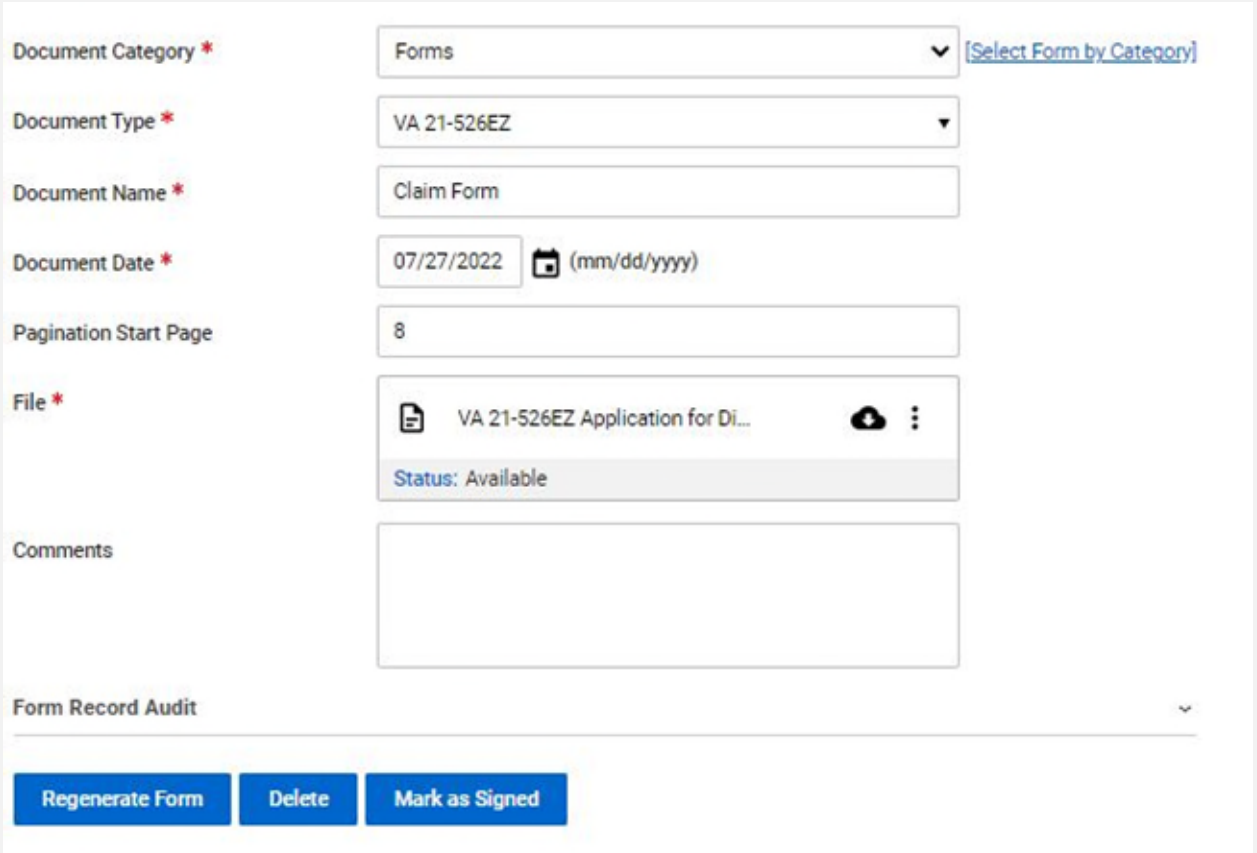


Submitting a claim to VA using TVB

Once the signed document has been saved, Click

Mark as Signed

Once the document has been marked as signed, no edits on the signed form can be made. Users will need to hit **Save** and move on to the next step in the claim process



Submitting a claim to VA using TVB

On this screen users will need to enter in the following:

1) Name of the claim

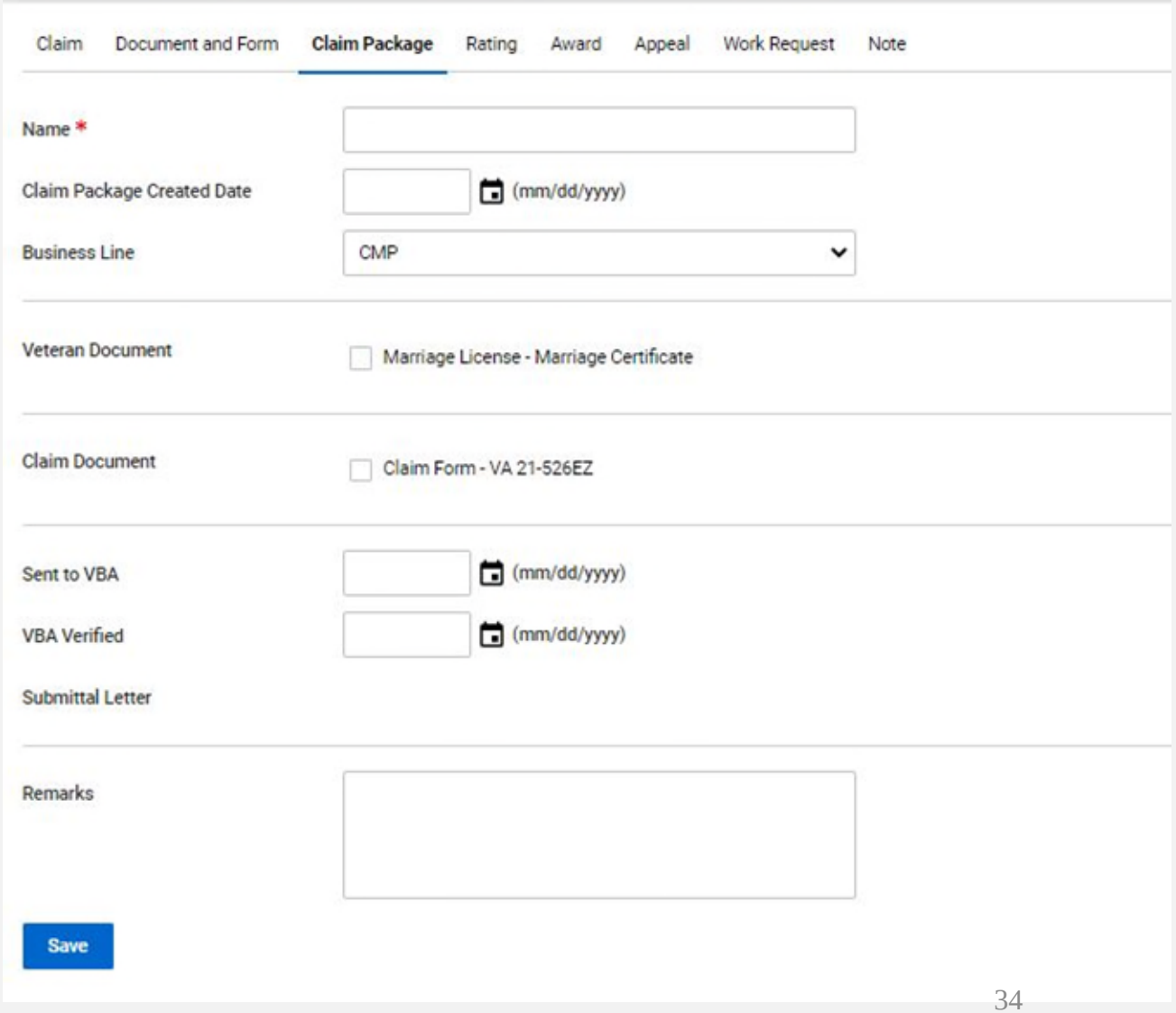
2) Claim Package Created Date

3) Select the Business Line

4) Select all documents you want sent to VA

5) Select the date the claim was sent to VBA

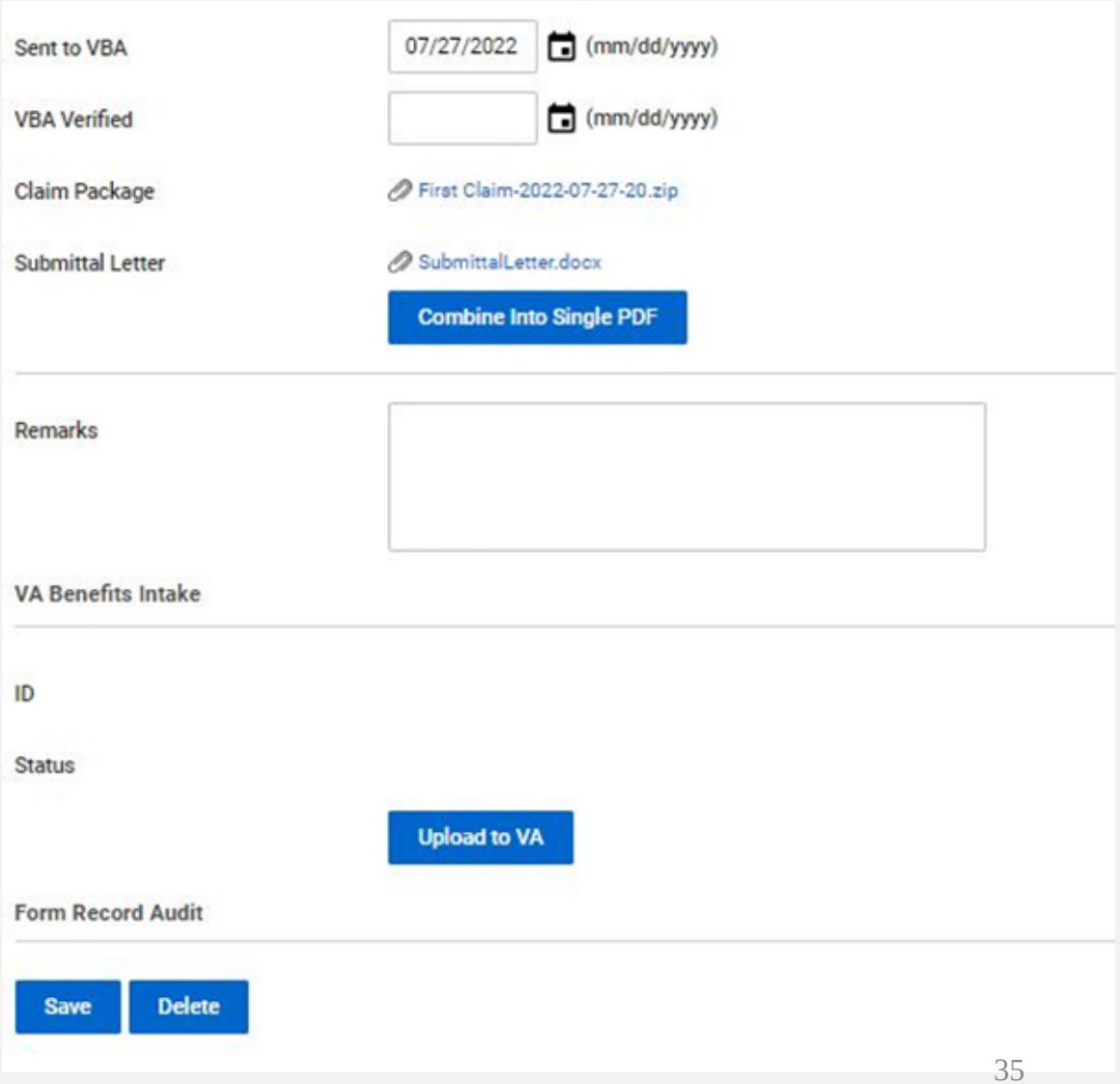
Press **Save**



Submitting a claim to VA using TVB

Once saved users can view the changes prior to uploading the package to VA.

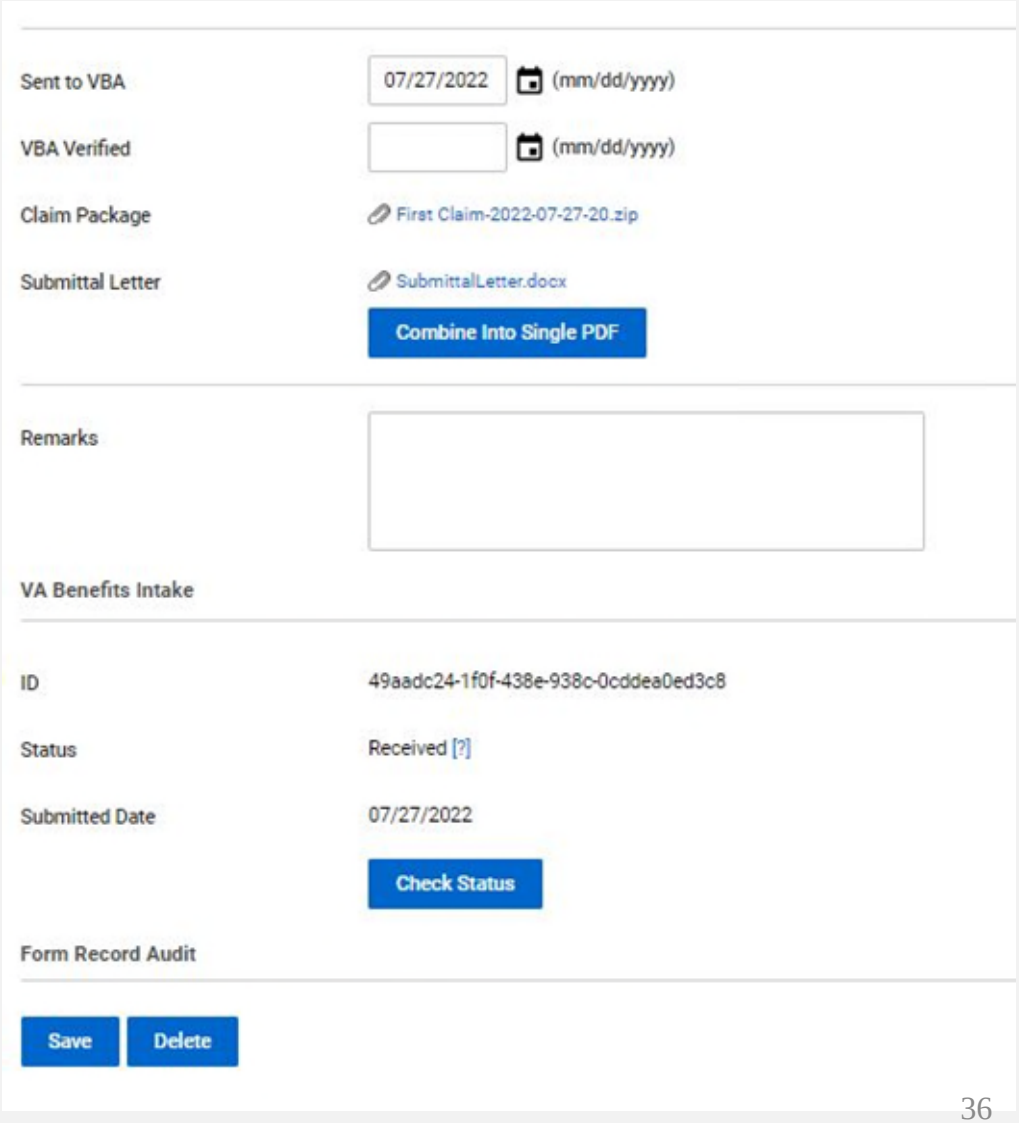
One thing to note is TVB will create a Submittal Letter which you can view. Once everything has been verified press "**Upload to VA**"



Submitting a claim to VA using TVB

After the claim is submitted users can check the status by clicking "**Check Status**"

Once the status shows received the effective date is preserved.



VA Benefits Claims

The following section requires the ability to log into VA.gov using one of the following log in methods:

- **Login.gov**
- **ID.me**

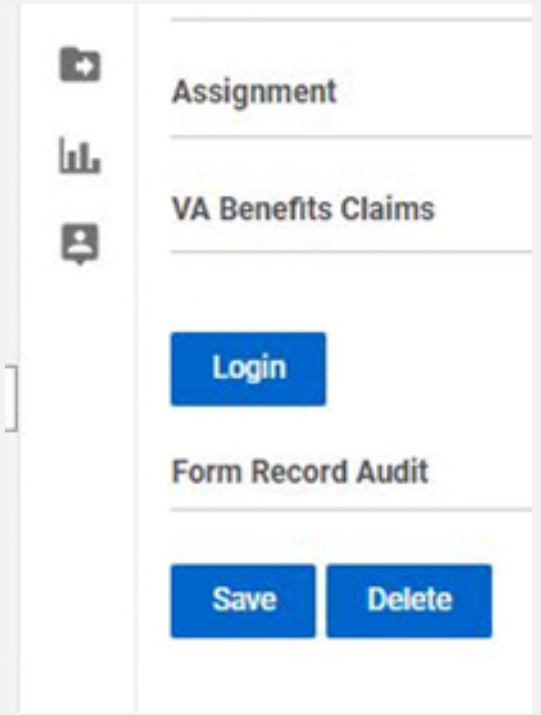
VA Benefits Claims

TVB has an API called **VA Benefits Claims** which allows TVB to connect to VA.gov.

This allows for some actions in TVB to be done in **REAL TIME**

The VA Benefits Claims API can be found when inside a veteran's folder toward the bottom of the page.

Click **Login** to connect to continue with this API



VA Benefits Claims

When utilizing this functionality, TVB requires users to sign in to VA.gov using one of the following log in methods:



VA Benefits Log

TVB users who do not have any of these accounts, can create either an **Login.gov** or **ID.me** account directly from the page by clicking the hyperlinks at the bottom.

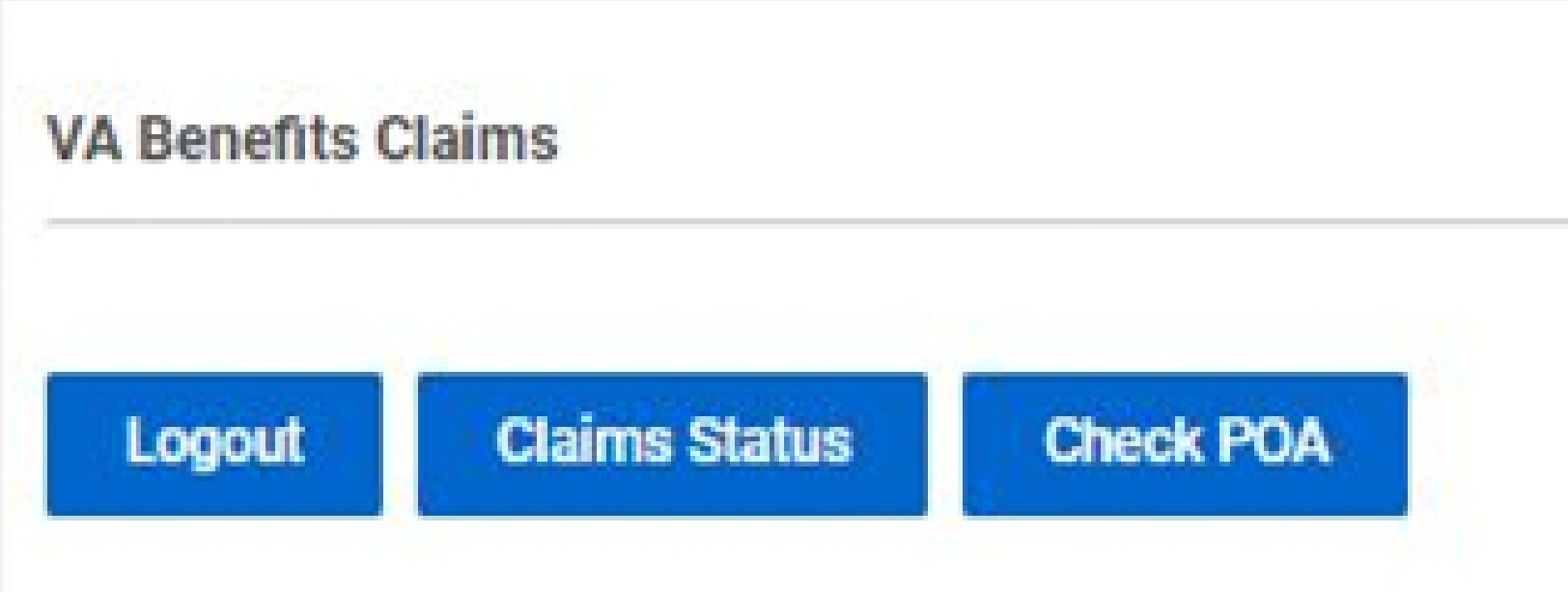


Account Set up

An in-depth guide for creating either a Login.gov or ID.ME account can be found in the OLP next to this presentation.

VA Benefits Claims

Once logged into the VA Benefits Claims section, clicking on VA Benefits Claims will populate new buttons.



VA Benefits Claims: Claim Status

The **Claim Status** button will populate all the veteran's claims (past and present) and show the **Date Filed**, **Claim Type** and **Status** of the claim



VA Benefits Claims: Check POA

The **Check POA** button will populate the veteran's current POA as well as list any Previous POAs.



VA Benefits Claims:
Submitting Forms Directly into VBMS

Another function of VA Benefits Claims is the ability to submit 21,22s, ITFs and 526EZs directly into VBMS.

To utilize this function, the following must be true.

1) Logged into VA.gov through VA Benefits Claims

2) The veteran's folder is assigned to **Your Field Office** and **Yourself**.

VA Benefits Claims:
Submitting Forms Directly into VBMS

To submit a form directly into VBMS a claim must first be created.

From the veteran folder Create a new claim and hit Save.

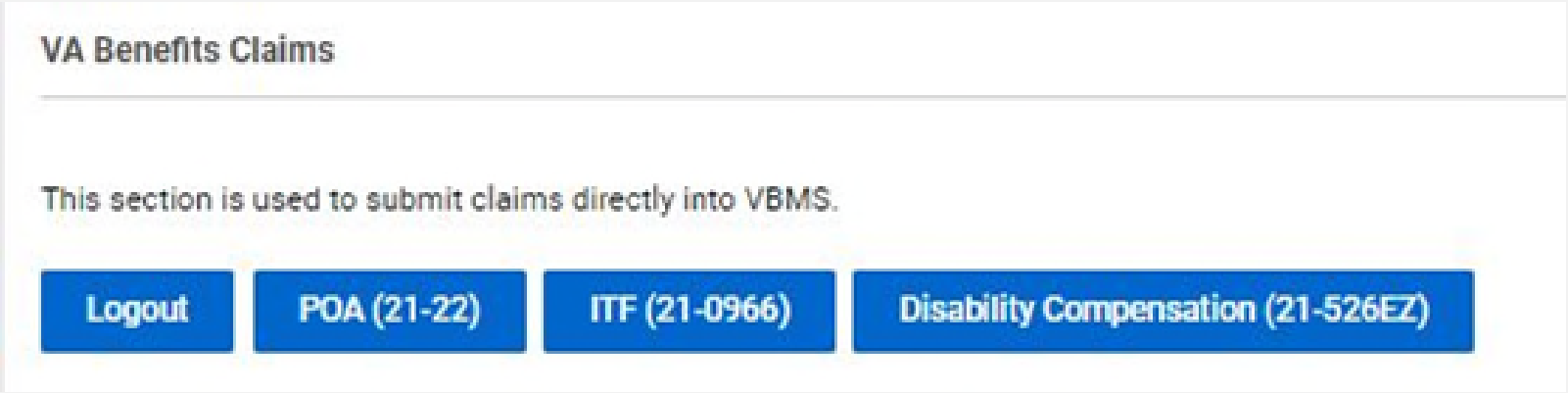
Create the form using the **Document and Form Tab** and once complete press **Marked As Signed**.

** If the claim folder does not have a form that has been **Marked As Signed** nothing will populate in the Signed Form Document Box**

VA Benefits Claims: Submitting Forms Directly into VBMS

With the form **Marked As Signed**, follow the **TVB Breadcrumb Trail** back to the claim you just created.

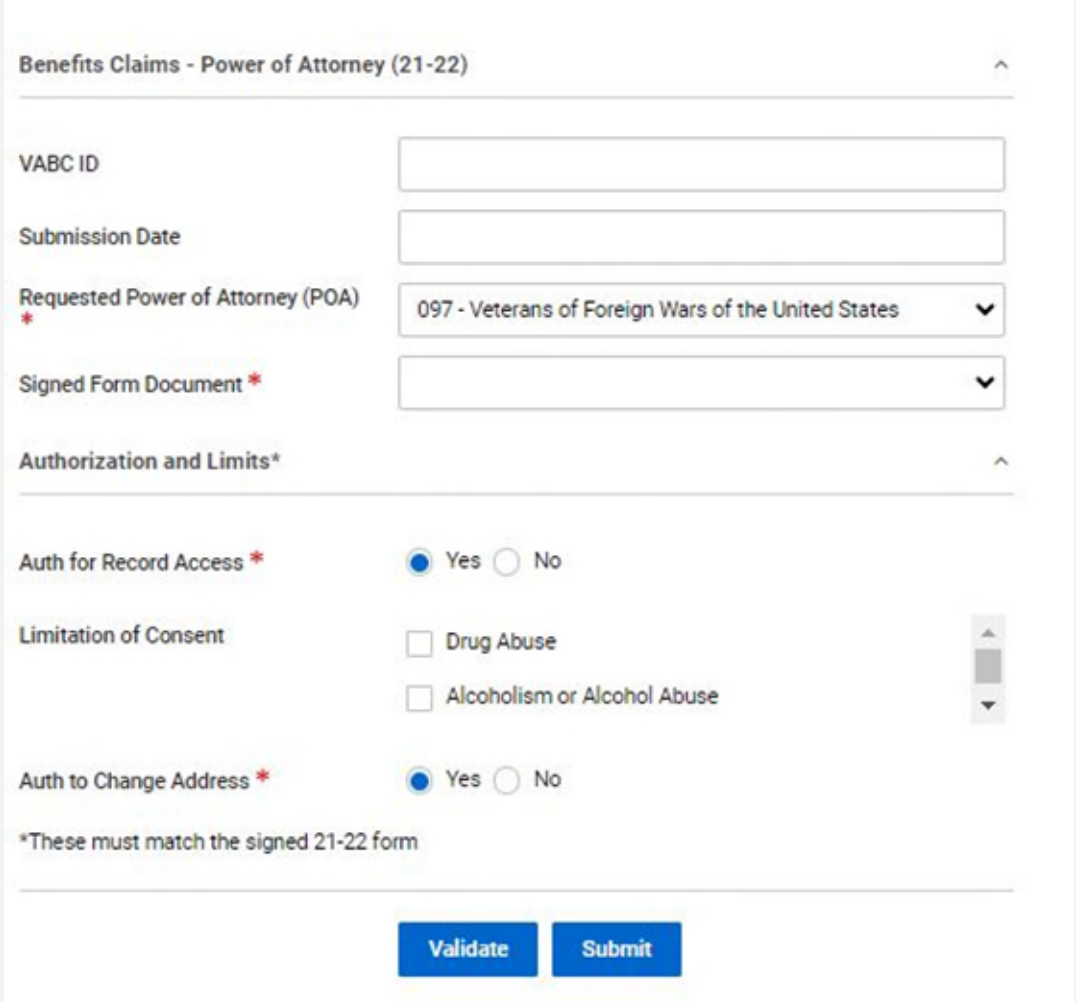
Scroll back down to **VA Benefits Claims** and 3 new buttons have populated:
POA(21-22) **ITF(21-0966)** **Disability Compensation (21-526EZ)**



Submitting Forms Directly into VBMS POA(21-22)

The **POA(21-22)** button takes the user to a page where they can attach a TVB Created, **Marked As Signed** 21-22 directly to VBMS.

*Please note for those who have multiple accreditations to select the correct POA *

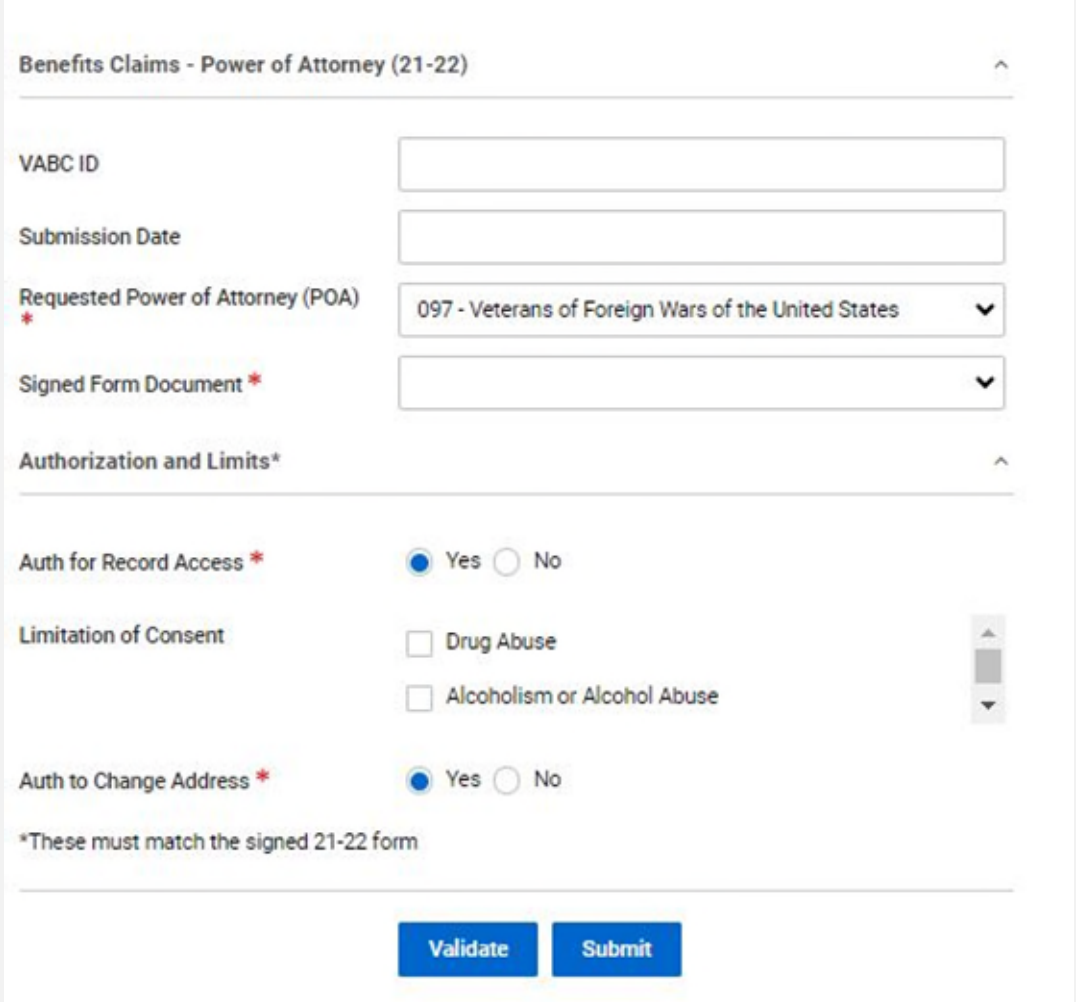


Submitting Forms Directly into VBMS POA(21-22)

VETERANS OF FOREIGN WARS.

The page contains required fields such as POA, **Signed Form Document** and Authorizations and limits.

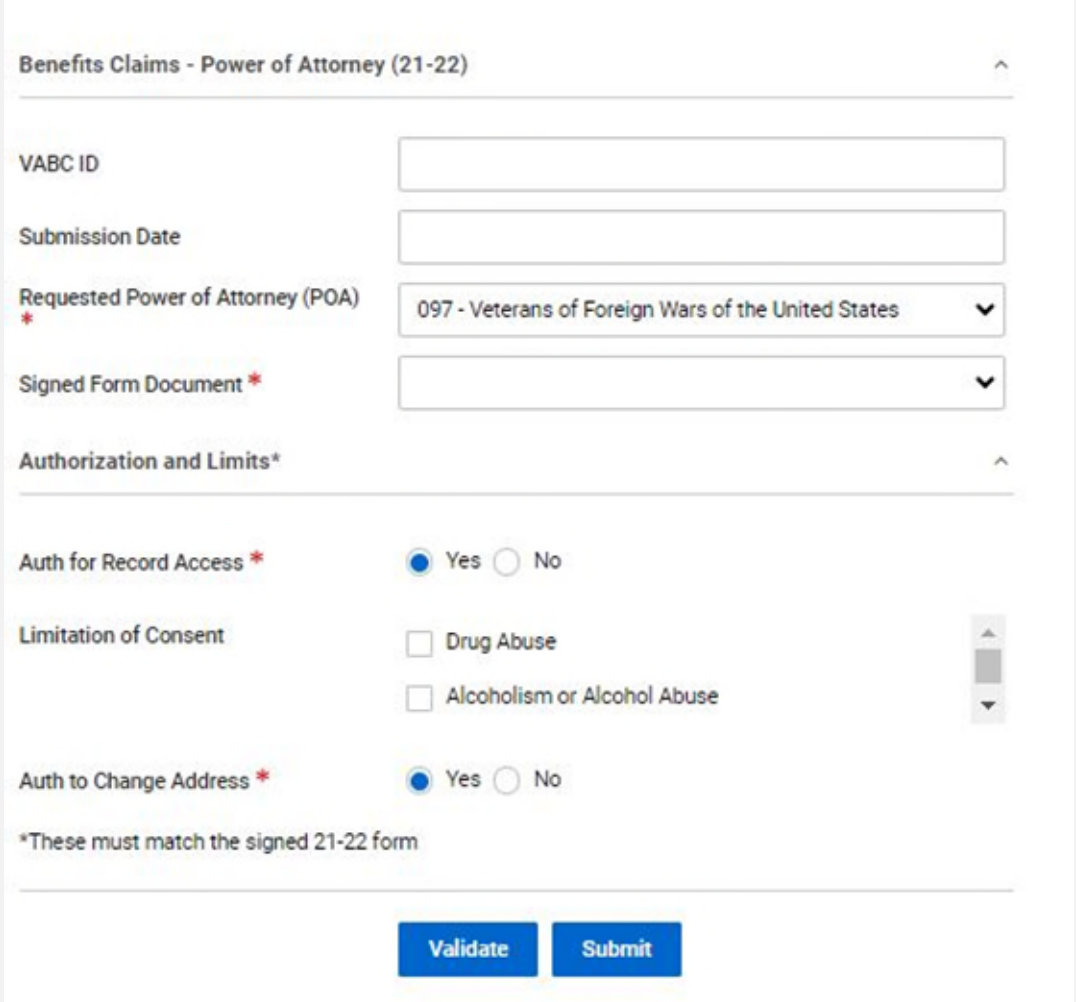
Signed Form Document has a dropdown box that will populate with the claim form that was generated and **Marked As Signed** in TVB



Submitting Forms Directly into VBMS POA(21-22)

With all required fields addressed, click submit to Submit the form to VBMS.

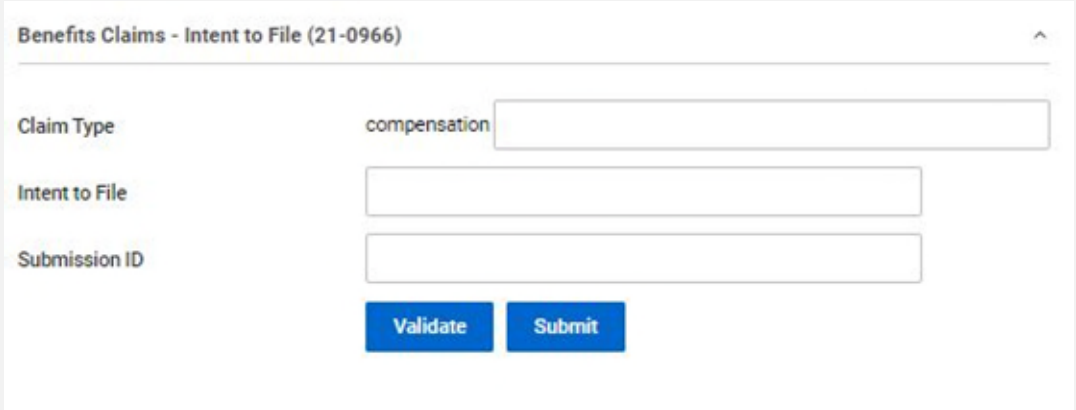
*Please note that the Authorization and limits on the signed 21-22 **MUST MATCH** the boxes displayed on the page. *



Submitting Forms Directly into VBMS ITF (21-0966)

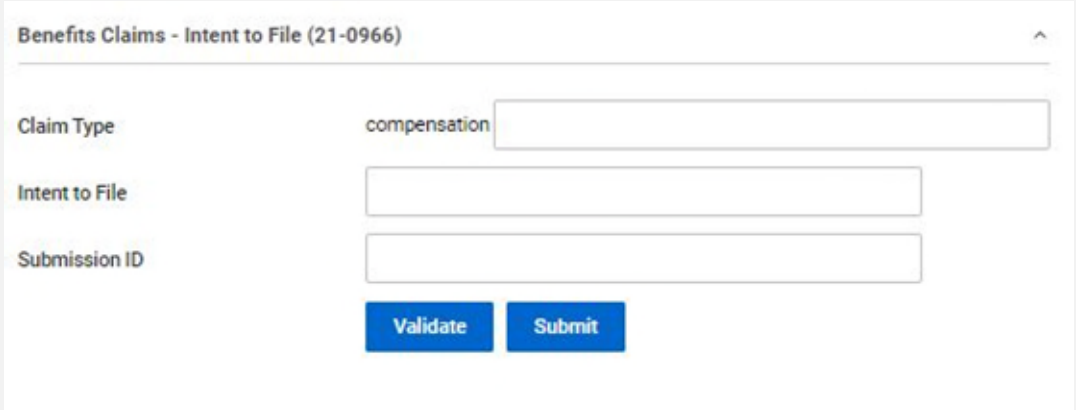
To submit an ITF a TVB claim must be created.

With the Claim created select ITF (21-0966) which takes the user to the ITF screen.



Submitting Forms Directly into VBMS ITF (21-0966)

Press Validate to confirm POA with VA, TVB will provide a message that says valid if good or an error message that will need to be corrected.
After confirmation press submit



TVB will populate the previously empty boxes with:

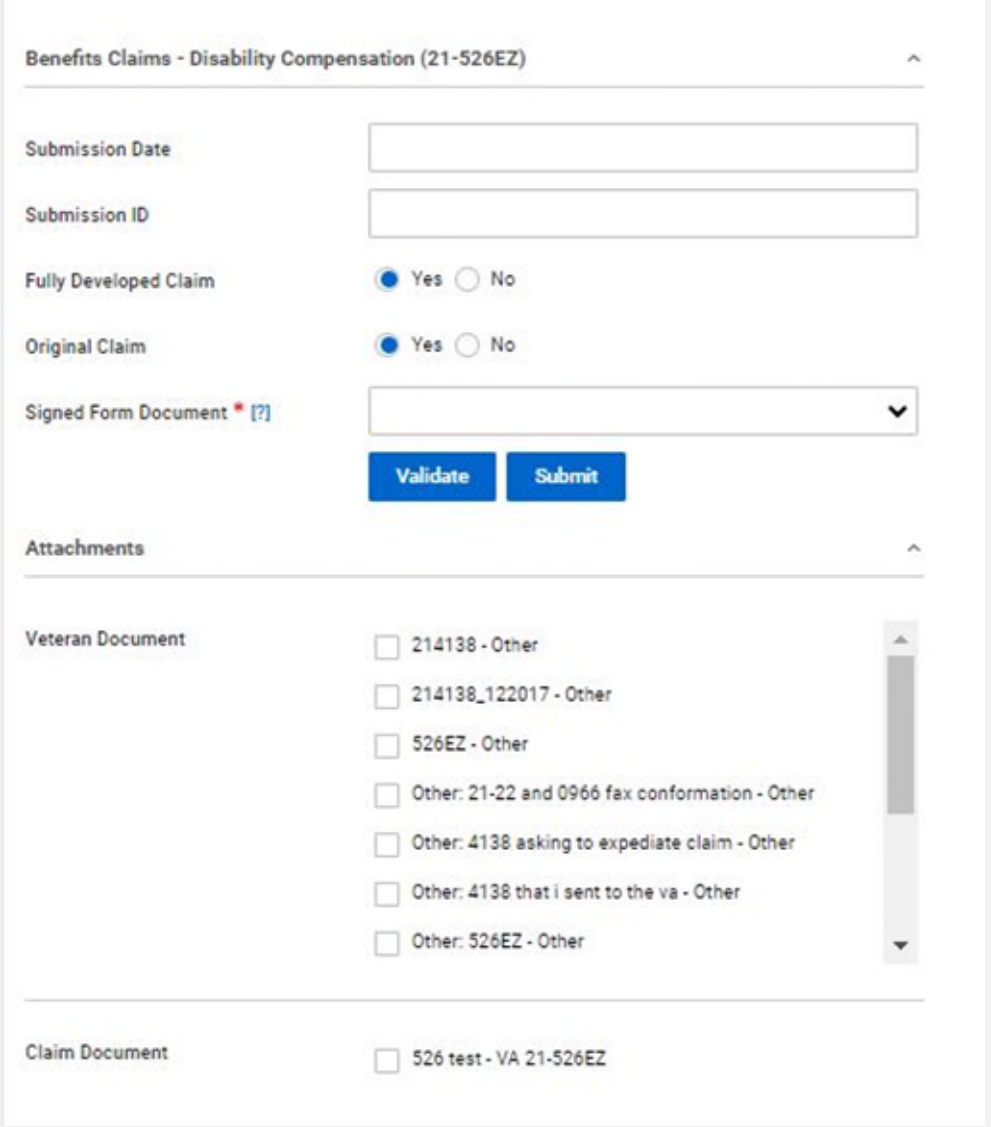
Claim Type
Intent to File Date of Submission
Subission ID or confirmation number

Submitting Forms Directly into VBMS Disability Compensation (21-526EZ)

VETERANS OF FOREIGN WARS.

The **21-526EZ** button takes the user to a page where they can attach a TVB Created, **Marked As Signed** 21-526EZ directly to VBMS.

Signed Form Document has a dropdown box that will populate with the claim form that was generated and **Marked As Signed** in TVB

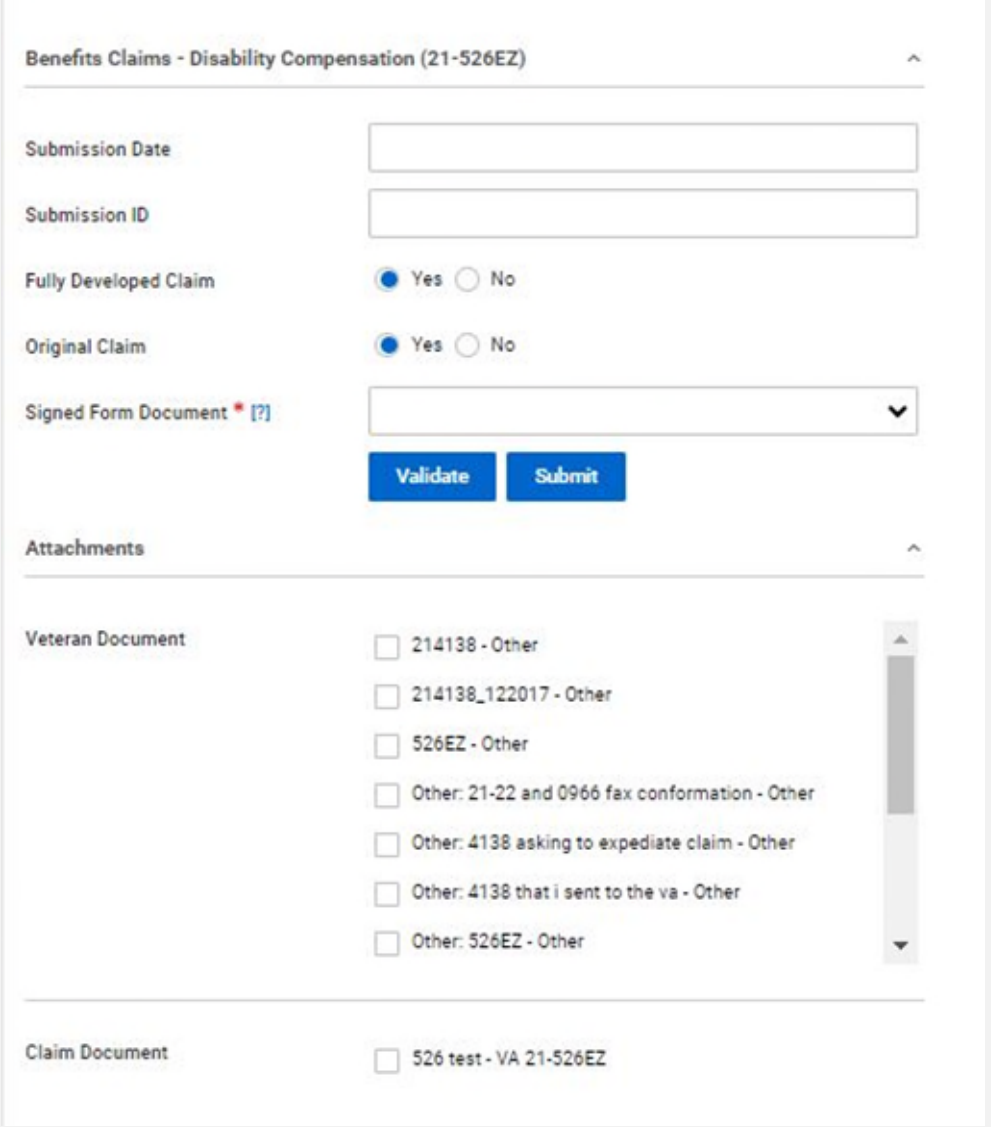


Submitting Forms Directly into VBMS Disability Compensation (21-526EZ)

VETERANS OF FOREIGN WARS.

The page only has the **Signed Form Document** as a required field but will default to Fully Developed Claim and Original Claim.

Veteran Documents can also be submitted with the 21-526EZ directly into VBMS.



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 the steps listed on the next slide:

Veteran Intake Queue- How to Use

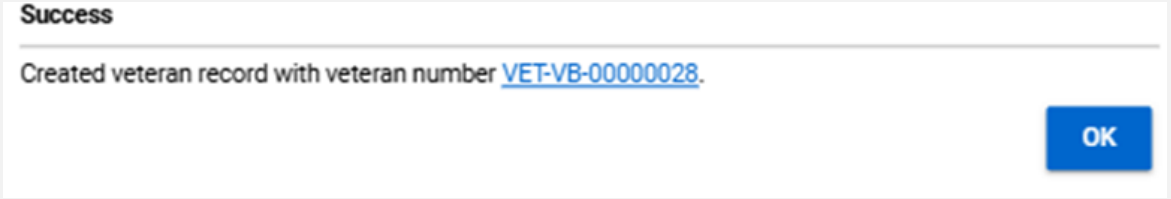
Step 1: From the TVB Column, go to Queues and Select **Veteran Intake**.

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

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 Profile

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

Step 5: Clicking Intake shows that the referral was successful and provides the user with the TVB Number for the newly created veteran folder. Users can click on the Number to be taken to the veteran profile in TVB.



Veteran Intake Queue- Special Notes

- 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.

- Clicking on the header at the top that says “State” allows you to group referrals by state showing all the referrals each state has.

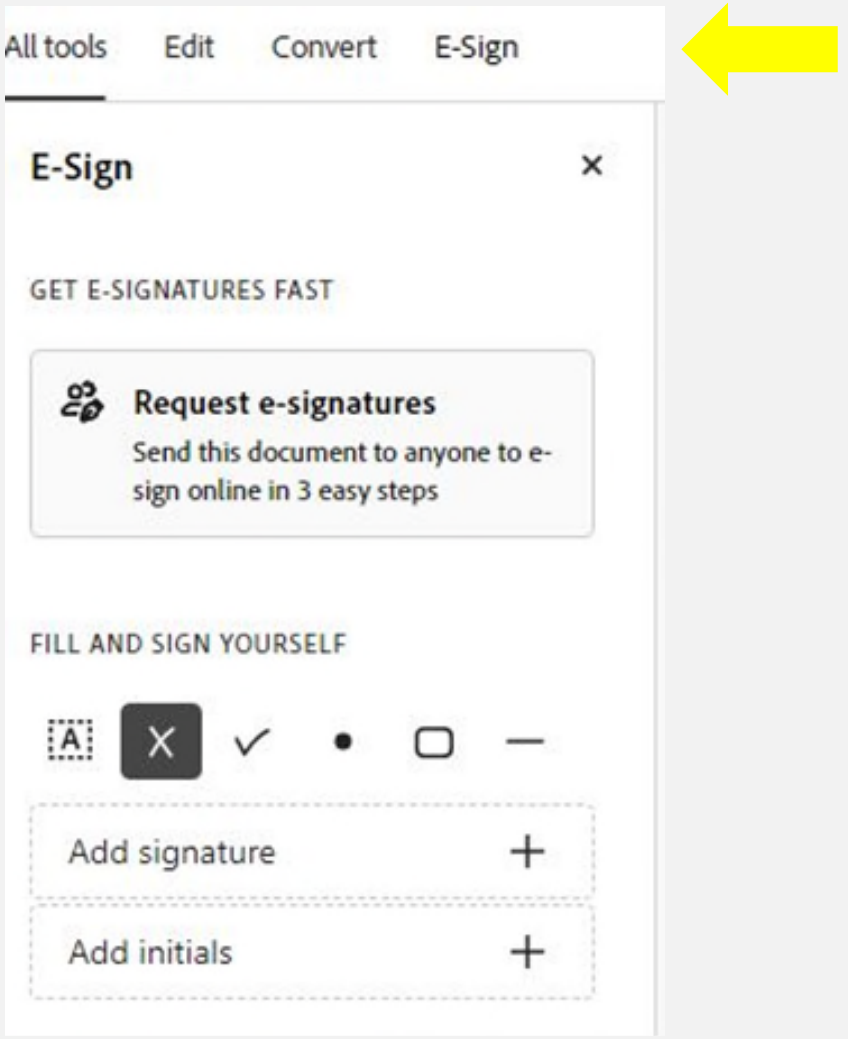
- States that don’t use TVB will have their RQAS monitor the intake queue and share with the office the veteran’s contact information.

Creating a Signature Image

Here we will cover how to create a digital signature that is compatible with most programs

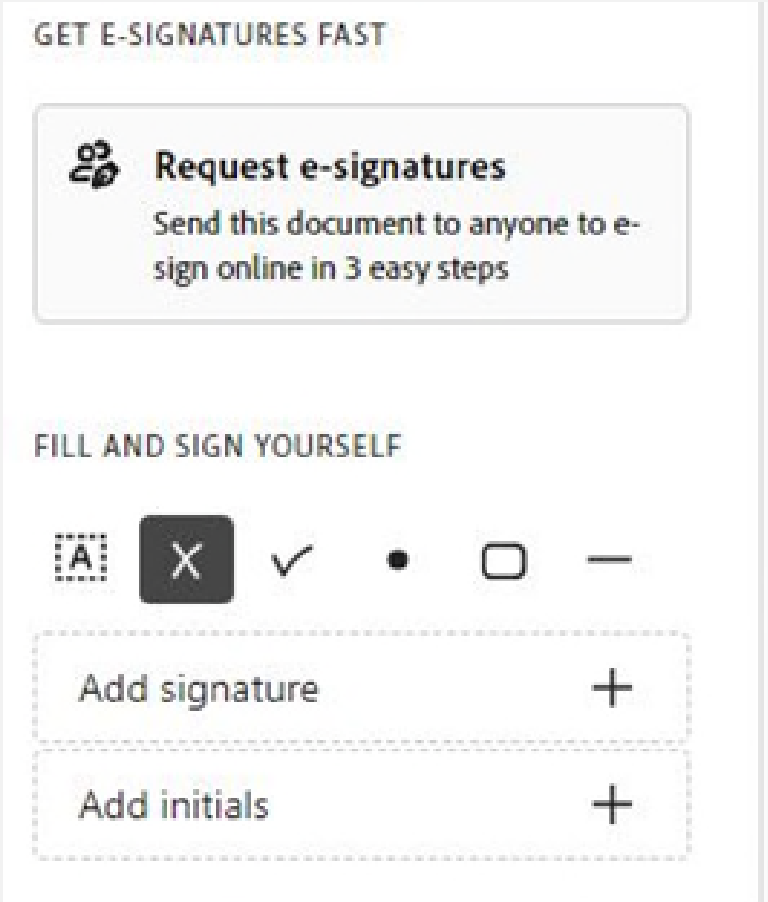
Creating a Signature Image

To add a Signature to an electronic Document, you will first need to create your signature. To do this in Adobe, you will first locate the E-Sign tab



Creating a Signature Image

Once selected locate the Add Signature box and press +



Creating a Signature Image

Once you have selected Add Signature, you will be given 3 options to capture the signature:

1) Type
2) Draw
3) (Upload) Image



Type is the easiest option to choose from but all 3 will be accepted by VA.

Creating a Signature Image

Once the signature is created, press “Apply”.



This will save your signature for future uses and allow you to apply the signature to the Electronic Document.

Saving a Signature Image

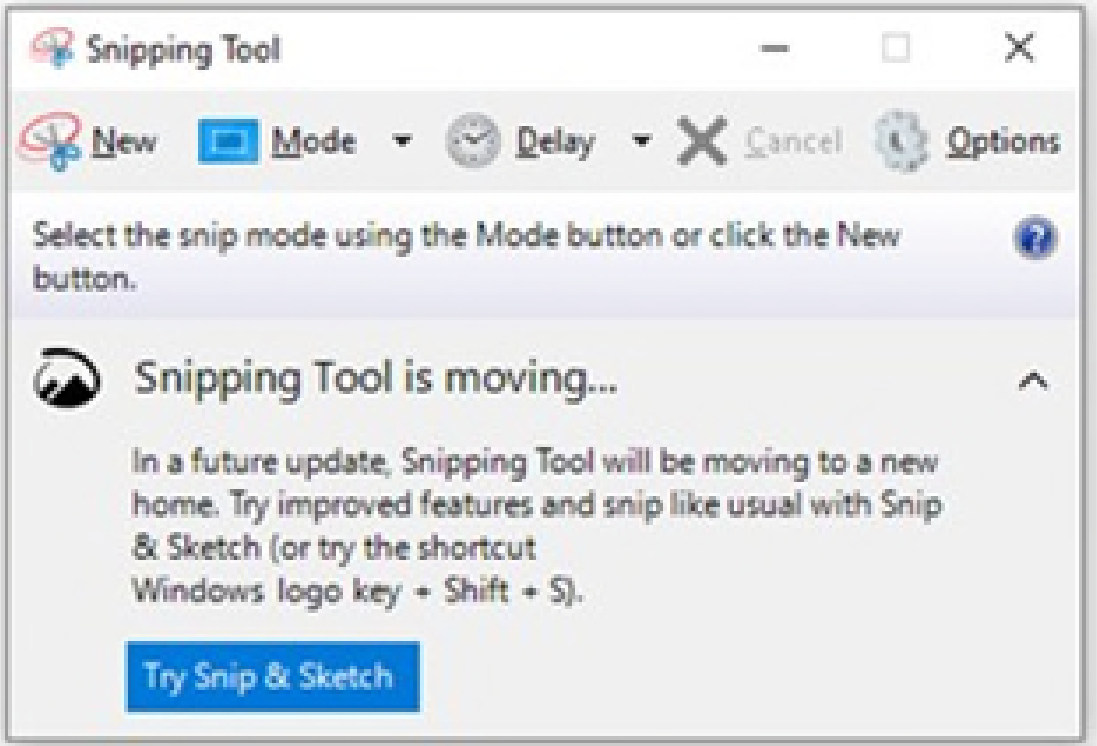
Now that you have your signature image, you will need to place it on a white background somewhere on the PDF.

With the signature in place you will need to open a new program called “Snipping Tool”

To find this tool open your computer’s start menu and search “Snipping Tool”. When you find it press the icon

Saving a Signature Image

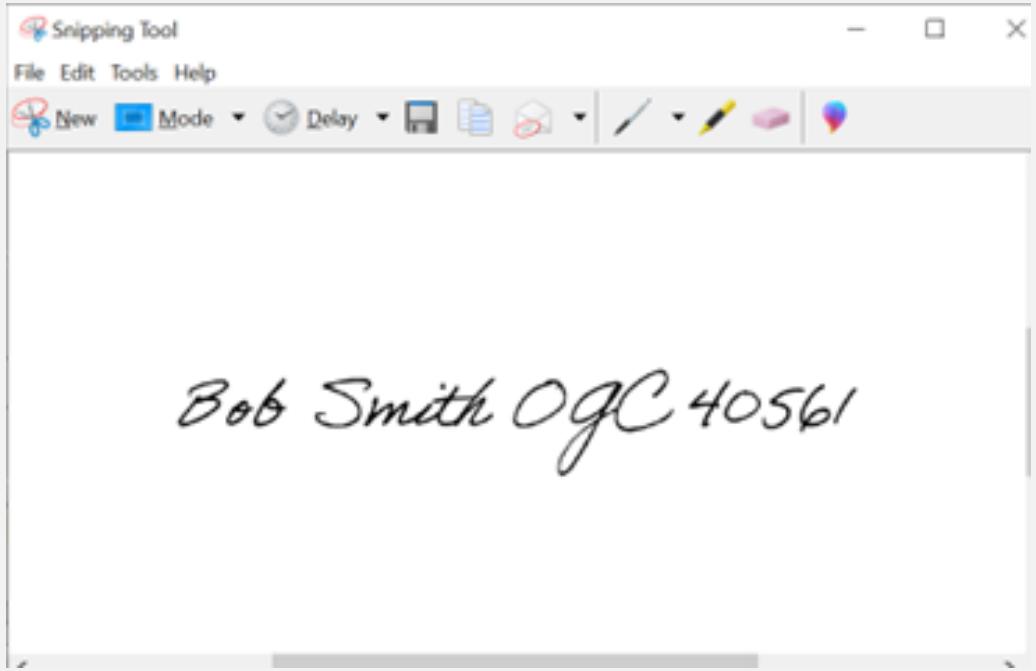
With the Snipping Tool Open click “New” which will change your curser to a + . From there you will cut out your signature.



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VETERANS OF FOREIGN WARS®

The Appeals Process & Hearings

WHAT TO DO IF A BENEFITS CLAIM IS DENIED

- If a VA benefits claim is denied, the claimant has the right to appeal the decision
- Currently, there are 3 decision review options to choose from which will be discussed later in this class
- Prior to the current appeals process (AMA), the Legacy Appeals process was in effect which offered a more limited approach to appeals

EXAMPLES OF APPEALABLE DECISIONS

Character of Discharge/Status as a veteran

Service connection

Rating percentage

Effective date

Dependency & Indemnity Compensation

Waiver of overpayment

Entitlement to special monthly compensation/pension

ACTIONS THAT CAN NOT BE APPEALED

- Proposed actions – the most common are reductions of ratings and ratings of incompetency

- Proposed actions are not a ***“final”*** decision - All final decisions should include appeal rights in notification letter

What are Legacy Appeals?

Legacy appeals pertain to claims that were decided prior to February 19, 2019, when the Appeals Modernization Act (AMA) became effective

Since AMA came into effect VFW's legacy appeals numbers have dropped and we suspect that there will be no remaining by 2026.

APPEALS MODERNIZATION

Veterans Appeals Improvement and Modernization Act of 2017 (AMA)

GOAL: Ensure veterans receive fair appeals decisions in a timely, transparent, consistent and simple manner.

- Improves rating decision notice letters to better inform veterans of reasons for decision, evidence considered, and appeal rights
- Formalizes two options to offer veterans resolution to claim disputes at the lowest possible level
- Allows appeal directly to Board of Veterans Appeals, replacing duplicative and confusing processes like NOD elections, Form 9, and 646
- Protects veterans' effective dates so long as claimants pursue adjudication in the timeframes prescribed by VA

Does AMA or Legacy apply?

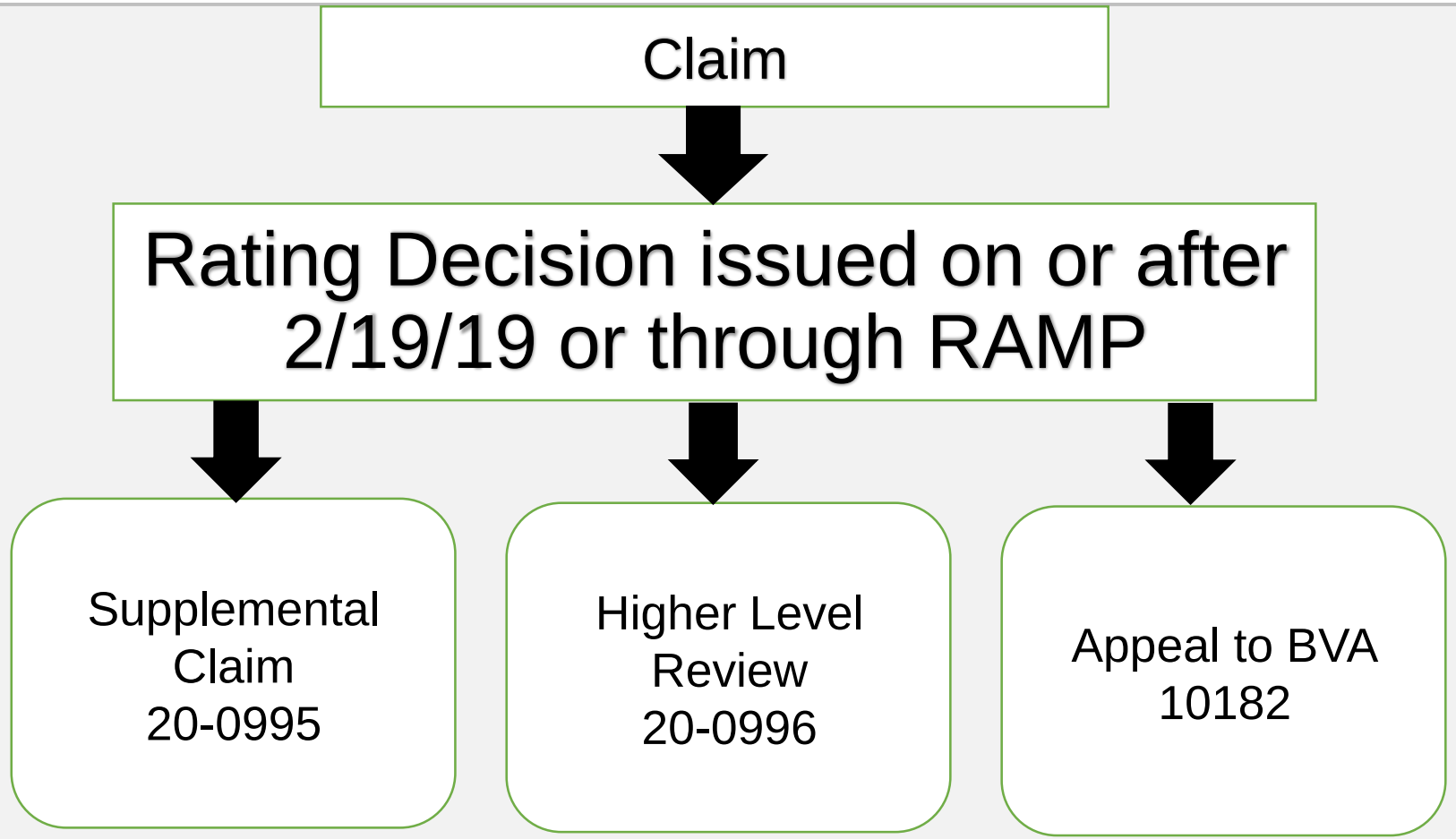
AMA applies to *decisions* dated on or after February 19, 2019 and to those who opted in to AMA (including under RAMP)

- Can use three new options: supplemental claim, higher level review, appeal to BVA

Non-RAMP decisions before February 19, 2019 fall under Legacy Process

- Can opt into AMA once a SOC is received

AMA Decision Review Options



1 year time limit from date of notice of decision for all filing options to protect effective date. Supplemental can be filed anytime but will lose effective date if filed after 1 year.

“Closing the record”

Under AMA, the evidentiary record that VA is obligated to consider “closes” at the time of the rating decision

- Evidence submitted ***after*** the rating decision will not be automatically considered: must select decision review option that allows submission of evidence
- Evidence submitted ***before*** the rating decision but not considered by VA: select decision review option based on the same evidence to have it considered
    - Creates quality feedback mechanism: if claim granted based on same evidence, there was an error

Closing the record and VA's Duty to Assist

- VA's duty to assist is only triggered by evidence submitted before the initial claim **OR** before each supplemental claim

- If VA did not take adequate steps to assist veteran, can raise through higher level review or BVA

  - VA will return to supplemental claim lane or BVA will remand for additional development if VA did not comply with duty to assist **38 CFR 3.159(c)**

  - If additional evidence is submitted at BVA (through evidence only or hearing dockets), it will not trigger the duty to assist, but VA can still grant or deny based on the additional evidence.

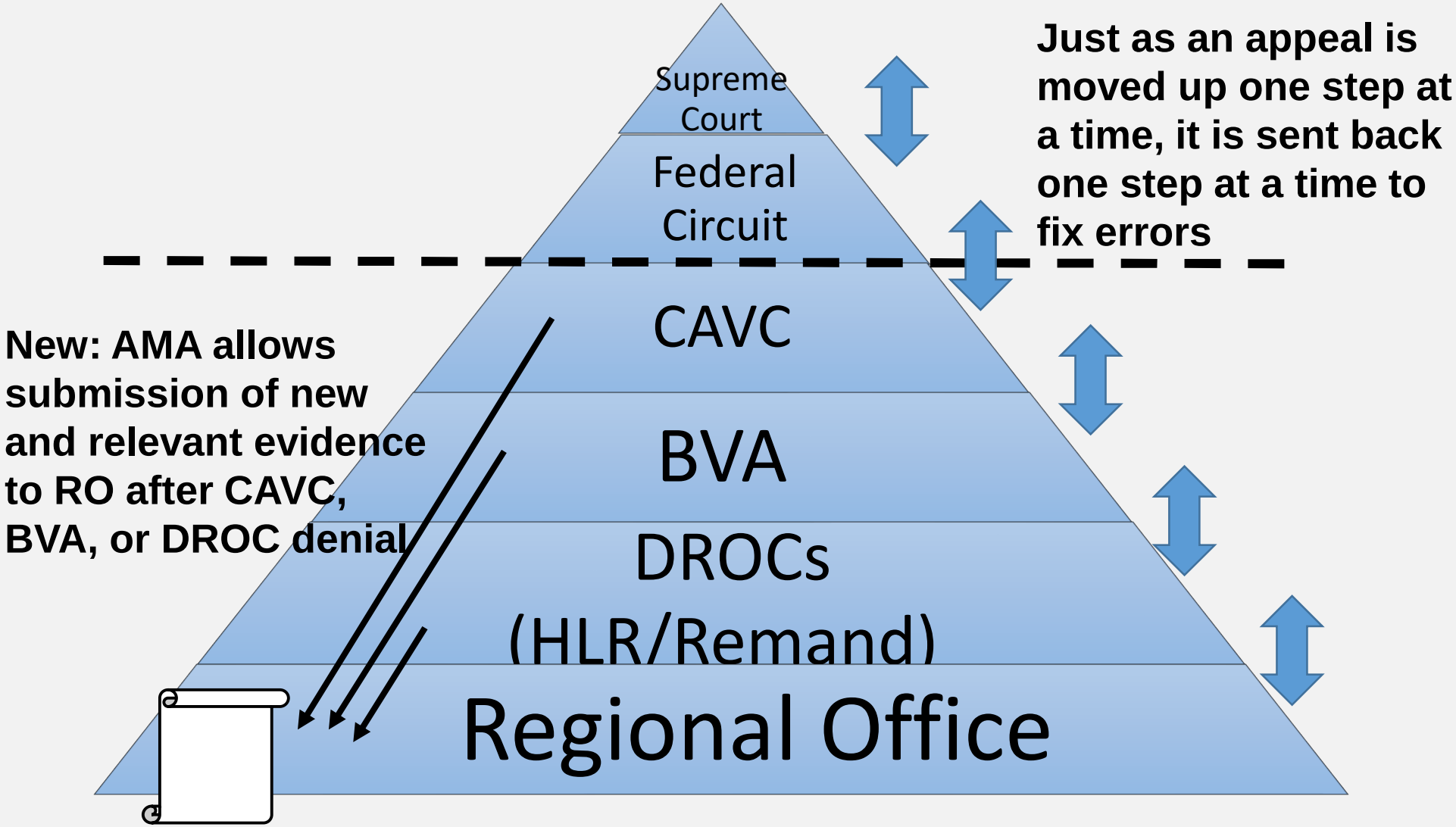
AMA: Decision Review Options

38 CFR 3.2500

- Supplemental Claims
- Higher Level Review
- Board of Veterans Appeals

- Claimants can pursue only one decision review option at a time for the same claimed issue
- There are no limits to the number of times a veteran may pursue a claimed issue

AMA: Decision Hierarchy



AMA: Supplemental Claims
38 CFR 3.2501

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- Requesting a new rating decision from VA based on the submission of "New and Relevant" evidence
- If filed within one year of VA issuing a rating decision, Board of Veterans Appeals Decision, or CAVC Decision, protects effective date of claim
- Claimants can perpetually file supplemental claims on the same issue, provided they satisfy the "New and Relevant" criteria
- Submission of new and relevant evidence triggers duty to assist

Supplemental Claims: When to use

- Denial from CAVC: supplemental claim is only option to preserve effective date
- Denial from BVA: you don't think an error was made, **and you have new evidence**
- Rating decision denial, and you **know what evidence you need to submit**
- Rating decision denial, missed C&P exam

Supplemental Claims: New and Relevant Evidence

What is ***"New and Relevant?"*** **- 3.2501(a)(1)**

- "**New**" means it is not already in the veteran's claim file
- "**Relevant**" means it is pertinent to the benefit sought and reason benefit was previously denied (even if not favorable to claimant: lower threshold than "material")

Example:

Red Foreman is claiming his diagnosed ischemic heart disease is the result of exposure to herbicides while serving in Korea in 1970. His claim for service connection was denied because his military service records did not indicate that he served in a unit in or near the Korean demilitarized zone.

Supplemental Claims: New and Relevant Evidence

Which of these are *"New and Relevant?" (assume not in file)*

- Buddy statements from those who supervised Mr. Foreman while serving in Korea and witnessed him on the DMZ.
- Doctor's notes confirming that Mr. Foreman has a diagnosis for ischemic heart disease
- Spouse statement documenting the effects of ischemic heart disease on Mr. Foreman's daily life
- Photos of Mr. Foreman in Korea alongside defoliated areas or signs/landmarks indicating he was physically present at the DMZ

Supplemental Claim Form
VA Form 20-0995

Block 13A: List specific issues – be sure to list whether service connection, increased rating, etc.

Block 13B: What if you don't have date of prior decision notice?

Notice Opt-In from SOC/SSOC

Block 14: Submit *or Identify* new and relevant evidence

- Non-federal records will require VAF 21-4142
- Federal records: Block 15

Block 16: Signature

Have claimant sign if possible – especially if opting in to AMA

We can sign if POA already of record

Supplemental Claim Form
VA Form 20-0995

Currently VA is requiring a supplemental claim form any time you re-apply for a benefit that was previously denied

- Should also include specific claim form if the evidence is substantially different (example: pension may require 21p-527EZ, 21p-8416)

- E-Benefits still allows veterans to file reopened issues on 21-526EZ, this will generate a request for application letter. There is now a warning about this on eBenefits

Supplemental Claim Decision

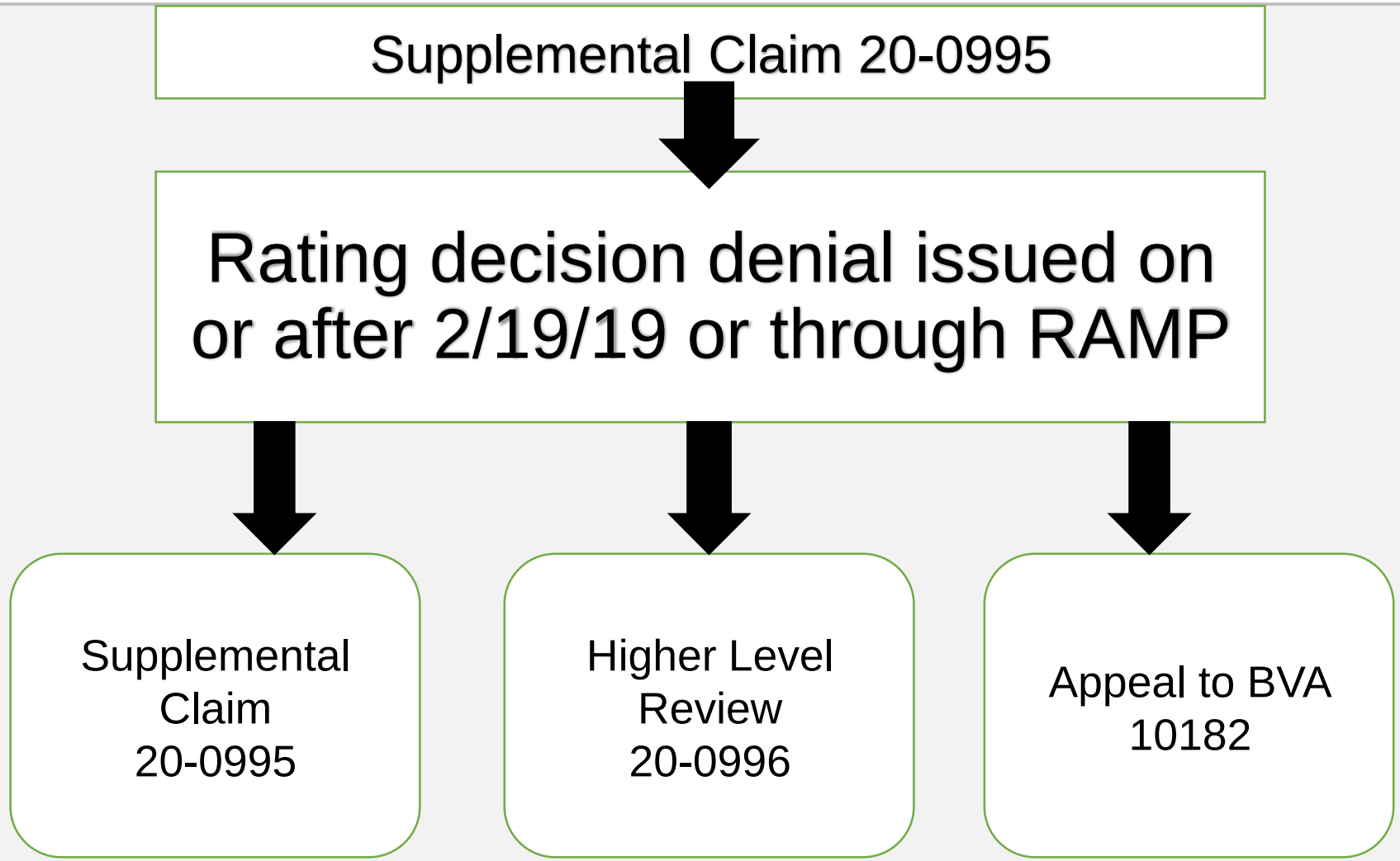
Request for higher level review can identify duty to assist errors in first or subsequent supplemental claim decision

- VA must review entire record

If claim denied due to no new and relevant evidence being submitted, can challenge (higher level review or NOD) determination on whether evidence was new and relevant

- Must have submitted or identified *some* evidence

Post-Supplemental Claim Decision Review Options



Higher Level Review
38 CFR 3.2601

- Veteran requests “de novo” review of rating decision by a higher authority
- Review is solely on evidence of record – cannot submit additional evidence
- Decisions can be overturned based on difference of opinion or CUE
- Can only be requested within one year of a notice of a rating decision
- An informal conference with the reviewer can be requested

Higher Level Review
When to use

VA made a clear mistake of applying the law and you can easily find it in the CFR

- Decision will be quicker than appeal to BVA

VA made a duty to assist error (did not request an exam or records)

- BVA can't order development, so this will get additional development done quicker

Higher Level Review Jurisdiction

- VA has established three “Decision Review Operation Centers” (DROCs) to address decision review requests for higher level review and BVA remands

- Located in Seattle, St. Petersburg, and Washington, D.C. (Appeals Management Office)

Higher Level Review Example

Example:

Johnny Utah claimed service connection for fibromyalgia related to service in Southwest Asia in 2005. He was diagnosed with fibromyalgia in 2011, three years after he separated from the military. Johnny completed an exam for fibromyalgia that sufficiently demonstrates his current level of impairment and the DBQ is in his record, along with his service records and his 2011 diagnosis.

However, VA denied service connection based on the lack of a diagnosis of fibromyalgia while in service.

What are some reasons Johnny might consider Higher Level Review?

Higher Level Review Example

Why could Johnny request ***HLR***?

- Fibromyalgia is a presumptive condition for Southwest Asia service
- Johnny's military record indicates that he has qualifying Southwest Asia service in Iraq in 2011
- Johnny has a current diagnosis of fibromyalgia present for more than six months
- Johnny's exam indicates that the condition is compensable at a rate greater than 10%
- VA misinterpreted the presumption, which dictates that the condition must have emerged while serving in Southwest Asia *OR* by December 21, 2021.

Higher Level Review Form
VA Form 20-0996

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Block 13: Doesn't really matter – all higher-level reviews being sent to three Decision Review Operation Centers (DROCs) in Seattle, St. Petersburg, and Washington, D.C.

Block 14: Informal conference – check with your DSO on who will be representing at conference – It will be a teleconference

Block 15: Must list specific issues – be sure to list whether service connection, increased rating, etc.

Notice Opt-IN from SOC/SSOC

Block 16: Signature

Have claimant sign if possible – especially if opting in to AMA

We can sign if POA already of record

Higher Level Review Decision

38 CFR 3.2601(g), 3.2502

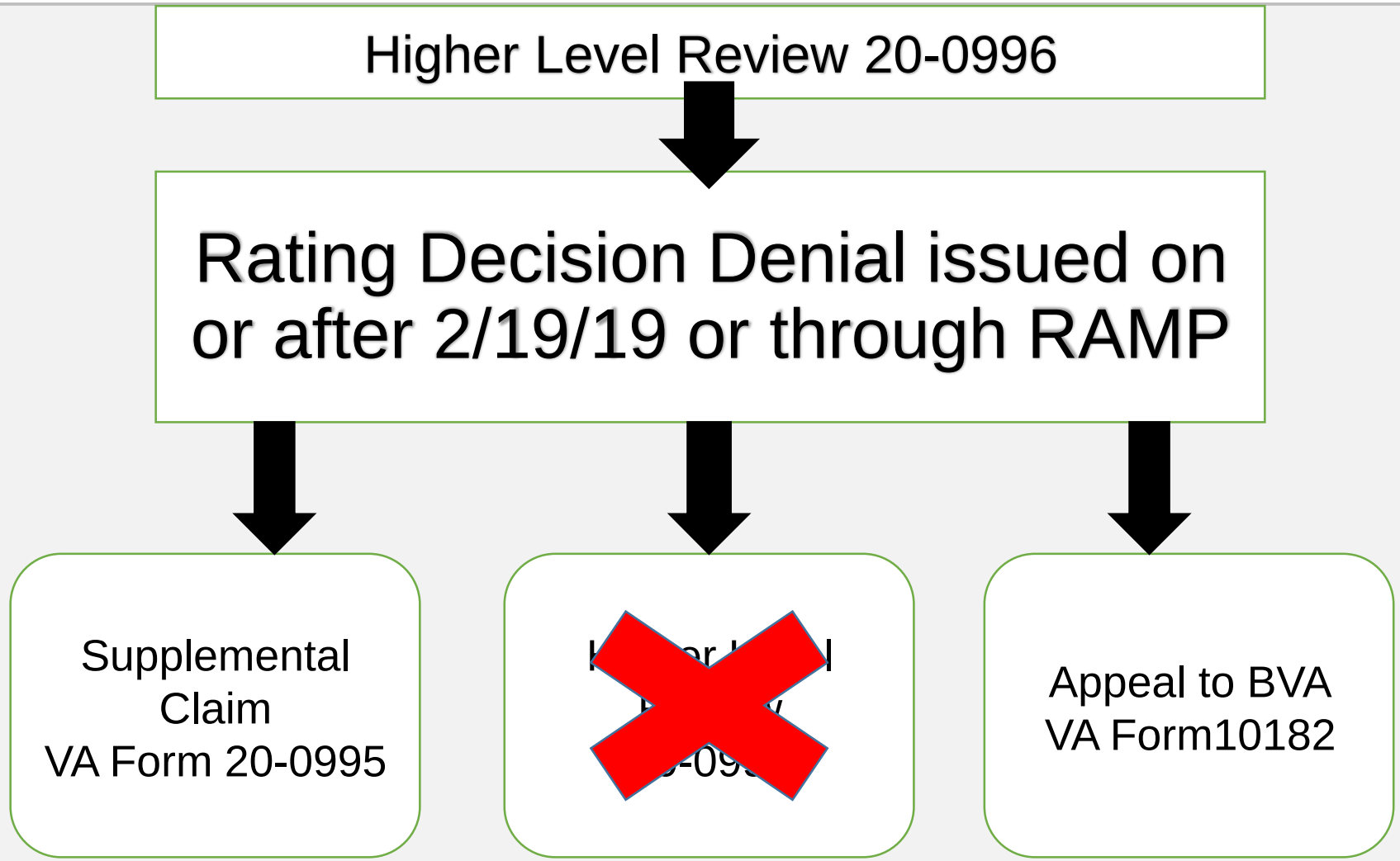
- Decision can deny or confirm and continue benefits
- Decision can grant benefits
- Decision can propose to reduce benefits
- Decision can send claim to supplemental claim lane for additional development

Higher Level Review Return to Supplemental Claim: If More Development is Needed

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- When higher level review or BVA review is requested and the claim cannot be granted on the evidence of record **BUT** VA made a duty to assist error
  - HLR decision is made and form HLR Return is completed (20-0999)
  - EP 040 HLR DTA Error is created to address the error
  - Because development was triggered, claimant can now submit new evidence
  - New rating decision made; veteran has all three options for decision review if disagree

Post- Higher Level Review Decision Review Options



Appeal to Board of Veterans Appeals
38 CFR 20.202

Under AMA, the NOD (VA Form 10182) is filed ***directly*** with the BVA

There are three separate BVA dockets:

- **Direct Review docket** with **no introduction of new evidence**
- **Evidence Only docket** with **limited window introduction of new evidence (90 days after NOD)**
- **Hearing docket** with **limited window for introduction of new evidence (at hearing or 90 days after hearing)**

Remands only issued for pre-existing duty to assist errors or to obtain an advisory medical opinion

Appeal to Board of Veterans Appeals
When to use

VETERANS OF FOREIGN WARS.

VA did not weigh the evidence as you feel they should have

- BVA must discuss lay testimony in decisions

AOJ has mischaracterized the issue

- Reductions treated as claims for increase
- Earlier effective date of rating treated as earlier effective date of service connection

You don't want VA to engage in additional development

- You have a well-reasoned nexus opinion and don't want VA to counter it

Board Appeal
VA Form 10182

Under AMA, VA no longer requires VSOs to complete the VA Form 646 or Form 9.

Instead, all arguments and contentions will be made with the new ***Notice of Disagreement (VA Form 10182)*** for claims going directly to the BVA.

Block 11: Select Docket
Block 12: List specific issues

- Check box if providing argument (always)
- Notice Opt-In from SOC/SSOC

Tips on VA Form 10182

- Appeals submitted directly to BVA (especially on the direct docket) must be researched fully
- 10182 should have at least a 21-4138 attached with a well thought out argument
- Ensure only one docket option is selected – if you want to select different dockets for different issues, complete separate 10182s.

Clarification of VA Form 10182

- If BVA asks for clarification of the issues or the docket select on a NOD, claimant has **60 days** or remainder of one year appeal period to respond (whichever is longer)

- This is crucial, because if the claimant does not respond, VA will not establish or will close out the appeal

38 CFR 20.202

Docket Dates

- Once sent to the BVA, the case will receive a docket date which is based on the date the claim is certified to the BVA
- With limited exceptions, the BVA works cases in docket date order
- BVA publishing “appeals metrics” on their public website: https://www.bva.va.gov/Appeals_Metrics.asp
- AMA allows flexibility in how cases are managed between dockets – not a set ratio of legacy/direct/evidence/hearing

EXPEDITING APPEALS AT THE BOARD OF VETERANS APPEALS

- Advancement on the Docket can be done after the case is "certified" to BVA – call VFW office at Board of Veterans Appeals and they will file motion if veteran is seriously ill, has severe financial hardship, or is of advanced age (75+) and at the discretion of the Chairman (such as areas affected by severe natural disasters)

38 CFR 20.902 for Legacy (20.800 for AMA)

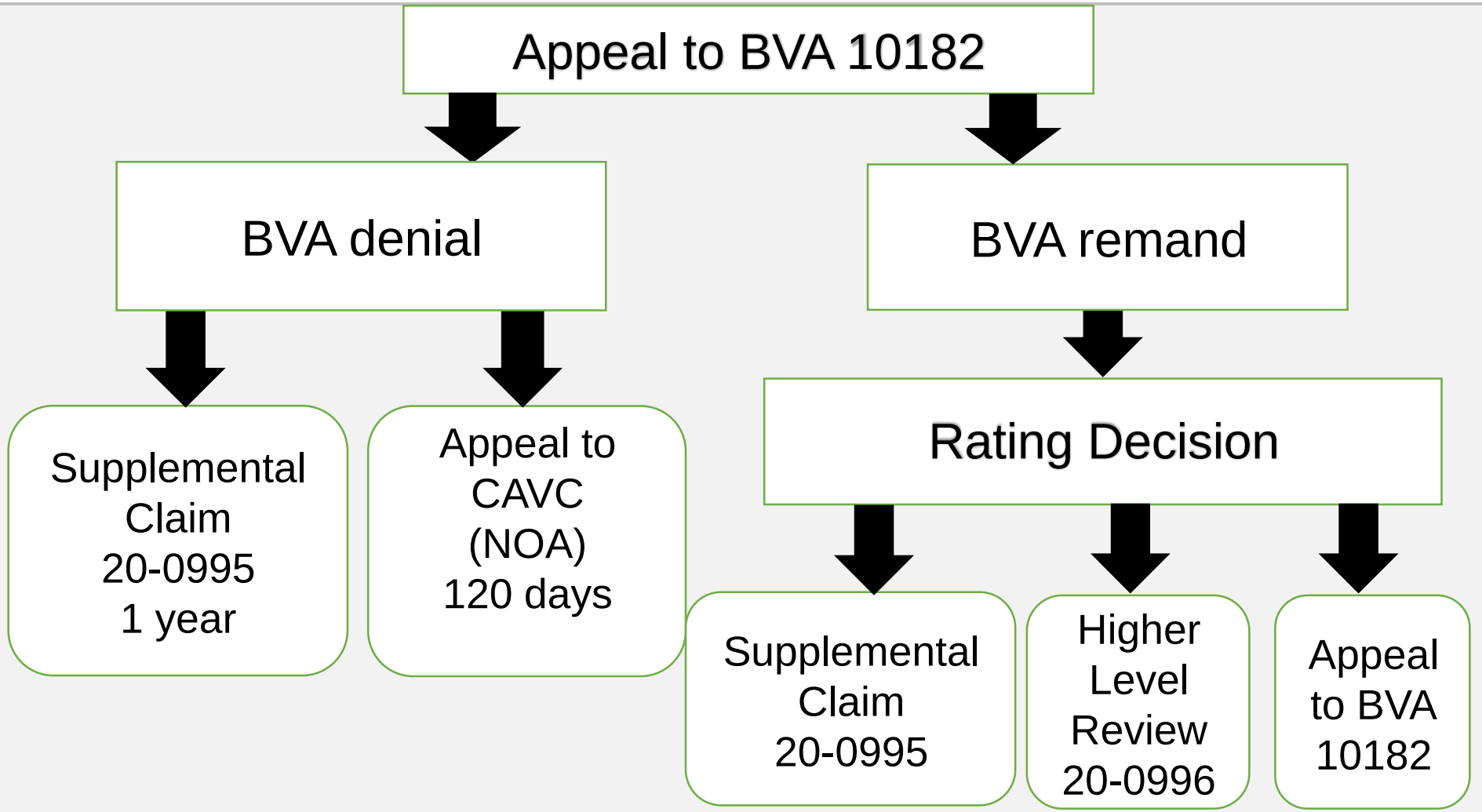
- Questions about status of a BVA appeal or new evidence for appeal, contact VFW's BVA Office **(202) 632-4605**

Switching Dockets

You can switch dockets at the BVA by filing a new VA 10182

- Time limit: within original one year from the rating decision, or 60 days after first 10182 filed, whichever is later **(38 CFR 20.202)**
- If switching to evidence only docket, 90 days to submit evidence starts from the date the request to switch dockets is granted.
- Once evidence is submitted or a hearing is held, you cannot switch to the direct review docket
  - Why? You have changed the evidentiary record and VA can't "un-see" the evidence or testimony
  - **38 CFR 20.301, 20.302, 20.303**

Post-BVA Appeal Decision Review Options



Caseflow

- Caseflow: VA's IT program used to establish and track AMA decision review requests
    - Caseflow Hearings shows upcoming BVA hearings
    - Caseflow Queue allows search for claimants with appeals docketed at BVA
    - Functionality still being created/updated

Changing Decision Review Options

If you or the client have chosen one decision review option and decide that another option is more favorable, AMA does allow limited circumstances to withdraw an option and change lanes

- AOJ: **38 CFR 3.2500(d)**
- BVA: **38 CFR 20.205**

You only have the original appeal window because you are withdrawing a review option and choosing a new one

- Example: Rating decision 3/2/20, select higher level review on 6/14/20. Still only have until 3/1/2021 to select supplemental claim or appeal to the BVA.

- Otherwise, you can wait until decision is rendered and then select another option if not granted

Issues within a claim or "downstream issues" 38 CFR 3.151

- Just as in the legacy system, if a benefit is granted but has "downstream issues" such as ancillary benefits, effective date or evaluation, you will need to start all over again if you disagree with the downstream issues

- **38 CFR 3.151(c)(2)** states that all downstream issues must be appealed in same lane

  - Example: service connection granted, but you disagree with effective date and evaluation
  - You have all 3 options available for decision review but must choose same option for both effective date and evaluation

Opting into AMA today

Appellant in legacy appeal process can “opt-in” to AMA after receiving a Statement of the Case or Supplemental Statement of the Case

- Can select any lane, but only has time limit noted in SOC/SSOC (30 or 60 days)
- Once a veteran opts-in to AMA, that decision is final and the veteran cannot revert back to the legacy appeals program
- Can opt to file Form 9 instead and remain in legacy (or if Form 9 already filed, wait)

Final Thoughts on AMA

- AMA creates more choice and more decisions to make about which option is best for your client
- AMA options are not one size fits all, they have pluses and minuses depending on the evidence and how quickly a decision is needed
- Because the effective date is protected if the claim is continuously pursued within 1 year after each decision, if the outcome was not desirable, you can choose a different option

HEARINGS

What is a Hearing?

- A hearing is a meeting between a claimant and the VA
- These meetings often take place during the appeal process, but can be held anytime during the claim process
- Although many veterans believe that this is their “Day in Court”, hearings are non-adversarial in nature and are intended to help VA reach an accurate decision

Types of Hearings

A claimant may request a hearing at any time during the claims process, however the type of hearing is determined by the stage of the process that the claim is in.

VSR/RVSR Hearing

- Prior to an initial decision or prior to an appeal (ex: admin decision or proposed reduction)

DRO Hearing

- During the **Legacy Appeal process only** before the Form 9 is filed

Informal Conference

- Used during AMA HLR to discuss issues with the claim with no new evidence

Board Hearing

- After the substantive appeal (Form 9/VA 10182) is filed to the Board of Veterans Appeals

Locations of Hearings

If the claimant selected a VSR or DRO hearing, the hearing will usually be in person at the VA Regional Office (VARO). Videoconferences may be possible depending on your VARO.

For a Board of Veterans Appeals (BVA) hearing, there are four locations of hearings:

- **Central Office** (In person at the BVA in Washington, DC)
- **Videoconference** (Judge in DC, veteran at local RO or VA facility)
- **Travel Board** (Judges visit Regional Offices on a rotating basis – this is the type with the longest wait and can no longer be requested for new appeals)
- **Virtual Hearing** Online using VA's teleconferencing software

Preparing for a Hearing: Reviewing the File

- No matter which type of hearing the veteran chooses, the preparation is essentially the same
- Prior to your hearing with the veteran, you must review the claims file to determine your plan for the hearing
- This should be done several days in advance if possible
- If you need additional evidence or information for the claim to be successful, call the veteran and ask

Preparing for a Hearing: Reviewing the File

When reviewing the file, you should pay close attention to the following things:

- What is the reason for the hearing?
- What are the issues that will be discussed?
- What type(s) of evidence will be needed to help the claim be granted
- What do you want VA to do? (new exam, obtain new records, etc.)

It may help to create a short summary or timeline of the claim for your notes

Preparing for a Hearing: Reconciling Errors

If during your review of the file, you notice something that is easily reconciled, do your best to fix it prior to the hearing.

Common examples include:

- Missed exams
- Outdated or inadequate exams
- Missing diagnosis
- Missing nexus

What are some other common things you may notice that are easily fixed?

Preparing for a Hearing: Cancelling Hearings

- If you are able to get the issue on appeal resolved without having the hearing, by all means do so
- Cancelling the hearing will often allow the claim to resolved more quickly than if the hearing were to take place
- When cancelling a hearing, be sure to get the request **in writing** from the veteran because cancelling a hearing without written consent is considered withholding evidence!

Preparing for a Hearing: Withdrawing Appeals

- If during your review of the file, you determine that the claim has no merit, contact the veteran, explain why the claim has no merit, and professionally ask if they will withdraw the appeal.

- Any withdrawal ***must*** be authorized **in writing with the veteran's signature** in accordance with NVS Policy and Procedure

Preparing for a Hearing: Withdrawing Appeals

At no time should you intimidate or refuse to represent a veteran because of their unwillingness to withdraw an appeal or hearing request.

Preparing for a Hearing: The Pre-Hearing Conference

Prior to any hearing you <u>MUST</u> hold a Pre- Hearing Conference with the veteran.

- Be familiar with all issues
- Create a written summary of the claim and evidence
- Prepare all questions in advance (know what the veteran is going to say and tailor questions)
- Explain how the hearing will function
- Establish your position as the pace-setter (let the veteran know you may have to interrupt if the veteran gets off-topic)
- Explain what you hope to accomplish – but never make any promises

Preparing for a Hearing: Closed Ended vs. Open Ended

Your function during the hearing is to ask the veteran leading (closed ended) questions

This ensures you are not doing all the talking, but also helps prevent the veteran from getting off track

- Instead of asking *"When did you last seek treatment for your condition?"*
- Ask, *"You were last seen for your condition on October 17th 2019, correct?"*

Preparing for a Hearing: Additional Evidence

- During your pre-hearing conference, the veteran may bring additional evidence and/or a witnesses testimony may be considered.

- Review this evidence prior to the hearing, as it may be enough to get the issue resolved without a hearing.

- Resist the temptation to have the veteran present the evidence on their own during the hearing.

Preparing for a Hearing: Additional Evidence

- When reviewing additional evidence brought to the hearing, keep in mind that not all evidence may be helpful to the claim.
- If you come across evidence that may hurt more than help, explain to the veteran why the evidence should probably not be submitted.
- Suggest what would make the evidence stronger and discuss ways to obtain it.

Conducting a Hearing: During the Hearing

During the Hearing you should:

- Always thank the VA Hearing Officer for their time
- Restate the issues being discussed
- Discuss each issue in a clear and concise manner and **stick to the point**
- Present any additional evidence (not previously considered) and explain its relevance
- Explain to the Hearing Officer what you think is the best course of action for the veteran

Conducting a Hearing: During the Hearing

During the Hearing you should:

- Speak clearly, you are being recorded
- Don’t allow the veteran to ramble, YOU are the pace setter
    - Ask closed ended questions
    - Try to anticipate the veteran’s responses
    - Have a signal to stop the veteran if he/she gets off topic or says something detrimental to the claim
- If you need to hold a “sidebar” with your claimant or the hearing officer, you can request to go “off the record” by asking that the recording be paused at any time.

Conducting a Hearing: During the Hearing

The Dreaded Question:

At the end of each hearing, the hearing officer will always ask if the veteran has anything to add.

This is when many veterans will want to voice their frustration with VA. It is **your** responsibility to prepare them for this question during your pre-hearing conference and try to prevent this.

Conducting a Hearing:
During the Hearing - Witnesses

Veterans will often want to bring a witness to their hearing. Witnesses can include:

- Spouse
- Friends
- Doctors
- Other family members

****Lawyers, other representatives, and media members are <u>NOT</u> allowed to be present in the hearing unless they are <u>only</u> acting as a witness****

Conducting a Hearing:
During the Hearing - Witnesses

When working with witnesses:

- Have each witness sign an affidavit (VA will provide this prior to the start of the hearing)
- Prepare the witness during your pre-conference hearing on what to expect
- Explain that even though the witness may contribute, it’s still the veteran’s hearing
- Do not allow witnesses to take over the hearing!

Conducting a Hearing: After the Hearing

After the hearing is complete, you should meet with your veteran to discuss:

- Any additional development or medical examinations that are needed
- How the decision will be sent to the client
- Estimated timeframes – remind your veteran that a decision **will not** be made during the hearing
- Your expectations, but **never** make any promises
- What to do once a decision is reached

Final Thoughts on Hearings

- Hearings can be unpredictable and time consuming, but many veterans want their chance to speak to VA in person – make sure **you're prepared** and prepare your veteran
- If additional evidence is needed, you can ask the hearing officer to hold the record open for 30 or 60 days. In new appeals to the Board, the record will automatically stay open for 90 days
- Remember, hearings are **non-adversarial** in nature
- Try to get issues resolved without a hearing if possible. Waiting for hearings to be scheduled can often delay the appeals process

CONTESTED CLAIMS

- This type of claim exists when the granting of benefits to one claimant results in the denial/reduction of benefits for another
- These can include:
    - Benefits paid to a surviving spouse
    - Benefits paid to a veteran’s parent
    - Apportionments
- Contested claims have short appeal windows

SUBSTITUTIONS AND APPEALS

VETERANS OF FOREIGN WARS.

38 CFR 3.1010(g)(1)(i)

Substitutions are allowed on ***pending*** claims and appeals at the time of claimant's death

- Claim is considered pending if within appeal period to file NOD or Form 9
- Time limit is what was remaining at claimant's death

38 CFR 3.1010(g)(1)(ii)

- If the Board issued a final decision on an appeal prior to the claimant's death, the appeal is not pending
- However, survivor may file appeal with CAVC in the claimant's place: CAVC Rule 43

CHANGE OF REPRESENTATION AT BVA

VETERANS OF FOREIGN WARS.

38 CFR 20.1305

- VA allows changes in representation up until 90 days after appeal received by Board of Veterans Appeals

- However, after an appeal to the Board has been filed, VFW's Policy and Procedure requires approval by the NVS Director before accepting representation

VETERANS OF FOREIGN WARS®

Concurrent Retirement and Disability Pay (CRDP)

Combat Related Special Compensation (CRSC)

Objectives

At the end of this session, you will be able to answer the following questions:

- What are CRSC and CRDP?
- Who is eligible for each program?
- How do veterans qualify for these programs?
- How does VA/DoD determine how much a veteran receives?

Abbreviations

- *CRSC*- Combat Related Special Compensation (Title 10 Ch 71)
- *CRDP*- Concurrent Retirement and Disability Pay (Title 10 Ch 71)
- *DFAS* – Defense Finance Accounting Service
- *USCG* – United States Coast Guard
- *RPBOYOS* – Retired Pay Based on Years of Service
- *GRP*- Gross Retired Pay
- *NRP*- Net Retired Pay
- *AEW*- Audit Error Worksheet
- *RPC*- Retired Pay Center

Prohibition on Concurrent Receipt and the VA Waiver

- Submission of an application for VA compensation constitutes a waiver of retired pay, unless the veteran checks the box on the 21-526ez negating the waiver. If a uniformed service retiree checks the box negating the waiver, VA may not pay compensation.

- If a veteran has waived retired pay as described above, VA will withhold retroactive VA compensation (limited to gross retired pay) and the Veteran's retired pay center (RPC) will withhold the amount of VA compensation being paid from current retired pay.

- This is where CRSC and CRDP come into the picture

What are CRSC and CRDP?

- CRDP and CRSC are Military Retiree benefits administered by the Department of Defense and Services
- **They are not administered by VA**
- VA's function is to check with DFAS (Defense Finance and Accounting Services) to ensure there is no overpayment
- CRDP and CRSC restore ONLY "vested service" retired pay based on longevity and still prohibits double payment of disability pay

What are CRSC and CRDP?

- Veterans can choose either CRDP or CRSC ***not*** both

- You can change your selection once a year at “open season”

Combat-Related Special Compensation (CRSC)

- CRSC is a special monthly benefit paid to Veterans who retired from the uniformed services and have VA service-connected disabilities deemed combat-related by their branch of service.

- CRSC restores, partially or completely, retired pay that is being lost due to the VA waiver.

- CRSC is paid by the Defense Finance and Accounting Service (DFAS) and the U.S. Coast Guard (USGC); however, sometimes VA must reduce retroactive retired pay withholdings for a Veteran to receive his/her full CRSC entitlement.

Combat-Related Special Compensation (CRSC) Eligibility

- **NOT** a VA program
  - Veterans must apply through their military service branch
- Must be entitled to and/or receiving military retired pay
  - For Reservists, at least 60 years old **OR** retired under Temporary Early Retirement Authority **OR** medically retired
  - Must have VA waiver
- Tax free
- Must be receiving VA compensation for combat-related injury/condition or disability directly related to a Purple Heart (10% or more)
- Includes additional allowance for dependents

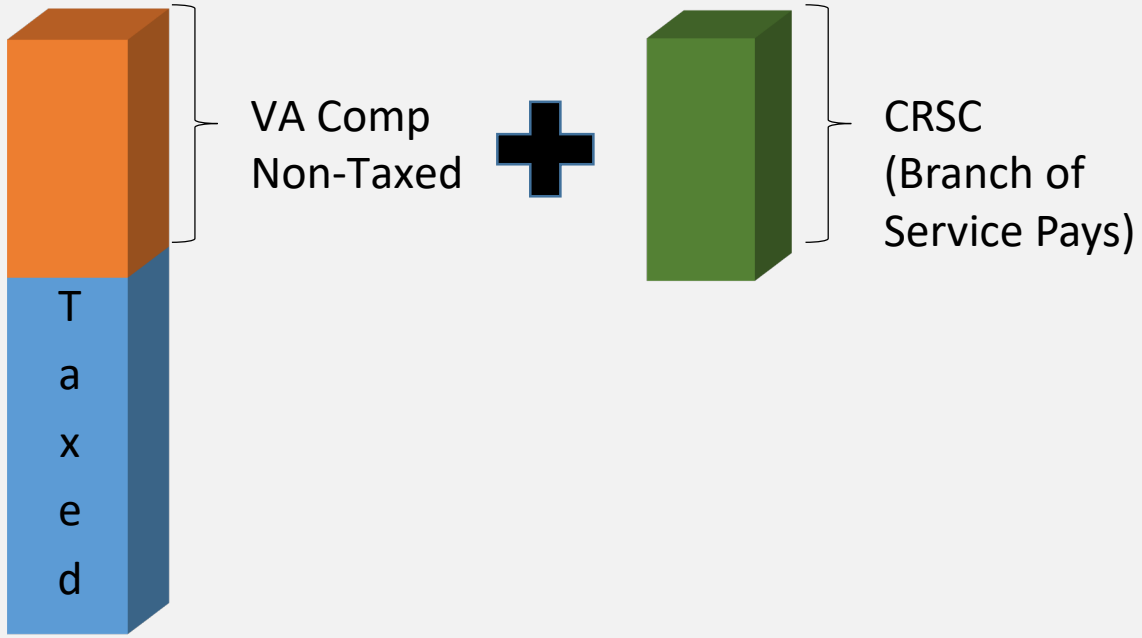
CRSC: What is combat related?

- Injuries incurred as direct result of:
  - Armed conflict
  - Hazardous duty
  - Instrumentality of war
  - Simulated war

- Agent Orange exposure disabilities count
- Other exposure disabilities as a result of instrumentality of war (radiation, mustard gas, lewisite, etc.) also count: if not sure, file

CRSC: Features

- Application-based program (must file a claim) with documentation to show disability is combat-related
- Vet will receive special “3rd” payment equal to monthly dollar-for-dollar reduction in military retired pay for combat-related disability(ies)
- Tax free
- **CRSC is separate from retired pay**



With VA Waiver

CRSC: Features

Court orders regarding “retired pay” do not include CRSC

But CRSC is not VA pay, so it is subject to:

- Child support/alimony
- Garnishments
- Government debts

CRSC: What is needed for the application?

- DD Form 2860 (Application)
- Retirement orders
- 20 year letter or statement of service (for reservists)
- Relevant pages in VA C-File or service treatment record showing disability
- VA rating
- Purple Heart award citation if applicable
- DD 214

CRSC: Application tips

- The quality of the information is more important than the quantity
- Send copies not originals – Branch will not return any documents
- Mail or fax to branch of service

CRSC: When to reapply

A veteran may **reapply** for CRSC when:

- VA has added more disabilities to their rating that they think might qualify

To reapply: Visit branch of service website for the reconsideration form

CRSC Payable

For veterans in receipt of retired pay based on years of service (RPBOYOS), the amount of CRSC payable is the amount payable for the combined evaluation of the Veteran's service-connected (SC) combat-related (CR) disabilities *(Limited to Gross Retired Pay (GRP))*.

Example:

- Gross Retired Pay: $2,000
- Gross VA Compensation payment: $2,200
- CRSC: $2,200 (All disabilities are combat related)
- CRSC Payable: $2,000

CRSC CALCULATIONS FOR DISABLED RETIREES (Medical Board Retirees)

VETERANS OF FOREIGN WARS.

For CRSC Eligible Disability Retirees, Concurrent Receipt is Limited to RPBOYOS

Example:

- GRP: $1,600
- RPBOYOS: $600
- Gross VA compensation payment: $1,100
- CRSC: $1,100 (all disabilities are combat related)
- Concurrent Receipt is limited to $600
- Net Retired Pay (NRP) (GRP – GVA) = $500
- Therefore, CRSC is $100
- The Veteran will receive $1,100 from VA and $600 from DFAS ($500 in Retired Pay and $100 in CRSC)

Concurrent Retired and Disability Pay (CRDP) Eligibility

- CRDP is a program which allows concurrent receipt of uniformed service retired pay and VA compensation. Veterans must have a combined VA service-connected evaluation of at least 50% and be retired based on longevity* or retired due to disability with at least 20 years of service.

- CRDP is not a special payment; rather, it is included with Veterans' military retired pay. As with CRSC, sometimes VA must reduce retroactive retired pay withholdings for a Veteran to receive his/her full CRDP entitlement.

*Veterans retired under the Temporary Early Retirement Authority (TERA) are retired based on longevity.

CRDP Amount

Veterans in receipt of RPBOYOS receive the full amount of their retired pay and VA compensation if their VA compensation rating is 50 percent or greater.

<u>Example:</u> (CRDP based on RPBOYOS)

- RPBOYOS: $1,400
- Gross VA (GVA): $950
- $1,400 (RPBOYOS) + $950 (GVA) = $2,350

CRDP for Medically Retired Reservists

Medical retirement only counts active duty time

- If the veteran served 20 “good years” in the reserves but was medically retired with less than 20 years active duty, the veteran must wait until age 60 to qualify for CRDP

- The veteran may qualify for CRSC before age 60 if there are any combat related disabilities

CRDP Process

- No application required; DFAS automatically determines eligibility
- Opted for the VA waiver
- Military payments are taxable (DFAS statement); VA benefits are not taxable
- Will receive gross retired pay, not “3rd payment”

CRDP Features

CRDP is essentially a substitute for a portion of military retired pay that must be waived

Because it is a restoration of retired pay and is not VA pay, the gross amount of CRDP may be reduced for

- Taxes
- Child support/alimony
- Garnishments
- Government debts

Audit Error Worksheet (AEW)

VA releases retroactive retired pay withholdings due veterans as a result of CRSC/CRDP entitlement via the AEW process:

1. VA promulgates an award and withholds retroactive compensation

2. The VA award lines are transmitted to DFAS/USCG via a bi-weekly combined interface file (CIF)

3. DFAS/USCG determines CRSC/CRDP eligibility and calculates amounts due

Audit Error Worksheet (AEW) continued

4. If DFAS/USCG determines amounts are due from VA, they send VA an audit
   - DFAS electronically transmits audits to VA in a single file during the first week of each month
   - USCG sends audits to VA on a CD via US mail once a month

5. VA transforms the audit into an AEW
   - DFAS AEWs are automatically uploaded into VBMS and a "work item" is automatically established on each AEW
   - USCG AEWs are manually uploaded into VBMS and VAROs are notified via email that the AEW needs to be worked

AEW Payment

Normally it takes approximately 35 to 100 days from the date of the VA award action to receipt of the audit from DFAS. However, most audits are received approximately 65 days from the date of the VA award action.

- DFAS does not send VA audits one at a time.
- DFAS does not send VA audits on a day other than a day during the first week of the month

Most AEWs are processed automatically within 24 hours of the date the audits are received from DFAS. Payment will be made within 5-7 days.

AEWs not automatically processed must be manually processed.

Taxes and VA benefits

If an award of CRSC or CRDP results in a reduction of tax liability (veteran was paid taxable retired pay and should have been paid non-taxable VA or CRSC), the veteran can file an amended tax return

- The Court case allowing an amended tax return for retroactive VA awards is called the Strickland decision and Revenue Ruling 78-161
- DFAS will not send an amended 1099-R for retro years, only for the present year
- **Consult a tax professional** to determine whether to file amended return: Military retirees may go to the legal assistance office/tax center on many bases for help

Program Comparison

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Program:	CRSC	CRDP
VA Rating	Compensable	50% or greater
Qualifying Disability	Combat-Related	Not required
Eligibility Criteria	Must be eligible to receive retired pay (either based on longevity or disability)	Retired based on longevity (Generally 20 years of Active Duty unless TERA Retiree). Disability Retirees must have at least 20 years of service. 20-Year Retirement Letter for Reservists
Taxable	No	Yes
Application Requirements	Must Apply	Automatic
Subject to Garnishment, child support	Yes	Yes
Separate Payment	Yes	No. VA offset is reduced.
Subject to Former Spouse Protection Act (FSPA)	No	Yes

CRSC/CRDP Fast Facts

VETERANS OF FOREIGN WARS.

CRSC

- Any combat-related, compensable service-connected disability.
- CRSC is **not** retired pay and is a **tax-free** entitlement that is paid separately from VA disability compensation and retired pay.
- Enrollment is **not automatic**. Veterans must apply to their branch of service CRSC board (**DD Form 2860**).
- Payment is based on VA compensation rate tables (20% CRSC=20% rate from VA rate tables).

CRDP

- Veterans **must have** a combined VA disability evaluation of **50% or more and be retired due to longevity**. Disability retirees must have at least 20 years of service.
- CRDP is considered retired pay, **is taxable**, and **is not a separate payment**. It benefits the Veteran by increasing net retired pay.
- Payment is determined by the Defense Finance and Accounting Service (DFAS) or Coast Guard (CG).

VETERANS OF FOREIGN WARS®

QUESTIONS?

Frequently Asked Questions

1. **Is a Veteran who retired under the Temporary Early Retirement Authority with less than 20 years of service eligible for CRDP?**
   - Answer: Yes, provided the Veteran has a combined service- connected evaluation of 50% or greater.

2. **Can a Service member apply for CRSC prior to being discharged?**
   - Answer: No. A VA rating decision is required before applying for CRSC.

3. **Is a Reservist with a 20-year letter who is in receipt of disability retired pay eligible for CRDP prior to age 60 or the eligibility age applicable under 10 U.S.C. 12731(f)(2)(A)?**
   - Answer: No. Such a retiree would not be eligible for CRDP until reaching age 60, or the eligibility age applicable under 10 U.S.C. 12731(f)(2)(A).

Frequently Asked Questions

4. **If a disability retiree is in receipt of VA compensation and their branch of service determines that one or more VA service connected disabilities are combat-related, will they receive CRSC?**
   - Answer: Maybe. For disability retirees, if Net Retired Pay (GRP – GVA) is greater than or equal to RBOYOS, CRSC is not payable.

5. **If a veteran doesn't agree with the amount of CRSC received, should they contact VA?**
   - Answer: No. VA does not pay or calculate CRSC. They should contact their retired pay center. (DFAS or CG)

VETERANS OF FOREIGN WARS®

Survivor Benefits

What are Survivor Benefits?

- Survivor Benefits are benefits awarded to the dependents of deceased veterans

- These benefits are awarded based on the veteran's service and/or disabilities

What are Survivor Benefits?

- There are five (5) Survivor programs that will be discussed in this class:
  - Accrued Benefits
  - Dependency and Indemnity Compensation
  - Substitution
  - Survivors Pension
  - Burial Benefits

Accrued Benefits (38CFR 3.1000)

Accrued benefits are benefits that are owed to the veteran but not paid prior to the veteran's death.

VA must receive an accrued benefits claim within one year after the veteran's death.

Accrued Benefits (38CFR 3.1000)

Examples of accrued benefits include:

- A claim or appeal was pending at the time of the beneficiary's death and all of the evidence needed for a favorable decision was in the file on the date of death
- A claim had been granted, but the beneficiary died before award action could be taken
- At the time of the beneficiary's death, one or more benefit checks had not been deposited

Accrued Benefits (38CFR 3.1000)

VA pays accrued benefits based on the claimant's relationship to the deceased veteran. Payments are made to only one category and are awarded to the highest category available

- Eligible dependent categories:
    - Surviving Spouse
    - Dependent Children*
    - Dependent Parents*

*Equal shares are distributed to eligible dependents in the category

Accrued Benefits (38CFR 3.1000)

- Entitlement to accrued benefits is determined according to the line of succession established by law.

- The fact that a preferred beneficiary fails to file or prosecute a claim does not permit payment of his/her share of accrued benefits to a person or persons having an equal or lower preference.

- A waiver of right also does not permit such payment.

Accrued Benefits (38CFR 3.1000)

- If there are no living dependents, VA will pay accrued benefits to reimburse the person(s) who paid for or who are responsible to pay for the veteran's last illness and burial expenses.

- If the expenses were paid from funds of the deceased beneficiary's estate, the claim should be filed by the executor of the estate.

- The amount of accrued benefits payable as reimbursement is limited to the actual amount of expenses paid, or the amount of accrued benefits available, whichever is less.

Accrued Benefits (38CFR 3.1000)

Time Limits:

- Claims for accrued benefits must be filed within 1 year of the veteran's death.
- If an incomplete application is submitted, VA will notify the claimant of what information is missing and they will have 1 year from the date of the notification to submit the missing information
- Intent to File will not extend 1 year filing period

Dependency and Indemnity Compensation (38 CFR 3.5)

Dependency and Indemnity Compensation (DIC) is a tax free monetary benefit paid to eligible survivors of military service members who died in the line of duty or eligible survivors of veterans whose **death was related to a disease or injury that was caused by active military service**.

A claim for DIC can be filed at any time after the veteran's death.

Dependency and Indemnity Compensation (38 CFR 3.5)

Effective date rules:

If a surviving dependent files for DIC within one year of the veteran's death, the effective date will be the day after the veteran's death

If the claim is filed more than a year after the veteran's death, the date of claim is the date the ITF or claim was filed

**If an ITF is filed within one year of the veteran's death the effective date will be the day after the veteran's death if the claim is submitted within 1 year of the ITF

Dependency and Indemnity Compensation (38 CFR 3.5)

The following dependents are eligible for DIC:

- Surviving Spouse
- Dependent Children
  (If not living with surviving spouse)
- Dependent Parents

Unlike accrued benefits, DIC can be paid to all eligible dependents regardless of who else may be entitled to the benefit.

Only one surviving spouse and only one set of parents are recognized as eligible. If there is a dispute, this is a contested claim.

Dependency and Indemnity Compensation (38 CFR 3.22)

DIC is payable to a surviving spouse when:

- The surviving spouse was married to the veteran for 1 year prior to the veteran's death; or

- There was a child born of the marriage (even if born before the marriage took place)

and

- The veteran's death is deemed as service-connected

Dependency and Indemnity Compensation (38 CFR 3.5)

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Types of DIC

- Active Duty death
- Service connected death
- Presumptive condition cause of death
- Contributory cause of death
- USC 1318 (permanently & totally service connected disabled at death)
- USC 1151 (death caused by VA treatment)

Dependency and Indemnity Compensation (38 CFR 3.5)

Active Duty Death

- A death while on active duty is given priority processing. Most cases are submitted by a DOD casualty assistance officer.

Service Connected Death

- A death caused by a rated service connected disability or by a condition that can be linked to service

Dependency and Indemnity Compensation (38 CFR 3.5)

Presumptive Condition Cause of Death

- If a veteran passed away due to a condition that VA has labeled as a presumptive condition (AO exposure, CLCW, Radiation exposure, etc.) an eligible dependent may receive DIC benefits even if the veteran never filed for benefits.

Contributory Cause of Death

- If a service connectable condition is listed as a contributory or secondary cause of death on the death certificate, dependents can still claim DIC.

Dependency and Indemnity Compensation (38 CFR 3.22)

DIC under 38 USC 1318

Entitlement to DIC in the same manner as if death were service connected, if a veteran was in receipt of or entitled to receive a 100% P&T compensation rating for:

- 10 or more years immediately preceding death, or
- a continuous period of at least five years from the time of separation from service until death, or
- 1 or more years immediately preceding death if the Veteran was a former prisoner of war

**Includes those evaluated under the Individual Unemployability benefit if P&T

Dependency and Indemnity Compensation (38 CFR 3.5)

DIC under 38 USC 1151

DIC may be awarded if the veteran's death was caused by:

- Hospital, medical, surgical treatment, or examination at a VA facility or VA contract facility
- Participation in Vocational Rehabilitation Training
- Participation in Compensated Work Therapy

If eligibility is established under Section 1151, the disability is considered service-connected for payment purposes ONLY.

Dependency and Indemnity Compensation (38 CFR 3.5)

VETERANS OF FOREIGN WARS.

A few key facts about DIC:

DIC will be discontinued if a surviving spouse remarries before age 55; if remarried after 55, DIC remains active

DIC is paid as a flat monthly rate regardless of the veteran's former disability percentage

A higher payment called enhanced DIC is payable if the veteran was rated 100% P&T for 8 continuous years prior to death and the surviving spouse was married to the veteran for those same 8 years.

(sometimes called the 8x8 rule)

Dependency and Indemnity Compensation (38 CFR 3.5)

DIC Scenario 1:

Julie Parsons was a gulf war veteran who was service connected for narcolepsy, tinnitus, and right knee instability with a total rating of 60%. She was driving home from work and was unfortunately killed in a car accident. Her spouse is now in your office asking if he should file for DIC.

Is DIC a possibility?

Dependency and Indemnity Compensation (38 CFR 3.5)

DIC Scenario 2:

Walter Murphy was a Vietnam veteran who recently passed away due to a heart attack. He did have boots on the ground service in Vietnam but never filed a claim with VA for service connection. He was married for nearly 40 years to his wife Sally prior to his passing.

Is Sally eligible for DIC?

Substitution (38CFR 3.1010)

Pending claims for benefits used to end with the veteran's death, but the substitution law allows the claim to continue under some circumstances.

The relative of the deceased veteran, who would have been a dependent beneficiary, may file a claim to substitute for the deceased Veteran and continue the process of completing the claim.

The substitution request must be filed within 1 year of the veteran's death

Substitution (38CFR 3.1010)

Once the substitution application is filed, VA will process the claim in the normal fashion (minus any in-person examinations) and the substitute claimant will receive any benefits that the veteran would have been entitled to up to the date of death

Substitute claimants retain the same due process and appeal rights that would have been given to the veteran

For more information review M21-1 Part XI, Chapter 3

Survivor’s Pension (38 CFR 3.3)

Survivor’s Pension is a “needs based” benefit available to un-remarried surviving spouses and unmarried dependent children of deceased wartime veterans.

If a dependent is already receiving DIC, they may not receive Survivor’s Pension at the same time. VA will only award the greater of the two benefits.

To be eligible for survivor’s pension, a surviving dependent must meet the following criteria:

- Income Limits
- Net Worth Limits
- Service Requirements (of veteran)

Survivor's Pension (38 CFR 3.3)

Income and Net Worth Limits

- As of December 1, 2024 the maximum annual pension rate (MAPR) for a surviving spouse with no dependents or Special Monthly Pension (SMP) is $16,965

- The net worth limit is $159,240

- This means that in order for a surviving spouse to receive pension benefits, their income minus any deductible expenses must be below $16,695 **and** their net worth must be under $159,240

Survivor's Pension (38 CFR 3.3)

Similarly to non-service connected pension, the surviving dependent's income can be offset by unreimbursed medical expenses and other expenses such as the veteran's final debts and school tuition.

Remember, medical expenses are not deducted on a dollar for dollar basis, instead VA subtracts 5% of the Maximum Annual Pension Rate (MAPR) from the expenses then uses the remainder as the offset. You should always use the pension rate chart to figure out the 5% exclusion rate.

VA will then subtract the expenses from the income to determine the adjusted income which is then subtracted from the MAPR to determine the payment amount.

Survivor's Pension (38 CFR 3.3)

Final Expenses:

- **burial expenses** (if not reimbursed)
- **medical expenses based on last illness**
- **just debts** (legal debts of the veteran payed by the claimant)

The term last illness means the period from the onset of the acute attack causing death to the date of death. Generally, expenses incurred more than one year prior to date of death should not be considered expenses of last illness.

If death resulted from a lingering illness, the period of last illness is considered to have begun at the time the person became so ill as to require the regular and daily attendance of another person.

Survivor's Pension (38 CFR 3.3)

The same service requirements needed for non-service connected pension are used for survivor's pension.

- For service on or before September 7, 1980, the veteran must have served at least 90 days of active military service, with at least one day during a war time period (Wartimes are listed in 38 CFR 3.2)
- Instead of 90 days active service, there is an additional active duty service requirement for enlistees after 9/7/80 or officers after 10/16/81 (38 CFR 3.12a):
  - 24 months OR full period called or ordered to active duty
  - Except if released under early out/hardship/disability
- Was discharged from service under other than dishonorable conditions.

Special Monthly Benefits

Dependents with special medical needs may qualify for special monthly benefits.

There are 2 types of special monthly benefits that can be added to either DIC or Survivors Pension:

- Housebound
- Aid & Attendance

Special Monthly Benefits
Housebound (38 CFR 3.351, 38 CFR 3.352)

Housebound benefits require medical evidence showing that the surviving spouse is substantially confined to dwelling and immediate premises, institution, ward or clinical area.

Special Monthly Benefits
A&A (38 CFR 3.351, 38 CFR 3.352)

Aid and attendance may be granted when the surviving spouse is a long-term patient in a nursing home, or when there is medical evidence showing claimant:

- requires the assistance of another to protect them from the hazards of daily living or
- bedridden, or
- have corrected visual acuity of 5/200 or less in both eyes, or concentric contraction of visual field to 5 degrees or less

Special Monthly Benefits

Applying for Housebound or A&A

- VA Form 21-2680, Examination for Housebound Status or Permanent Need for Aid and Attendance

OR

- VA Form 21-0779, Request for Nursing Home Information in Connection with Claim for Aid and Attendance

VA does not provide examinations for surviving spouses to support a claim for HB or A&A.

Burial Allowance
(38 CFR 3.1700 - 3.1713)

The VA Burial Allowance is a flat rate monetary benefit that is generally paid at the maximum amount authorized by law for an eligible veteran's burial and funeral costs.

Eligible surviving spouses of record are paid automatically upon notification of the veteran's death, without the need to submit a claim.

VA may grant additional benefits, including the plot or interment allowance and transportation allowance, if it receives a claim for these benefits.

Burial Allowance
(38 CFR 3.1700 - 3.1713)

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In order to be eligible for a burial allowance one of the following criteria must be met:

- The veteran died as a result of a service-connected disability
- The veteran was receiving VA pension or compensation at the time of death
- The veteran was entitled to receive VA pension or compensation, but decided instead to receive full military retirement or disability pay
- The veteran died while hospitalized by VA, or while receiving care under VA contract at a non-VA facility

Burial Allowance
(38 CFR 3.1700 - 3.1713)

- The veteran died while traveling under proper authorization and at VA expense to or from a specified place for the purpose of examination, treatment or care

- The veteran had an original or reopened claim for VA compensation or pension pending at the time of death and would have been entitled to benefits from a date prior to the date of death

- The veteran died on or after October 9, 1996, while a patient at a VA–approved state nursing home.

Burial Allowance:
Service Connected Death

If the veteran died on or after September 11, 2001, the maximum service-connected burial allowance is $2,000.

If the veteran died before September 11, 2001, the maximum service-connected burial allowance is $1,500.

If the veteran is buried in a VA national cemetery, VA may reimburse some or all of the cost of transporting the deceased veteran’s remains.

Burial Allowance:
Non-Service Connected Death

If a veteran who was in receipt of VA benefits passed away due to a non-service connected reason:

VA will pay up to $780 toward burial and funeral expenses for deaths on or after October 1, 2018 (if hospitalized by VA at time of death)

or

$300 toward burial and funeral expenses (if not hospitalized by VA at time of death)

and

$780 plot-interment allowance (if not buried in a national cemetery).

Transportation Expenses Prior to January 2023

The cost of transporting the veteran’s remains to the place of burial may be paid in addition to the burial allowance when:

- The veteran died of a service-connected disability or had a compensable service-connected disability and burial is in a national cemetery; OR
- The veteran died while in a hospital, domiciliary or nursing home to which he/she had been properly admitted under authority of VA; OR
- The veteran died while traveling under prior authorization of VA for the purpose of examination or treatment; OR
- The veteran's remains are unclaimed and burial is in a national cemetery.

Transportation Expenses after January 5, 2023

When the transportation benefit is payable under 38 U.S.C. 2303(a), VA will pay reasonable costs incurred to transport a Veteran's remains from the place of death to the place of burial if the:

- Veteran's date of death is on or after January 5, 2023
- Death occurs within a State
- Place of burial is in any State, and
- Veteran meets any of the following:
    - The veteran died while hospitalized by VA or other facility listed in 38 CFR 3.1706
    - The veteran's remains are unclaimed, or
    - At the time of death, the veteran was in receipt of any of the following:
    - Disability compensation
    - Military retired pay in lieu of disability compensation
    - VA pension

Who is Eligible to File?

If the burial benefit has not been automatically paid to the surviving spouse, VA will pay the first living person to file a claim from any of the following categories:

- Veteran's surviving spouse
- The survivor of a legal union between the deceased veteran and the survivor
- The veteran's children, regardless of age
- The veteran's parents
- The executor of the estate of the deceased veteran

Who is Eligible to File?

Only the person who paid for the veteran’s burial and/or funeral may apply for a burial allowance

The claimant must not have been reimbursed by another government agency or some other source, such as the deceased veteran's employer

If the veteran pre-paid for his/her final expenses the VA will not reimburse the cost

Time Limits for Burial Benefits

A claim for non-service-connected burial allowance must be filed with VA within 2 years after the date of the veteran's permanent burial or cremation.

If a veteran's discharge was corrected after death to "Under Conditions Other Than Dishonorable," the claim must be filed within 2 years after the date of correction.

There is no time limit for the service connected burial allowance, plot or interment allowance, VA hospitalization death burial allowance, or reimbursement of transportation expenses.

Headstones and Markers
38 CFR 38.630 - 38.633

VETERANS OF FOREIGN WARS.

The VA furnishes upon request, at no charge to the applicant, a headstone or marker for the unmarked grave of any deceased veteran discharged from the US Armed Forces under conditions other than dishonorable.

- Minimum active duty requirement for enlistees after 9/7/80 or officers after 10/16/81 in 38 CFR 3.12a - minimum of 24 months or be completed under special circumstances, e.g., death on active duty.
- Persons with 20-years service in the National Guard or Reserves who are entitled to retired pay subsequent to October 27, 1992
- A copy of the Reserve Retirement Eligibility Benefits Letter must accompany the application.
- Active duty service while in the National Guard or Reserves also establishes eligibility.

Headstones and Markers

To submit a claim for a VA furnished headstone or marker, a completed VA Form 40-1330 must be submitted along with the veteran's discharge document to the VA National Cemetery Administration Memorial Products Service. The address and fax number is located in the instructions on the form.

Pre-Need Eligibility Determinations for Burial

Veterans and dependents can apply for burial in a National Cemetery at any time

The following people are eligible to apply:

- A service member on active duty, **or**
- A veteran who didn't receive a dishonorable discharge when they separated from the military, **or**
- The spouse or dependent child of a service member or veteran, even if the service member or veteran has already passed away
- The adult dependent child of a service member or veteran

Pre-Need Eligibility Determinations for Burial

Please note:

- The application is only for national cemeteries
- This application doesn’t apply to Arlington National Cemetery or the United States Soldiers and Airmen’s Home National Cemetery
- Getting a pre-need determination of eligibility doesn’t guarantee you’ll be buried in a specific VA national cemetery

Pre-Need Eligibility Determinations for Burial

To apply, veterans or dependents can visit:

https://www.cem.va.gov/pre-need/

Or they can submit a VA Form 40-10007 "*Application for Pre-need Determination of Eligibility for Burial in a VA National Cemetery*" to the National Cemetery Scheduling Office

Applicants will need the veteran's SSN, date and place of birth, and discharge documents

Burial Flags

Only one burial flag may be provided per veteran. Most veterans are eligible for a burial flag. Reservists entitled to retired pay are also eligible to receive a burial flag.

When burial is in a national, state or post cemetery a burial flag will be provided.

When burial is in a private cemetery, burial flags may be obtained from VA regional offices, national cemeteries and most U.S. post offices by completing VA Form 27-2008, "*Application for United States Flag for Burial Purposes*" *and* submitting it with a copy of the veteran's discharge papers at any of these locations.

Presidential Memorial Certificates

A Presidential Memorial Certificate (PMC) is an engraved paper certificate, signed by the current President, to honor the memory of deceased Veterans who are eligible for burial in a national cemetery.

Eligible recipients include the deceased veteran's next of kin and loved ones.

Eligible recipients may apply for a PMC by submitting a VA Form 40-0247 "*Presidential Memorial Certificate Request Form*"

How to File for Survivor Benefits

Accrued Benefits, DIC, and Survivors Pension are all filed using the VA Form 21P-534EZ: ***"Application for DIC, Death Pension, and/or Accrued Benefits"***

The 21P-0847: "***Request for Substitution of Claimant upon Death of Claimant"*** is used for requests for substitution

What are some examples of evidence that you would recommend be included with the submission?

How to File for Survivor Benefits

When filing for survivor benefits, pay close attention to the instructions on the form. If the form is not properly filled out, VA will not process it and the claimant could miss out on benefits

Some key points to pay attention to on the 21P-534EZ:

- Block 17– Ensure that ALL applicable boxes are checked; VA will only process applications for the selected benefits.
- Nowhere on the form does it ask why the veteran's death should be service connected. If it is not a clear cut, obvious connection to a disability that is already service connected submit a 21-4138 explaining why the death should be service connected.

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 five ways to get to (O)
- SMC (R) and (T)

What is Special Monthly Compensation?

Special Monthly Compensation is a monetary benefit that is paid above and beyond the normal rating schedule to veterans that have certain service-connected disabilities or conditions.

References

- 38 CFR 3.350
- 38 CFR 3.352
- 38 CFR 3.552

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)	$6,689.81per 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 12/2024) 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 light perception
- Loss of use of both buttocks
- Bilateral Deafness
- Aphonia
- Loss or loss of use of a creative organ
- Breast loss (females only)

38 CFR 3.350(a)

Loss of Use (LOU) of a Hand

Loss of use of a hand 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 the elbow with use of a suitable prosthetic appliance.

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 he/she oppose the index finger to the thumb? Can he/she 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?

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 he/she 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).

- You can have more than one SMC (K)

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:

Vet 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 (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.

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”)

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.

See ***Bradley v. Peake*, 22 Vet.App. 280 (2008)**

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.

SMC for Double Extremity Loss

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

- SMC (L) is payable for both feet
- SMC (L) is payable for one foot and one hand
- SMC (M) is payable for both hands

38 CFR 3.350 (b) and (c)

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

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 for Double Extremity Loss

VETERANS OF FOREIGN WARS.

Special Monthly Compensation Practice



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

½ Step Examples:

1. 100 percent for bilateral BKA = SMC(L)
   50 percent for PTSD
   SMC entitlement is now (L ½)

2. 100% for LOU of both hands = SMC(M)
   30 percent for heart disease
   30 percent for GI disorder
   SMC entitlement is now (M ½)

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 5 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)

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)

Ancillary Benefits

Most veterans who qualify for SMC will also qualify for additional ancillary benefits such as:

- Specially Adapted Housing (SAH)
- Special Home Adaptation (SHA)
- Temporary Residence Adaptation (TRA)
- Automobile Allowance
- Adaptive Equipment for Auto
- Commissary Card
- Dependent Education
- Dependent Healthcare

Always talk to your veterans to determine if any claims for ancillary benefits should be filed

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 (K)’s 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)

Final Thoughts

- Don’t expect to master SMC in a day
- Always use your references
- If you have any questions once you return to your office, please ask!!

VETERANS OF FOREIGN WARS®

Service-Connected Claims and Development

WHY IS SERVICE CONNECTION IMPORTANT?

Compensation

A monthly payment made by the VA to a veteran because of a service-connected disability.

38 CFR § 3.4 (a)

WHY IS SERVICE CONNECTION IMPORTANT?

VETERANS OF FOREIGN WARS.

Health Care

FREE VA health care is provided for all service-connected disabilities

*Note: there is another category of service connection for treatment purposes only:

Establishes health care but not compensation: special eligibility to service connection solely for treatment purposes

Common Confusion

Many veterans will confuse compensation with other benefits such as pension or military retirement.

It is your job to explain the differences between these programs and identify entitlement to the greatest benefit possible.

COMMON ELEMENTS OF SERVICE CONNECTION

- Current disability – Incurred or Aggravated
- In line of duty
- In the active military, naval, or air service

38 CFR §3.1(k)

COMMON ELEMENTS OF SERVICE CONNECTION

- Disability: Must have a current disability from injury/disease
- Incurred: Event occurs *anytime* while on active duty (on leave, ACDUTRA, INACDUTRA)
- Aggravated: Disability made worse during service or due to service-connected disability (more on this later)
- In line of duty: Considered in line of duty unless willful misconduct is shown
- **38 CFR §3.301**

THE FOUR (4) PREFERRED PATHS TO SERVICE CONNECTION

VETERANS OF FOREIGN WARS.

- There are four preferred paths to service connection:
  - Direct
  - Aggravation
  - Secondary
  - Presumptive

DIRECT SERVICE CONNECTION

Three elements of Service Connection:

1. Current Disability (established by lay or medical evidence)

2. Event in Service (injury, exposure to toxic substance, noise, trauma)

3. Link between Current Disability and Event in Service, termed “Nexus”
   (For BDD claims the event in service is the link)

***Caluza v. Brown*, 7 Vet.App. 498 (1995)**

DIRECT SERVICE CONNECTION

- With Direct Service Connection, the current disability can develop or get worse many years after service, it just has to be due to the in-service event or exposure.
- This can get more difficult to prove years after service, and will usually require a nexus opinion
- Examples: Late-onset PTSD, Skin cancer due to sun exposure in tropical/desert locations, Disability due to exposure to asbestos, jet fuel, etc.
- **38 CFR 3.303(d)** Post service initial diagnosis of disease

DIRECT SERVICE CONNECTION: EVIDENCE

- Service Treatment Records
- Personnel and Unit Records
- Private Medical Records
- Medical Opinions
- C&P exams/DBQs
- Secondary Evidence showing Incurrence
  - Letters, Diaries, Cancelled Checks, Receipts, Newspaper Articles, Insurance Exams, Workers Compensation Claims, Lawsuits

DIRECT SERVICE CONNECTION: WHAT IF YOU HAD THE SAME PROBLEM BEFORE SERVICE?

VETERANS OF FOREIGN WARS.

- **38 CFR 3.304(b)**
- Presumption of Soundness
  - When accepted for military service, presumed “sound” or healthy EXCEPT FOR:
    - Conditions that are noted on entrance physical OR
    - Clearly and unmistakably pre-existing service

Signed statement of the veteran that disability pre-existed service is of no effect unless other data supports it was pre-existing

AGGRAVATION

Two types of Aggravation:

- **38 CFR 3.306:** Aggravation of Pre-Service Disability
- **38 CFR 3.310(b):** Aggravation of Non-Service Connected Disability After Service

Remember **38 CFR §3.1(k):** incurred or *aggravated*

AGGRAVATION OF PRE-EXISTING DISABILITIES DURING SERVICE

- **38 CFR 3.306**

  If accepted into service with pre-existing disability

  And disability worsens during active service (remember anytime during active service)

  - Pre-existing disability can now be service-connected
  - Unless evidence shows it wasn't aggravated beyond the natural progress of the condition

AGGRAVATION OF PRE-EXISTING DISABILITIES AFTER SERVICE

- **38 CFR 3.310(b)**
- Non-service connected disability pre-existed service or happened after service but not caused by military service
  - The non-service connected disability cannot be the result of willful misconduct
- **Example:** Veteran develops a non-service-connected skin condition, and service-connected diabetes makes the skin condition worse.

AGGRAVATION OF PRE-EXISTING DISABILITIES AFTER SERVICE

- **38 CFR 3.310(b)**
- Medical evidence is required
- Rating a non-service-connected condition that is aggravated after service:
  - Establish baseline – severity of condition if service-connected condition wasn't making it worse
  - Compensated for the ***difference*** between baseline and current severity

SECONDARY SERVICE CONNECTION (SERVICE-CONNECTED DISABILITY CAUSES ANOTHER DISABILITY)

- **38 CFR 3.310(a)**
- This path is similar to aggravation, but the service-connected disability actually ***CAUSES*** another disability
  - Unlike with aggravation, there is no need to establish a baseline
  - Disability is rated the same as if directly service-connected

Some disabilities are already recognized as secondary in the regulations

SECONDARY DISABILITIES RECOGNIZED BY CFR

- Certain disabilities are recognized in the CFR as causing other disabilities
- Some examples include:
  - Above the knee amputation or double ankle amputation causes Cardiovascular disease **38 CFR 3.310(c)**
  - Traumatic brain injury causes Parkinsonism, Seizures, Depression, certain dementias and certain hormone deficiencies **38 CFR 3.310(d)**

SECONDARY DISABILITIES RECOGNIZED BY M21-1

Certain disabilities are recognized in the M21-1 as causing other disabilities

Some examples include:

- Diabetes with nephropathy causes Hypertension (M21-1 V.iii.11.2.g)
- Many other common complications are listed in the M21-1 sections for rating specific disabilities but will need a medical opinion.

MEDICAL EVIDENCE REQUIRED IF NOT LISTED IN CFR OR M21-1

A medical opinion that a service-connected condition or treatment for a service-connected condition caused another disability is required if the disability is not already established as secondary in the regulation.

WILLFUL MISCONDUCT AND ALCOHOL OR DRUG ABUSE

- **38 CFR 3.301(c)(2) and (3)**
- Disabilities that are the result of Alcohol or Drug Abuse can't be directly service-connected. However, if the substance is used because of a service-connected condition, it is not willful misconduct, and resulting disabilities can be secondarily service-connected
  - Example: Veteran has cirrhosis of the liver, due to alcohol addiction.

    If alcohol addiction is result of a service-connected disability (for example, PTSD, or severe pain due to orthopedic condition), cirrhosis of the liver may be secondarily service-connected

PRESUMPTIVE SERVICE CONNECTION

Presumptive service connection can be granted if the veteran meets certain criteria as put forth in 38 CFR.

For presumptive service connection we know some facts about the veteran, and we are presuming that certain disabilities are service-connected because of those facts.

WHAT IS A PRESUMPTION?

There are many presumptions in veterans' law (Title 38 USC and Title 38 CFR)

Some examples:

Combat Veteran Presumption: Because veteran was in combat, we presume that their statements as to disabilities that occurred during combat are true. **38 USC §1154(b)**

Presumption of Soundness: Because the veteran was found fit for service, we presume that he or she did not have any disabilities other than those noted on the physical exam. **38 CFR §3.304(b)**

These presumptions both help to prove in-service incurrence of a disability

PRESUMPTIONS THAT PROVE BOTH IN-SERVICE EVENT AND NEXUS

VETERANS OF FOREIGN WARS.

Each presumption regulation lists:

1. Reason why there is a presumption (examples: radiation exposure, POW status, herbicide exposure, etc.)

2. Facts about veteran's service that must be true
   - When and where they served
   - Sometimes, MOS or job function

3. List of disabilities associated with this presumption

If the veteran's service meets the requirements, all you must show is evidence of a current disability that is on the list of presumptive conditions.

Particulate Matter Presumptive Conditions

In 2021, VA recognized the following conditions as presumptive to particulate matter exposure:

- Asthma
- Rhinitis
- Sinusitis, to include Rhinosinusitis

To qualify the veteran must have:

- Served any length of time in the Southwest Theater of Operations during the Persian Gulf War, or
- Served any length of time in Afghanistan, Syria, Djibouti or Uzbekistan on or after September 19, 2001 and
- Manifests one of the following to any degree within 10 years from the date of separation from military service:

LIMITATIONS OF PRESUMPTIONS

Strategy:

What if the veteran meets the time period and facts of service, but has a disability that is not listed in the regulation?

Possible actions to take?

LIMITATIONS OF PRESUMPTIONS

If it is not on the presumptive list, you will likely need a good medical opinion to lead to a grant of compensation.

- ALWAYS file claims as long as they have:
  - A current, chronic disability and some evidence of exposure
  - *unless* it is clear the disability was caused by an incident after service such as a workplace accident
- BE REALISTIC when explaining processing timelines and chances of success
- Get the facts on record in case the law changes in the future

THREE PATHS “AS-IF” SERVICE CONNECTED

The next three paths to service connection treat the disability “as if” it were service connected

The veteran will be paid compensation but **may not** receive all of the ancillary benefits that normally come with service connection

PAIRED ORGANS

38 CFR §3.383

1. When there is service-connected severe disability
(usually loss or loss of use) of certain organs or extremities AND

2. Non-service-connected disability of the paired organ or extremity

BOTH organs or extremities will be treated as service-connected
for determining compensation

Applies to:
Hands, Feet, Eyes, Ears, Kidneys, and Lungs

PAIRED ORGANS

38 CFR §3.383 – Why?

Rating Schedule percentages assume that if only one of the organs/extremities is impaired, the veteran can compensate for the impaired/missing organ

If both are impaired or missing, veteran is less able to compensate

Example: Veteran has service-connected deafness of one ear due to antibiotic use in service. He also has non-service-connected hearing loss in the other ear due to a scuba diving incident. **38 CFR 4.85(f)**

- Without paired organs regulation: 10% rating for one ear
- With paired organs regulation: Rating for both ears, up to 100%

COMPENSATED WORK THERAPY OR REHABILITATION

- 38 USC §1151 and 38 CFR §3.361
- If the Veteran is participating in VA sponsored CWT, it's treated like worker's compensation
- Must have suffered additional disability or death while in CWT
- Not due to willful misconduct
- Apply for compensation using same process as other claims: 21-526EZ

VA FAULT/NEGLIGENCE

38 USC §1151 and **38 CFR §3.361**

1. Suffered additional disability or death
2. Due to VA medical care or Failure of VA to diagnose/treat

   (Not due to the natural progress of disease)
3. VA was at fault

VA FAULT/NEGLIGENCE

- Three ways to prove VA Fault: **38 CFR §3.361**

1. VA failed to exercise the degree of care that would be expected of a reasonable health care provider, OR

2. VA furnished hospital care, medical or surgical treatment, or examination without the veteran's informed consent, OR

3. The additional injury or death was not reasonably foreseeable (unexpected based on the usual effects of treatment)

A MEDICAL OPINION IS NEEDED FOR THIS

VA FAULT/NEGLIGENCE

NOTE: Remember, this path is “AS-IF” Service Connected

If granted compensation under **38 USC §1151**, veteran will not get all ancillary benefits such as DEA because the condition is not actually service-connected

You may be able to choose a better path even if negligence is an issue

- Which type of claim is it if a service-connected disability gets worse due to treatment?

- Which path is it if treatment for a service-connected disability causes another condition?

File on VA Form 21-526EZ

VA FAULT/NEGLIGENCE

NOTE on Federal Tort Claims and Offsets:

- The veteran/claimant can also file a “Federal Tort Claim” against a federal agency or employee. **VFW CANNOT** assist in these claims.

- There may be an offset of benefits (won’t receive VA compensation and award from Federal Tort Claim settlement at same time)

*IMPORTANT: we are not allowed to recommend specific lawyers. Direct the veteran to Legal Aid or LawHelp.org for clearinghouse of legal aid providers.

THOUGHTS ON SERVICE CONNECTION

- Think about which path makes most sense for the veteran based on the facts and evidence
- Direct, Secondary, Presumptive paths are best, then Aggravation, then “as-if” service-connected paths.
- Do not need to state the path if it is direct service connection, that will always be considered. Recommend stating the path on claim form if it is NOT direct service connection.
- **In the end, it is the veteran’s or survivor’s claim.** Explain clearly the evidence they will need to provide but never dissuade them from filing, especially if it is an original claim.

Now that we have discussed the major points of service connection, let’s talk about claims development and VA’s duties to notify and assist veterans with their claims.

MAJOR POINTS IN THE CLAIMS PROCESS:

- To trigger a C&P exam, the claim must be plausible
- To have the claim granted, the claim must be probable
  - The claim need not be conclusive, only “at least as likely as not” (50/50)
  - It is your responsibility to guide the veteran in preparing a claim with the best chance of success

DUTIES AND RESPONSIBILITIES

- Your role is to assist the veteran in developing and submitting a timely, complete, and accurate claim.

- Once certain criteria are met, VA is required by law to assist the veteran in obtaining required documentation to support their claim and continue development.

- Neither of which relieves the veteran of their ownership of the claim. The veteran also has a duty to assist you and the VA in accomplishing the mission. It is **THEIR** claim.

CRITERIA: "SUBSTANTIALLY COMPLETE" CLAIM

VETERANS OF FOREIGN WARS.

An application is only complete if the following are included (38 CFR 3.160):

- Claimants Name
- Service Information
- Benefit claimed
- Signature
- **For Compensation:** disabilities for which benefit is claimed (listing diagnosis or chronic symptoms)
- **For Pension/parent's DIC:** statement of
- income

DEVELOPMENT OF A CLAIM CONSISTS OF:

VETERANS OF FOREIGN WARS.

•Obtaining any and all available evidence;

•Understanding the process including: time frames and reasonable expectations;

•**Compensation requires** a current diagnosed disability, proof of incurrence, and a nexus;

•**Pension requires** medical evidence or presumption of a permanent and total (over age 65) and income/net worth evidence

WITHOUT PROPER DEVELOPMENT THE CLAIM WILL FAIL

EVIDENCE

Evidence is every type of proof offered to establish a fact.
(M21-1 V.ii.1.A.1.a.)

- Testimonial – Oral and written statements
- Documentary – documents
- Real – a tangible object
- Demonstrative – illustrates testimony of a witness
- Direct – capable of proving by itself of proving a fact or issue
- Circumstantial – allows the fact finder to deduce a certain fact from other facts that can be proven

EVIDENCE

- Evidence must be on or accompanied by a VA approved standardized form; if you are not submitting the evidence at the same time as the claim, include a 21-4138 explaining the evidence and reason for its submittal.

- VA forms are updated frequently and can be obsolete in a short period of time. Visit VA's website for latest edition or you may use the forms provided in VetraSpec.

- REMEMBER… web addresses that end in ".com" are not government web addresses and are often outdated or contain incorrect information.

LAY EVIDENCE

VETERANS OF FOREIGN WARS.

38 CFR 3.159(a)(2)

Lay evidence is:

- any evidence not requiring that the writer have specialized education, training, or experience.
- competent if it is provided by a person who has knowledge of facts or circumstances and conveys matters that can be observed and described by a lay person.
- used to fill in blanks and can help to balance other evidence

EXAMPLES OF LAY EVIDENCE

Some Examples include:

- Veteran's statement (spoken or written)
- Lay statement (spouse, friend, family)
- Buddy statement
- Photographs
- Newspaper clippings
- Performance evaluations
- Copies of bills paid on time

Q: What if veteran's uncle is a nurse who wants to provide testimony?

LAY TESTIMONY REQUIRES:

VETERANS OF FOREIGN WARS.

Credibility

Person making statement must be believable

e.g. malingering, exaggeration, motive

Competency

Person's words have value

e.g. description of symptoms vs diagnosis

M21-1 V.ii.1.A.2.b

"accept evidence at face value"

VALUABLE LAY TESTIMONY

- Veteran’s description of their own experience
- Witness to same in-service event (another veteran)
- Witness of current symptoms (spouse, co-worker, neighbor)
- Opinion of how disability is related to event in service
- Comparison of symptoms before disability and now
- Spouse also heard what doctor said
- Description of how bad pain can get
- Example of how symptoms impact daily life
- Veteran reports unit, rank, and theater

COMBAT VETERANS

VETERANS OF FOREIGN WARS.

38 CFR 3.304(d) ***Combat.***

Satisfactory lay or other evidence that an injury or disease was incurred or aggravated in combat will be accepted as sufficient proof of service connection if the evidence is consistent with the circumstances, conditions or hardships of such service even though there is no official record of such incurrence or aggravation.

TREATMENT RECORDS

- Submit all available treatment records (both VA and private)
- In most cases, it is best for the veteran to obtain private treatment records.
  - Request all records related to the claim using VA Forms 21-4142 and 21-4142a
  - VA does not pay for private records
- If a claim has been filed in the past, VA has those records; submit updates that occurred after the previous claim was filed.

OTHER HELPFUL EVIDENCE

Some other common types of evidence that may be helpful:

- Journals
- Medical Studies
- HR Reports
- Notes/letters home
- Buddy Witness statements on VA form 21-10210

What other types of evidence may be available?

DESTROYED NPRC RECORDS

Note: In 1973, a fire at the National Personnel Records Center (NPRC) in St. Louis destroyed records held for veterans who were discharged from the Army and Air Force during certain periods of time. Records may have been destroyed in the fire if discharged from the Army between November 1, 1912 and January 1, 1960, or if discharged from the Air Force between September 25, 1947 and January 1, 1964.

If your veteran was affected by this, records can be reconstructed by using the following forms:

- NA Form 13055 (medical records)
- NA Form 13075 (service verification)

VA ASSISTANCE IN DEVELOPMENT
VETERANS CLAIMS ASSISTANCE ACT "VCAA"

VETERANS OF FOREIGN WARS.

38 USC 5103 (duty to notify)
38 USC 5103A (duty to assist)

38 C.F.R. §3.159(b) & (c)

VA's duty to notify and assist begins:

- When the VA receives a substantially complete application for benefits;
- Before VA has a **duty to assist** the veteran/claimant, a substantially complete claim must be submitted.
- VA **will notify** the veteran/claimant of evidence that is necessary to substantiate the claim.

TRIGGERING VCAA

WHAT IF THE APPLICATION
IS NOT
"SUBSTANTIALLY COMPLETE"?

Considered incomplete application. VA will send a development letter and the veteran must then file a substantially complete claim.

DEVELOPMENT LETTERS

If a development letter is needed VA will:

- Mail notice to claimant;
- Notice will include what VA will do and what the claimant needs to do
- 5103 notice response included if not already completed on the 526EZ

(38 USC 5103 – duty to notify)

COMMON DUTY TO NOTIFY ERRORS

- Notification is sent to the wrong address
- Standard notification letters ask for info that may already be on file
- Issue is misidentified, so incorrect info is requested
- May overlook evidence filed after claim forms submitted, and fail to send subsequent notice

DUTY TO ASSIST: OBTAINING RECORDS WITH VA ASSISTANCE

VETERANS OF FOREIGN WARS.

VA will assist in obtaining the following records:

- Service Treatment Records/Personnel Records
- Military Unit Records
- National Guard and Reserve Records
- VA Medical Treatment Records
- Social Security or any other federal agency records
- Medical Records not in federal custody ***(Requires VA Form 21-4142 and 21-4142a)***

DUTY TO ASSIST: OBTAINING RECORDS WITH VA ASSISTANCE

VETERANS OF FOREIGN WARS.

VA will make as many requests as necessary to obtain relevant records from a Federal department or agency

- List dates of treatment and facilities on VA form 21-526EZ (or other form such as 21p-534EZ for survivor benefits)

VA will make two requests to obtain private records

- List dates of treatment, facilities, and addresses on VA Form 21-4142 and 21-4142a
- May be quicker to have veteran request records from provider
- VA *will not* pay fees for records (**38 CFR 21.1032**)

If VA provides a "formal finding of unavailability" that the records do not exist or further attempts would be futile, they can stop requesting records.

DUTY TO ASSIST: MEDICAL EXAMS/EVIDENCE

VA will assist in obtaining competent medical evidence to decide the claim:

38 CFR 3.159(c)(4)

- When competent medical evidence is not of record (if it is, VA can go ahead and grant!)
  - Competent lay or medical evidence of current disability
  - Established event, injury, disease or event that triggers a presumption in service
  - Claimed disability or symptoms *may be associated* with the established event, injury, or disease *or with another service-connected disability*

DUTY TO ASSIST IN DIFFERENT CLAIM TYPES

VETERANS OF FOREIGN WARS.

- **Original Claims**: VA required to fully complete duty to assist (DTA)
- **Reopened Claims/Reconsideration (filed prior to 2/19/19)**: DTA required ***only if new and material evidence*** is presented
- **Supplemental Claims (filed after 2/19/19)**: DTA required ***only if new and relevant evidence*** is presented.
- **Survivor Claims**: DTA applies to all ***claimants***, including survivors: qualified persons who may stand to gain a benefit.
- **Higher Level Review/Appeal to the Board**: If VA attempted but did not complete DTA, that is an error. Board can order the VA to fix if benefit cannot be granted immediately.

NO REQUIRED DUTY TO ASSIST

VA does not need to provide Duty to Assist when:

- Application is not complete
- No legal standing (not a claimant)
- Claim is inherently incredible
- Claimant fails to cooperate
- Claimant fails to notify VA of relevant records

DISCONTINUING DUTY TO ASSIST

VA will discontinue Duty to Assist when:

- VA can grant on the evidence of record
- All evidence is of record
- VA is notified that records are not available and further attempts would be futile
- Records have no bearing on issue

COMMON DUTY TO ASSIST ERRORS

VETERANS OF FOREIGN WARS.

Records

- Request is made by VA to the wrong facility/wrong address
- The correct type of records are not requested
- Wrong dates are requested

Exams

- VA fails to request exam when warranted
- Examiner fails to review evidence of record
- Medical opinion fails to address correct path of service connection/does not provide rationale

How can you help prevent these types of errors?

HOW CAN YOU HELP?

- Spelling counts! Check names, addresses, dates
- Review the file and ensure that all relevant records have been properly requested and obtained
- If key records are unavailable, cite applicable laws that can presume evidence (combat veteran presumption, fear-easing stressors, etc.)
- Understand what is being requested in VA's letters and help claimants complete requested responses
- Keep veteran informed, especially of VA timeliness requirements

Common Claim Misconceptions

There is a lot of mis-information out there, be sure to verify if you are unsure on something before you share it with a veteran.

Below are some common claim misconceptions:

Filing for “Agent Orange”

Misconception: Veterans believe they can file a claim for “Agent Orange” as if it is a disability.

Reality: Agent Orange exposure itself is not a disability. Veterans must file for specific conditions linked to Agent Orange, such as diabetes mellitus type 2, ischemic heart disease, or certain cancers.

Common Claim Misconceptions

Filing for “The PACT Act”

Misconception: Veterans think they can file a claim under the “PACT Act” as if it’s a benefit.

Reality: The PACT Act expanded presumptive conditions and locations for toxic exposure claims (e.g., burn pits), but veterans must still file for specific conditions like chronic bronchitis, asthma, or cancers listed under the Act.

Common Claim Misconceptions

VETERANS OF FOREIGN WARS.

Filing for “Burn Pit Exposure”

Misconception: Veterans assume “burn pit exposure” is a claimable condition.

Reality: Burn pit exposure may qualify a veteran for benefits, but only if they have a diagnosed illness tied to the exposure, such as chronic respiratory issues or certain cancers.

Common Claim Misconceptions

VETERANS OF FOREIGN WARS.

Filing for “Gulf War Syndrome”

Misconception: Veterans believe they can file for “Gulf War Syndrome” as a standalone claim.

Reality: Gulf War Syndrome is a term for a range of medically unexplained chronic symptoms. Veterans must claim specific symptoms or conditions, such as chronic fatigue syndrome, fibromyalgia, or functional gastrointestinal disorders.

VETERANS OF FOREIGN WARS®

NVS Policy & Procedure

National Veterans Service (NVS)

- Oversees the network of over 2100 VFW- accredited representatives
- Supervised by the National Council of Administration and NVS Advisory Committee
- Leadership- Director, (2) Deputy Directors, (4) Asst. Directors, (4) Associate Directors, (1) Managers
- Benefits Delivery at Discharge, Board of Veterans Appeals, Tactical Assessment Center, National Service Offices, Training, Quality Assurance
- Buddy Poppies help fund NVS

Quality Assurance Program

Each region has a dedicated NVS staff member who serves as a Regional Quality Assurance Specialist who:

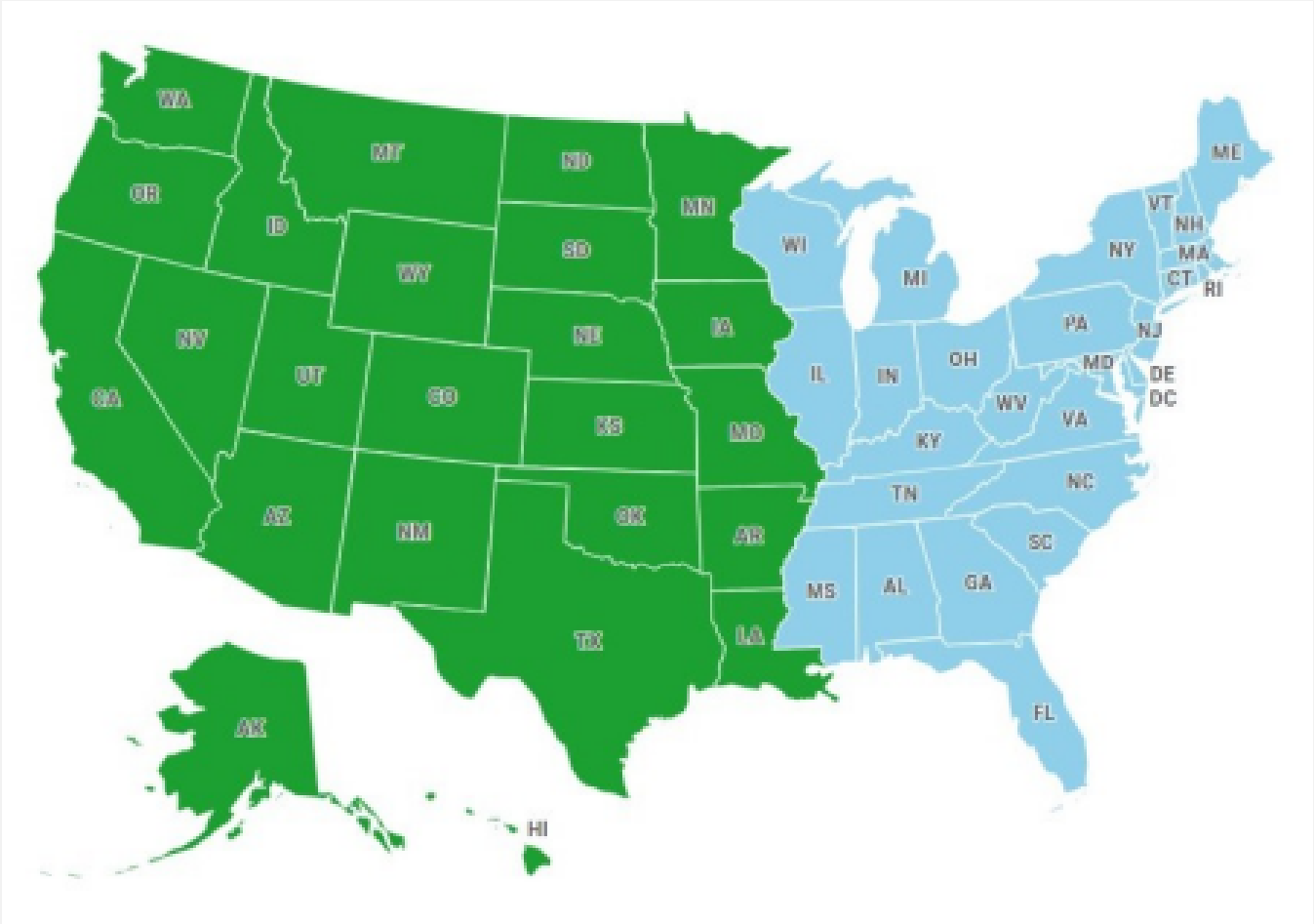
- Provides technical expertise, mentorship, and support for Department Service Office staff and other VFW Accredited Representatives
- Responds to service officer calls
- Conducts monitoring of VSO Notification Queues / respond to SEP POA Requests
- If, after exhausting professional channels at a VARO or VAMC a DSO is unable to resolve an administrative conflict or issue, they may contact their Regional Quality Assurance Specialist

Quality Assurance Program

VETERANS OF FOREIGN WARS.

Cynthia Archuleta
Eastern Regional Quality Assurance Specialist
*including Europe
Carchuleta@vfw.org

Todd Gruchalla
Western Regional Quality Assurance Specialist
*including Pacific Areas
Todd.gruchalla@va.gov



VAVS (VA Voluntary Service)

- Explains the NVS role in the Veterans Affairs Voluntary Service.

- ***https://www.vfw.org/community/community-initiatives/volunteer-service***

Post Service Officer Guide

- Explains the NVS role in preparing the Guide, when it is published, and the DSO responsibility in distributing the Guide.

- The guide is located on the VFW website and can be accessed by visiting:

https://www.vfw.org/assistance/va-claims-separation-benefits

Accreditation

- Accreditation
- Reaccreditation
- Revocation of Accreditation

Accreditation (cont.)

- Officially accredited, through the VFW, by the Department of Veterans Affairs
  - **38 CFR 14.626-14.633**
    - **VFW National Veterans Service, Policy and Procedures, item 2, page 3**

Accreditation (cont.)

- Good character and reputation
- Is NOT employed by a civil or military department or agency of the U.S.
- Is a member in good standing of the VFW who functions full-time in veterans service work and if not a member of the VFW, is a full-time employee of the VFW

Accreditation (cont.)

- A person will not be accredited by VA unless the VFW has certified to VA that the individual meets the eligibility criteria established by VA.

- The Director, NVS, is the National Certifying Officer and shall certify the Application for Accreditation as a Service Organization Representative to the VA General Counsel.

Accreditation (cont.)

- The *Policy and Procedure* was amended during the 124th annual VFW National Convention during the National Veterans Service Advisory Committee on March 1, 2025

- Everyone seeking accreditation with the VFW must undergo a background investigation.

Accreditation (cont.)

- All individuals will undergo a background check. Departments, States and Counties will certify the individual seeking accreditation is free of negative discriminators.

- Service officers seeking reaccreditation after 5 years must undergo a background investigation if one was not previously submitted to NVS.

Exemption for employees who are required to maintain a VA PIV with systems access.

Accreditation (cont.)

- DSO’s and Assistant DSO’s
- Claims Consultants
- Select State Service Officers
- Select County Service Officers
- NVS Staff
- Others as determined on a case-by-case basis by the Director, NVS

Accreditation (cont.)

- DSO support staff working in VFW offices co-located at VA regional offices will not normally be certified since accreditation is not required to conduct their regular duties. However, they must undergo a background check as well.
    - **VFW National Veterans Service, Policy and Procedures, item 4, page 5**

Reaccreditation by VA

- Reaccreditation of a service officer every 5 years is required by VA.

- In reaccreditation of a service officer, we consider:
  - Information from various sources to determine the number and frequency of complaints about service from claimants
  - Feedback from their Department leadership
  - Test scores (MUST maintain a 70% academic average)

    - **VFW National Veterans Service, Policy and Procedures, item 6, page 9**

Revocation of Accreditation

- **With cause** by VA's General Counsel or **upon recommendation** by the Director, NVS if:
  - Refuses to comply with or violates laws administered by VA or with regulations governing practice before VA
  - Knowingly presents a fraudulent claim before VA or before any other governmental department or agency

Revocation of Accreditation (cont.)

- Requests, demands or accepts compensation, in any form, for providing assistance or representation
- Engages in any other unlawful, unprofessional or unethical practice deceiving, misleading or threatening a client
- Neglects to prosecute a claim before the VA in a expeditious manner or fails to provide a timely response to a request for evidence by VA
- Intentionally discloses PII to a 3rd party without proper consent

Revocation of Accreditation (cont.)

- Deliberately withholds a claimant's application for benefits or evidence related thereto for VA.
- Failure to attend training when required.
- Failure to act in a professional manner towards veterans, family members, clients, co-workers or VA employees.
- Those accredited by the VFW are expected to act courteously and professionally towards others at all times. Rude, discourteous, obnoxious or intimidating behavior reflects poorly on the VFW and the individual, and is not acceptable.

Revocation of Accreditation (cont.)

- NVS will investigate complaints of unprofessional conduct, report to the appropriate employer and depending on the findings, take appropriate action, to include revocation of accreditation, if necessary.
    - **VFW National Veterans Service, Policy and Procedures, item 7, paragraph G, subparagraph 3, page 11**

VFW Power of Attorney – VA Policy

- **38 CFR 14.626**

- The purpose of the regulation of representatives, agents, attorneys, and other individuals is to ensure that claimants for Department of Veterans Affairs benefits have responsible, qualified representation in the preparation, presentation, and prosecution of claims for veterans' benefits.

VFW Power of Attorney – VA Policy (cont.)

- **38 CFR 14.631**

- (a) A power of attorney executed on VA form 21-22… is required to represent a claimant before VA and to authorize VA's disclosure of information to any person or organization representing a claimant before the Department. Without the signature of a person providing representation…or an accredited representative, the appointment is invalid.

VFW Policy – Accepting a veteran's POA

- Claimant must **NOT** be represented by an attorney on any issue before the VA
- Claimant must **NOT** restrict access to any records (See VA Form 21-22, Block 20)
- Claimant must have NOT already submitted a substantive appeal to the Board of Veterans Appeals (VA Form 9 or VA Form 10182)
  - *EXCEPTION*: compelling circumstances **AND** advance approval by NVS Director

VFW Policy – Accepting a veteran's POA

- VA must officially acknowledge the POA before the VFW can provide representation

- Information concerning a claimant **WILL NOT** be released to any personnel including those in a VFW Post, County Council, District or Department without a signed document authorizing such disclosure to a specific individual.

VFW Policy – POAs can be revoked due to:

- Abusive verbal or physical behavior towards a VFW representative or staff by a client or prospective client
- Client's repeated and persistent failure to cooperate with a VFW representative
- Demonstrated pattern of repeated changes of powers of attorney where the claim is without apparent merit.
- Fraud or attempted fraud by the client or prospective client in a claim.
- Client has a dishonorable discharge

*Dishonorable discharges are the only types of discharges for which the VFW will refuse POA. The VFW will represent claimants with Other than Honorable and Bad Conduct Discharges

REMINDER – POAs in Stakeholder Enterprise Portal (SEP)

eBenefits is a VA program that allows veterans to manage their VA benefits virtually

The Stakeholder Enterprise Portal (SEP) allows representatives to see what the veteran sees in eBenefits

The Regional Quality Assurance Specialists (RQASs) monitor and respond to SEP POA requests. Your RQAS may contact you pertaining new POAs that are processed in SEP.

VFW Representation – *General*

- Describes the location of the DSO office
- An accredited VFW Service Officer cannot be a guardian or fiduciary
- Cannot accept payment for services
- Role of Post Service Officer
- Special Mission VAROs
- Insurance and Employment claims
- Foreign and Education claims

VFW Representation – *General*

- The DSO is responsible for everything that happens in their office.
- Training of Service Office Staff
- Use workload management tools (TVB)
- Cooperate with and if necessary, request assistance or guidance from Quality Assurance/Training

VFW Representation – *Administrative*

- Admin review
- Chain of command in case work
- Reference material
- Mandatory training
- Outreach programs
- Files
- Post Service Officer training (Report of PSO Training must be submitted annually to NVS for All American status)
- Sensitive level access for DSOs/ADSOs

VFW Representation – *Technical*

- Discussing benefits with claimant
- Certification of records
- Case development
- Administrative appeals
- Independent Medical Opinions (IMO's)
- Signing appeals forms
- Intent to File

VFW Representation-CAVC

In June 2014, the VFW entered into a Memorandum of Understanding with the Law Firm of Bergmann & Moore to represent claimants before the Court of Appeals for Veterans Claims on a case by case basis

VFW Grants

- NVS provides restricted grants to Departments to help fund VFW Service Offices

- Questions regarding criteria for grants should be directed to the Director, VFW National Veterans Service

- NVS restricted grants are reviewed every three years in consultation with the Quartermaster Generals Office

Computer Security

- Protecting sensitive records
- What to do if computer equipment is stolen or lost
- All computers should be encrypted and must be password protected
- VFW offices are required to establish and maintain a VA corporate mailbox with encryption capabilities.

VFW Code of Conduct for Representatives

8 rules expected to be followed by each VFW accredited representative:

1. Do not knowingly present a fraudulent claim or submit false information.
2. Do not engage in any unlawful, unprofessional or unethical practice.
3. You are responsible for compliance with all laws and regulations governing confidentiality and release of information.
4. Under no circumstances should you serve as guardian or fiduciary of veterans or others receiving benefits from VA.
5. Under no circumstances should you demand, request or receive anything, including cash and gifts, for representing someone.

Code of Conduct (cont.)

6. You will never use racial, religious, age-related, sexual or ethnic epithets, innuendos, slurs or jokes in the work place.

7. In dealings with all clients, VFW representatives must conduct themselves in a totally professional manner and refrain from sexual advances, verbal or physical conduct of a sexual nature, or requests for sexual favors.

8. Discrimination based on race, color, religion, sex, sexual orientation, gender identity or expression, age, disability, marital status, citizenship, national origin, genetic information, or any other characteristic protected by law is strictly prohibited.

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QUESTIONS?

VETERANS OF FOREIGN WARS®

Non-Service Connected Pension

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

VETERANS OF FOREIGN WARS.

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

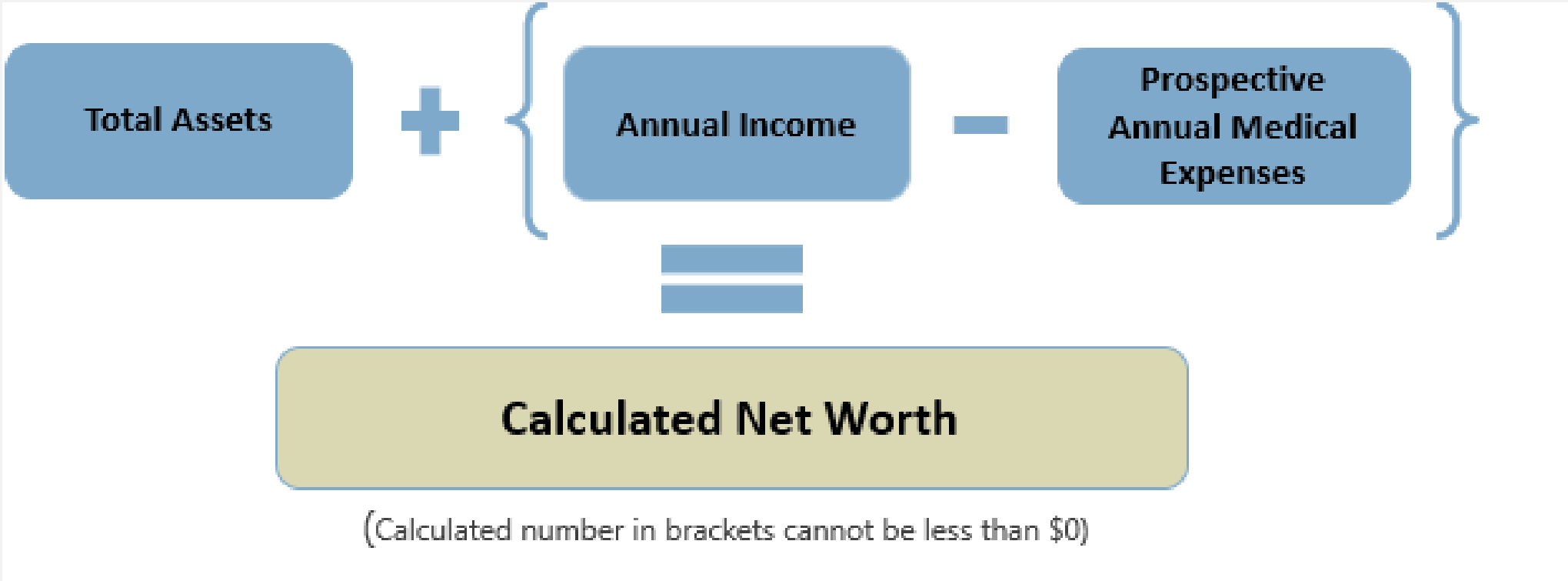
Assets ***do not*** include the following:

- The value of a claimants 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, 2024 = $159,240

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?

- 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 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

VETERANS OF FOREIGN WARS.

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				

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 12/1/2022

If you have no dependents and…	Your MAPR amount is
You don’t qualify for Housebound or Aid and Attendance benefits	16,037
You qualify for Housebound benefits	19,598
You qualify for Aid and Attendance benefits	26,752

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 $13,752 per year
- If zero income, veteran would receive $13,752 per year, or $1,146/mo in VA pension.
- Veteran's income is SSDI of $850/mo. Or $10,200/year
- MAPR of $13,752 minus income of $10,200 = $3552 annual pension

$3335 ÷ 12 = monthly pension of $**<u>296</u>**

Total of SSDI + VA Pension = $13,752

How to Calculate Pension with Medical Expenses

- Single vet, MAPR is $13,752/year
- Income is SSDI of $10,800/year
- He pays total medical expenses of $2,687 for 2019
  - 5% of MAPR is $ 687 (meds above this are deductible)
  - Total expenses minus $687 = $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

$13,752 - $8,800 = $4,952

$4,952 ÷ 12 = **monthly pension of <u>$412</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.

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

VETERANS OF FOREIGN WARS.

Interpreting Medical Records & VA Examinations

MEDICAL TERMINOLOGY

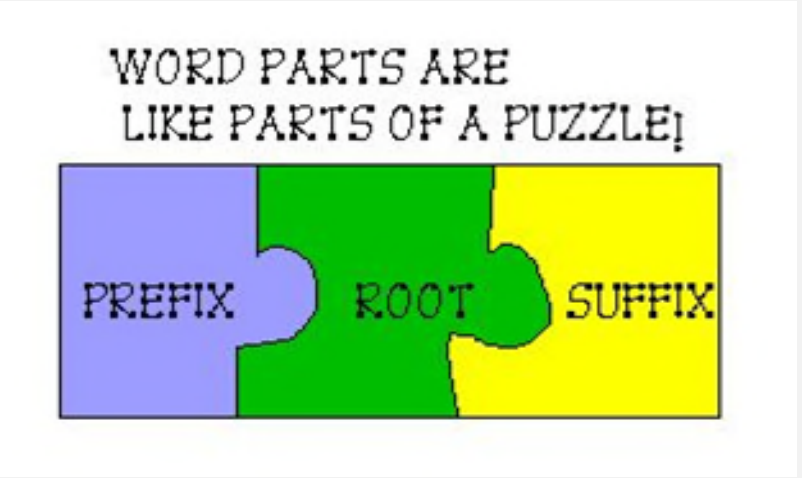
- **Medical terminology -** language used to accurately describe the human body and associated components, conditions, processes and procedures in a science-based manner.

- Used in the medical and nursing fields.

- Stems largely from Greek and Latin words

3 Basic Parts

- Prefix
- Beginning of the word, modify their meanings.
- Specify the location, time, or number.



- Root Words
- Can stand alone as the main part of the medical term
- Holds the fundamental meaning of the phrase

- Suffix
- Attached to the end of word, to change their meanings
- Usually indicate the procedure, condition, disorder, or disease

WHAT ABOUT……

- ACUTE
- CHRONIC
- BENIGN
- MALIGNANT
- METASTATIC

- GET A GOOD DICTIONARY!! (or learn how to Google)

ChatGPT and Understanding Medical Terms

As VSOs, we often come across complicated medical terms in veterans' records we might not understand. ChatGPT can help translate confusing jargon into clear, plain English.

In an STR you might find an entry that says:

“Post-surgical lymphedema with recurrent cellulitis secondary to axillary node dissection.”

After you put it into ChatGPT it will come out as:

“This means the veteran has swelling in their arm due to blocked lymph flow after lymph nodes were removed during surgery, and they keep getting skin infections because of it.”

TYPES OF MEDICAL RECORDS

- Service Treatment Records (STRs)
  - Hard Copy STR
  - Electronic STR
- VA Medical Records (including C&P Exams)
- Private Treatment Records
- Specialty Records

SERVICE TREATMENT RECORDS

- Entrance and Exit Physicals
- Sick Call / Medical Appointments (Hand Written & Typed)
- Periodic Health Assessments & Post Deployment Health Assessments (PHAs & PDHAs)
- Audiograms, Labs, Etc…
- Don’t list all of the AutoCites problems as claimable issues
- Look at the actual medical notes

MEDICAL RECORDS

VETERANS OF FOREIGN WARS.

HEALTH RECORD | **CHRONOLOGICAL RECORD OF MEDICAL CARE**

Patient: CLEMENS, SAMUEL

Date: 14 Dec 1991

Appt Type: ACUT

Facility: Gen Leonard Wood ACH Ft Leonard Wood, MO
Patient Status: Outpatient

Clinic: C-TMC Er Module

Provider: Pennyworth, Alfred

Reason for Appointment: pink eye
Appointment Comments:

b 58th

AutoCites

Problems
- CONTACT DERMATITIS
- KNEE SPRAIN LEFT
- Need For Vaccination Hepatitis B
- Need For Vaccination Hepatitis A
- visit for: new patient eye exam
- TONSILLITIS
- OBESITY
- visit for: ears, nose, and throat exam
- visit for: military services physical

Active Family History
- Family medical history was unknown

Allergies
No Allergies Found.

Active Medications
No Active Medications Found.

SOAP NOTES

- **S**ubjective: A brief summary of the veteran’s complaints
- **O**bjective: A summary of the medical professional’s findings
- **A**ssessment: The potential diagnosis
- **P**lan: The recommended treatment

SUBJECTIVE/OBJECTIVE

VETERANS OF FOREIGN WARS.

S: 18y/o WM c/o nausea & lightheadedness since 1200 yesterday accompanied by vomiting x1 & diarrhea (soft-liq BM's) x3 since 2400 this AM. Member denies HA's, fainting, F/C, coryza symptoms, cough/SOB, neck or CP, head injury or trauma, abd discomfort or bladder changes. Tolerating regular diet & fluids well; ate "McDonald's" for lunch @ 1200 last PM w/o complaint. Non-smoker; "no" ETOH; no routine OTC or RX medications in use. No other complaints.

O: WDWN slender WM NAD; A&O x3 - pleasant & cooperative; VSS.

PE: EENT - Unremarkable & non-contributory.
NECK - NTP w/FROM; no masses, thyroidmegaly or lymphadenopathy.
PULM - CTAP, bilat w/o coughs, or wheezes; symmetrical DI.
CVS - s1-s2, RRR w/o rubs, murmurs; perph pulses 2+/=, bilat.
ABD - Benign w/exception of mild diffuse TTP over hypogastric areas, no rebound or masses; no CVAT.
SKIN - Warm & moist w/excellent turgor; no lesions or rashes.

Assessment/Plan

VETERANS OF FOREIGN WARS.

A/P

1. KNEE SPRAIN LEFT

Disposition

Released w/ Work/Duty Limitations: Profile: KNEE SPRAIN LEFT 844.9

Follow up: as needed .

Discussed: Diagnosis, Medication(s)/Treatment(s), Potential Side Effects with Patient who indicated understanding.

20 minutes face-to-face/floor time. >50% of appointment time spent counseling and/or coordinating care.

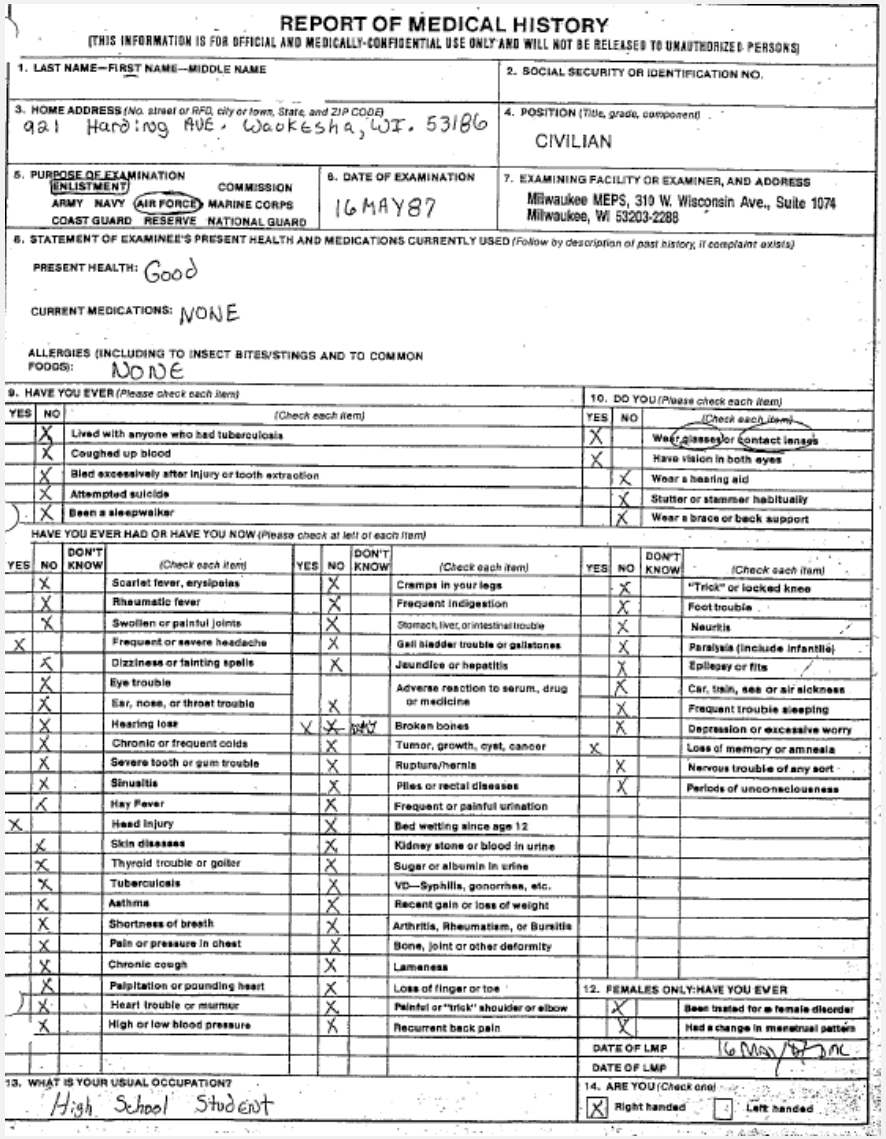
Note

Treatment

Pt given Motrin 800mg 1 tab t.i.d., ace wrap and profile. Pt ed on meds, stretching, profile, and R.I.C.E. RTCPRN.

Physicals

VETERANS OF FOREIGN WARS.



REPORT OF MEDICAL HISTORY

(THIS INFORMATION IS FOR OFFICIAL AND MEDICALLY-CONFIDENTIAL USE ONLY AND WILL NOT BE RELEASED TO UNAUTHORIZED PERSONS)

1. LAST NAME—FIRST NAME—MIDDLE NAME

2. SOCIAL SECURITY OR IDENTIFICATION NO.

3. HOME ADDRESS (No. street or RFD, city or town, State, and ZIP CODE)
921 Harding AVE. Waukesha, WI. 53186

4. POSITION (Title, grade, component)
CIVILIAN

5. PURPOSE OF EXAMINATION
(ENLISTMENT) COMMISSION
ARMY NAVY (AIR FORCE) MARINE CORPS
COAST GUARD RESERVE NATIONAL GUARD

6. DATE OF EXAMINATION
16MAY87

7. EXAMINING FACILITY OR EXAMINER, AND ADDRESS
Milwaukee MEPS, 310 W. Wisconsin Ave., Suite 1074
Milwaukee, WI 53203-2288

8. STATEMENT OF EXAMINEE'S PRESENT HEALTH AND MEDICATIONS CURRENTLY USED (Follow by description of past history, if complaint exists)

PRESENT HEALTH: Good

CURRENT MEDICATIONS: NONE

ALLERGIES (INCLUDING TO INSECT BITES/STINGS AND TO COMMON FOODS): NONE

9. HAVE YOU EVER (Please check each item)

YES	NO	(Check each item)
	X	Lived with anyone who had tuberculosis
	X	Coughed up blood
	X	Bled excessively after injury or tooth extraction
	X	Attempted suicide
	X	Been a sleepwalker

10. DO YOU (Please check each item)

YES	NO	(Check each item)
X		Wear glasses or contact lenses
X		Have vision in both eyes
	X	Wear a hearing aid
	X	Stutter or stammer habitually
	X	Wear a brace or back support

HAVE YOU EVER HAD OR HAVE YOU NOW (Please check at left of each item)

YES	NO	DON'T KNOW	(Check each item)	YES	NO	DON'T KNOW	(Check each item)	YES	NO	DON'T KNOW	(Check each item)
	X		Scarlet fever, erysipelas		X		Cramps in your legs		X		"Trick" or locked knee
	X		Rheumatic fever		X		Frequent indigestion		X		Foot trouble
	X		Swollen or painful joints		X		Stomach, liver, or intestinal trouble		X		Neuritis
X			Frequent or severe headache		X		Gall bladder trouble or gallstones		X		Paralysis (include infantile)
	X		Dizziness or fainting spells		X		Jaundice or hepatitis		X		Epilepsy or fits
	X		Eye trouble				Adverse reaction to serum, drug or medicine		X		Car, train, sea or air sickness
	X		Ear, nose, or throat trouble		X				X		Frequent trouble sleeping
	X		Hearing loss	X	X	only	Broken bones		X		Depression or excessive worry
	X		Chronic or frequent colds		X		Tumor, growth, cyst, cancer	X			Loss of memory or amnesia
	X		Severe tooth or gum trouble		X		Rupture/hernia		X		Nervous trouble of any sort
	X		Sinusitis		X		Piles or rectal diseases		X		Periods of unconsciousness
	X		Hay Fever		X		Frequent or painful urination				
X			Head injury		X		Bed wetting since age 12				
	X		Skin diseases		X		Kidney stone or blood in urine				
	X		Thyroid trouble or goiter		X		Sugar or albumin in urine				
	X		Tuberculosis		X		VD—Syphilis, gonorrhea, etc.				
	X		Asthma		X		Recent gain or loss of weight				
	X		Shortness of breath		X		Arthritis, Rheumatism, or Bursitis				
	X		Pain or pressure in chest		X		Bone, joint or other deformity				
	X		Chronic cough		X		Lameness				
	X		Palpitation or pounding heart		X		Loss of finger or toe				
	X		Heart trouble or murmur		X		Painful or "trick" shoulder or elbow				
	X		High or low blood pressure		X		Recurrent back pain				

12. FEMALES ONLY: HAVE YOU EVER

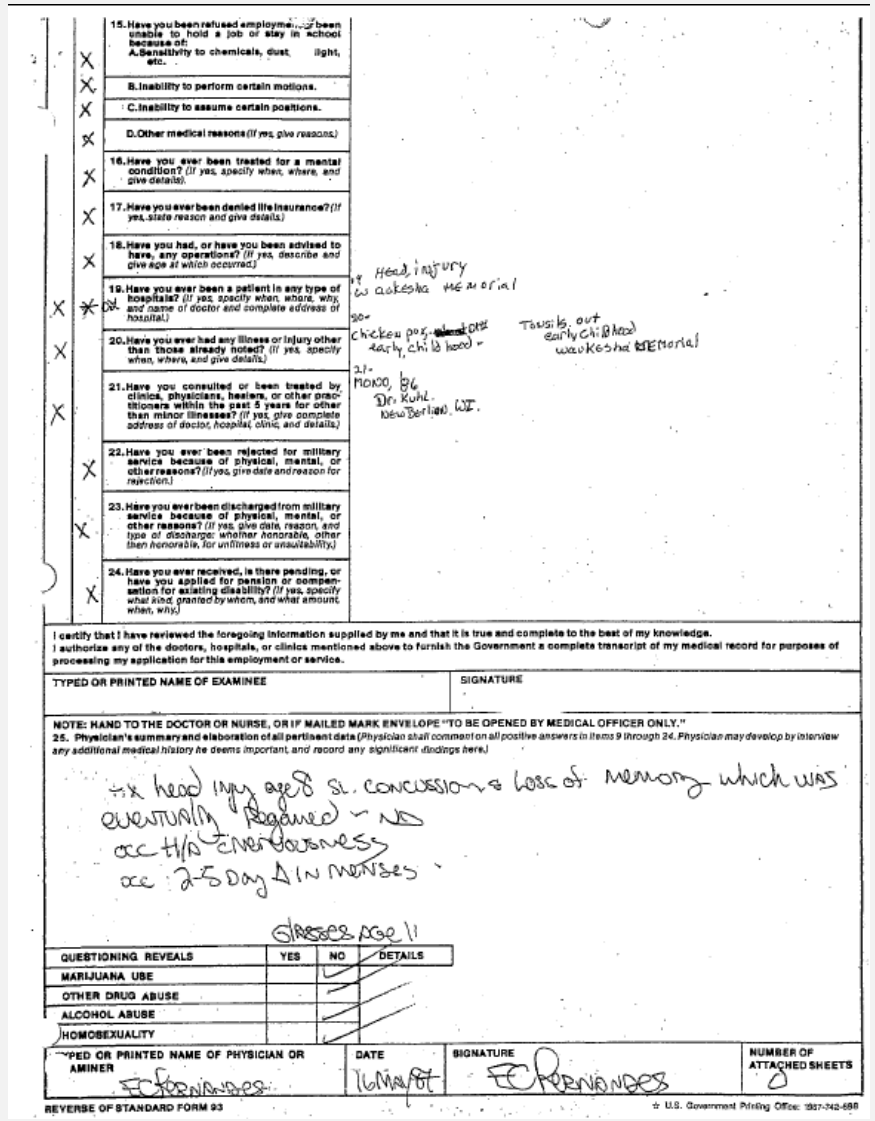
X		Been treated for a female disorder
X		Had a change in menstrual pattern

DATE OF LMP: 16 May 87 approx

DATE OF LMP:

13. WHAT IS YOUR USUAL OCCUPATION?
High School Student

14. ARE YOU (Check one)
[X] Right handed [ ] Left handed



15. Have you been refused employment or been unable to hold a job or stay in school because of:
A. Sensitivity to chemicals, dust, light, etc. X
B. Inability to perform certain motions. X
C. Inability to assume certain positions. X
D. Other medical reasons (If yes, give reasons.) X

16. Have you ever been treated for a mental condition? (If yes, specify when, where, and give details.) X

17. Have you ever been denied life insurance? (If yes, state reason and give details.) X

18. Have you had, or have you been advised to have, any operations? (If yes, describe and give age at which occurred.) X
14 Head injury w Waukesha Memorial

19. Have you ever been a patient in any type of hospital? (If yes, specify when, where, why, and name of doctor and complete address of hospital.) X
10- chicken pox, measles, DPT early childhood - Tonsils out early childhood Waukesha Memorial

20. Have you ever had any illness or injury other than those already noted? (If yes, specify when, where, and give details.) X
21- Mono, 86 Dr. Kuhl New Berlin, WI.

21. Have you consulted or been treated by clinics, physicians, healers, or other practitioners within the past 5 years for other than minor illnesses? (If yes, give complete address of doctor, hospital, clinic, and details.) X

22. Have you ever been rejected for military service because of physical, mental, or other reasons? (If yes, give date and reason for rejection.) X

23. Have you ever been discharged from military service because of physical, mental, or other reasons? (If yes, give date, reason, and type of discharge: whether honorable, other than honorable, for unfitness or unsuitability.) X

24. Have you ever received, is there pending, or have you applied for pension or compensation for existing disability? (If yes, specify what kind, granted by whom, and what amount, when, why.) X

I certify that I have reviewed the foregoing information supplied by me and that it is true and complete to the best of my knowledge.
I authorize any of the doctors, hospitals, or clinics mentioned above to furnish the Government a complete transcript of my medical record for purposes of processing my application for this employment or service.

TYPED OR PRINTED NAME OF EXAMINEE | SIGNATURE

NOTE: HAND TO THE DOCTOR OR NURSE, OR IF MAILED MARK ENVELOPE "TO BE OPENED BY MEDICAL OFFICER ONLY."

25. Physician's summary and elaboration of all pertinent data (Physician shall comment on all positive answers in items 9 through 24. Physician may develop by interview any additional medical history he deems important, and record any significant findings here.)

+x head injury ages 8 sl. concussions & loss of memory which was eventually regained - ND
occ H/A & dizziness
occ 2-5 day D in menses.
Glasses age 11

QUESTIONING REVEALS	YES	NO	DETAILS
MARIJUANA USE		X	
OTHER DRUG ABUSE		X	
ALCOHOL ABUSE		X	
HOMOSEXUALITY		X	

TYPED OR PRINTED NAME OF PHYSICIAN OR EXAMINER: FC Fernandes | DATE: 16 May 87 | SIGNATURE: FC Fernandes | NUMBER OF ATTACHED SHEETS: 0

REVERSE OF STANDARD FORM 93

☆ U.S. Government Printing Office: 1987-742-688

Physical Exam

VETERANS OF FOREIGN WARS.

A/P Last updated by CARIUS,BRANDON M @ 21 Sep 2016 1341 CDT

1. Lateral epicondylitis, right elbow: 31 yo ADM for Phase II ETS physical c multiple complaints:

1. RIGHT elbow pain x 2 wks, described as sharp, intermittent, 4/10, aggravated by lifting, occasional numbness, no relief prior to presentation. Pt denies fevers, night sweats, chills, redness, warmth, swelling, clicking, popping, UE weakness, Hx of surg/trauma/known MOI. PE reveals wn/wd afebrile m in NAD, RIGHT elbow has pain c resisted wrist ext, rest of UE PE wnl. MS 5/5 throughout, no sensory deficits noted. Pt advised and consented on Dx, top NSAIDs, proper dosage and administration, stretching, RICE, f/u c PCM prn. All Pt questions and concerns addressed.

Medication(s): -DICLOFENAC (VOLTAREN) TOP 1% GEL--TOP 1% - APPLY 2-4 GRAMS TO AFFECTED AREA UP TO FOUR TIMES A DAY AS NEEDED PAIN #2 RF0

2. Pain in right shoulder: 31 yo ADM for Phase II ETS physical c multiple complaints:

2. RIGHT shoulder pain x 2 wks, described as sharp, intermittent, 4/10, aggravated by heavy lifting, no attempst at relief prior to presentation. Pt denies fevers, night sweats, chills, redness, warmth, swelling, clicking, popping, UE weakness, shoulder tingling/numbness, Hx of surg/known trauma/MOI. PE reveals wn/wd afebrile m in NAD, RIGHT shoulder exam reveals POS Hawkin's, rest of shoulder exam all wnl. NEG supraspinatus, Jobe's, Speed's, Yergason's, O'Brien's, subscapularis lift-off, Neer's. UE MS 5/5 throughout, no sensory deficits noted. Pt advised and consented on possible impingement, use top NSAIDs, stretching and heat Tx, otherwise RICE Tx, f/u c PCM prn. All Pt questions and concerns addressed.

3. Essential (primary) hypertension: BP 153/95 today in clinic, VS review shows elevated trends. pt states was on Rx prior, which controlled it well, but stopped taking it. Pt advised and consented will re-start prior Rx, proper dosage and administration, dietary/lifestyle changes, increased morbidity/mortality risks if uncontrolled, f/u c PCM in 2-4 weeks for recheck on BP (ETS-ing). All Pt questions and concerns addressed.

Medication(s): -LISINOPRIL/HCTZ--PO 10MG/12.5MG TAB - TAKE ONE TABLET BY MOUTH EVERY DAY FOR HYPERTENSION #90 RF0

4. Mixed hyperlipidemia: See attached labs. LDL and TG are elevated compared to prior tests, will start Rx at this time. Pt advised and consented on proper dosage and adminsitration of Rx, dietary/lifestyle changes, f/u c PCM prn. All Pt questions and concerns addressed.

Medication(s): -ATORVASTATIN (LIPITOR EQ) 10MG PO TAB--P - TAKE 1 TABLET BY MOUTH ONCE EVERY DAY FOR CHOLESTEROL. #90 RF0

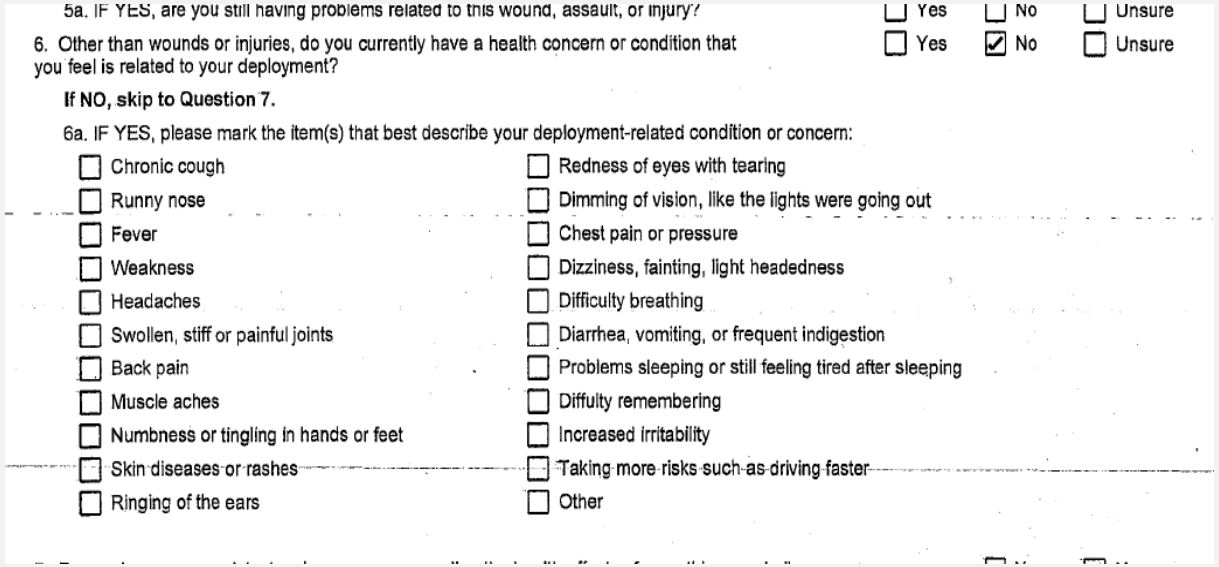
5. Melanocytic nevi, unspecified: On PE, Pt has extreme number of blending nevi throughout back and arms. Pt states fam Hx of skin Ca. Pt advised and consented on dermatology referral for FBSE, f/u c PCM prn.

Consult(s): -Referred To: DERMATOLOGY (Routine) Specialty: DERMATOLOGY Clinic: DERMATOLOGY CLINIC Provisional Diagnosis: Melanocytic nevi, unspecified

PERIODIC HEALTH ASSESSMENTS / POST DEPLOYMENT HEALTH ASSESSMENTS (PHAS & PDHAS)

VETERANS OF FOREIGN WARS.

- Most veterans complete periodic health assessments throughout their career, especially if they were deployed
- Make sure you pay attention to the possible exposures, and any changes the service member reports



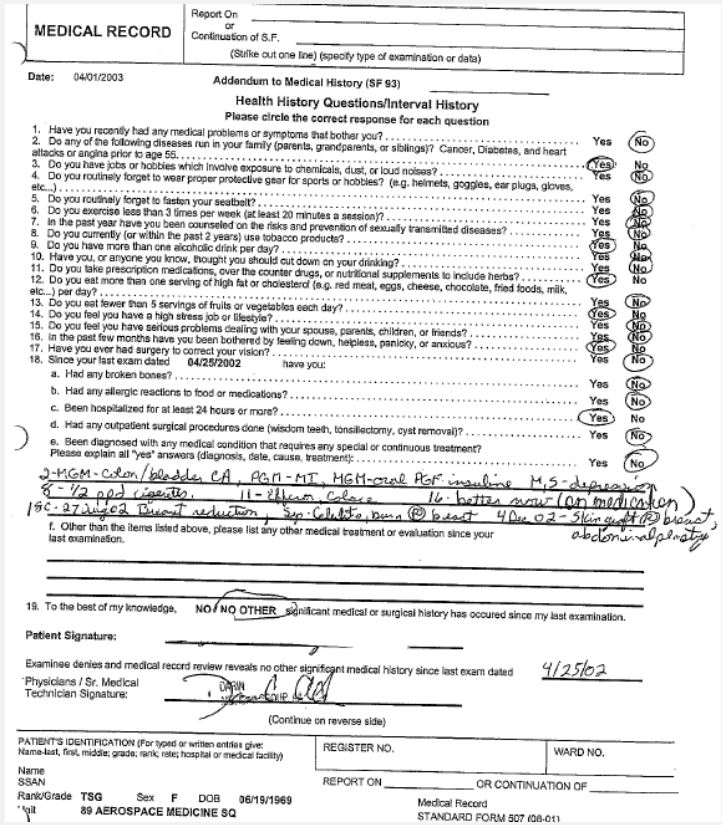
5a. IF YES, are you still having problems related to this wound, assault, or injury? ☐ Yes ☐ No ☐ Unsure

6. Other than wounds or injuries, do you currently have a health concern or condition that you feel is related to your deployment? ☐ Yes ☑ No ☐ Unsure

If NO, skip to Question 7.

6a. IF YES, please mark the item(s) that best describe your deployment-related condition or concern:

☐ Chronic cough	☐ Redness of eyes with tearing
☐ Runny nose	☐ Dimming of vision, like the lights were going out
☐ Fever	☐ Chest pain or pressure
☐ Weakness	☐ Dizziness, fainting, light headedness
☐ Headaches	☐ Difficulty breathing
☐ Swollen, stiff or painful joints	☐ Diarrhea, vomiting, or frequent indigestion
☐ Back pain	☐ Problems sleeping or still feeling tired after sleeping
☐ Muscle aches	☐ Diffulty remembering
☐ Numbness or tingling in hands or feet	☐ Increased irritability
☐ Skin diseases or rashes	☐ Taking more risks such as driving faster
☐ Ringing of the ears	☐ Other



MEDICAL RECORD

Report On
or
Continuation of S.F.
(Strike out one line) (specify type of examination or data)

Date: 04/01/2003

Addendum to Medical History (SF 93)

Health History Questions/Interval History

Please circle the correct response for each question

1. Have you recently had any medical problems or symptoms that bother you? Yes (No)
2. Do any of the following diseases run in your family (parents, grandparents, or siblings)? Cancer, Diabetes, and heart attacks or angina prior to age 55. (Yes) No
3. Do you have jobs or hobbies which involve exposure to chemicals, dust, or loud noises? Yes (No)
4. Do you routinely forget to wear proper protective gear for sports or hobbies? (e.g. helmets, goggles, ear plugs, gloves, etc...) Yes (No)
5. Do you routinely forget to fasten your seatbelt? Yes (No)
6. Do you exercise less than 3 times per week (at least 20 minutes a session)? Yes (No)
7. In the past year have you been counseled on the risks and prevention of sexually transmitted diseases? Yes (No)
8. Do you currently (or within the past 2 years) use tobacco products? (Yes) No
9. Do you have more than one alcoholic drink per day? (Yes) No
10. Have you, or anyone you know, thought you should cut down on your drinking? Yes (No)
11. Do you take prescription medications, over the counter drugs, or nutritional supplements to include herbs? (Yes) No
12. Do you eat more than one serving of high fat or cholesterol (e.g. red meat, eggs, cheese, chocolate, fried foods, milk, etc...) per day? Yes (No)
13. Do you eat fewer than 5 servings of fruits or vegetables each day? (Yes) No
14. Do you feel you have a high stress job or lifestyle? (Yes) No
15. Do you feel you have serious problems dealing with your spouse, parents, children, or friends? Yes (No)
16. In the past few months have you been bothered by feeling down, helpless, panicky, or anxious? (Yes) No
17. Have you ever had surgery to correct your vision? Yes (No)
18. Since your last exam dated 04/25/2002 have you:
    a. Had any broken bones? Yes (No)
    b. Had any allergic reactions to food or medications? Yes (No)
    c. Been hospitalized for at least 24 hours or more? (Yes) No
    d. Had any outpatient surgical procedures done (wisdom teeth, tonsillectomy, cyst removal)? Yes (No)
    e. Been diagnosed with any medical condition that requires any special or continuous treatment?
    Please explain all "yes" answers (diagnosis, date, cause, treatment): Yes (No)

2-MGM-colon/bladder CA, AGM-MI, MGM-ovarian AGF insuline M,S-depression
8-1/2 ppd cigarettes. 11-Effexor, Celexa 16-better now (on medication)
18c-27 lbs/02 Breast reduction, Sep-Colectomy, Sep (R) breast 4Dec 02-Skin graft (R) breast, abdominal plasty

f. Other than the items listed above, please list any other medical treatment or evaluation since your last examination.

19. To the best of my knowledge, NO / NO OTHER significant medical or surgical history has occured since my last examination.

Patient Signature:

Examinee denies and medical record review reveals no other significant medical history since last exam dated 4/25/02

Physicians / Sr. Medical Technician Signature: DAWN

(Continue on reverse side)

PATIENT'S IDENTIFICATION (For typed or written entries give: Name-last, first, middle; grade; rank; rate; hospital or medical facility)

Name
SSAN
Rank/Grade TSG Sex F DOB 06/19/1969
Unit 89 AEROSPACE MEDICINE SQ

REGISTER NO. WARD NO.

REPORT ON _____ OR CONTINUATION OF _____

Medical Record
STANDARD FORM 507 (08-01)

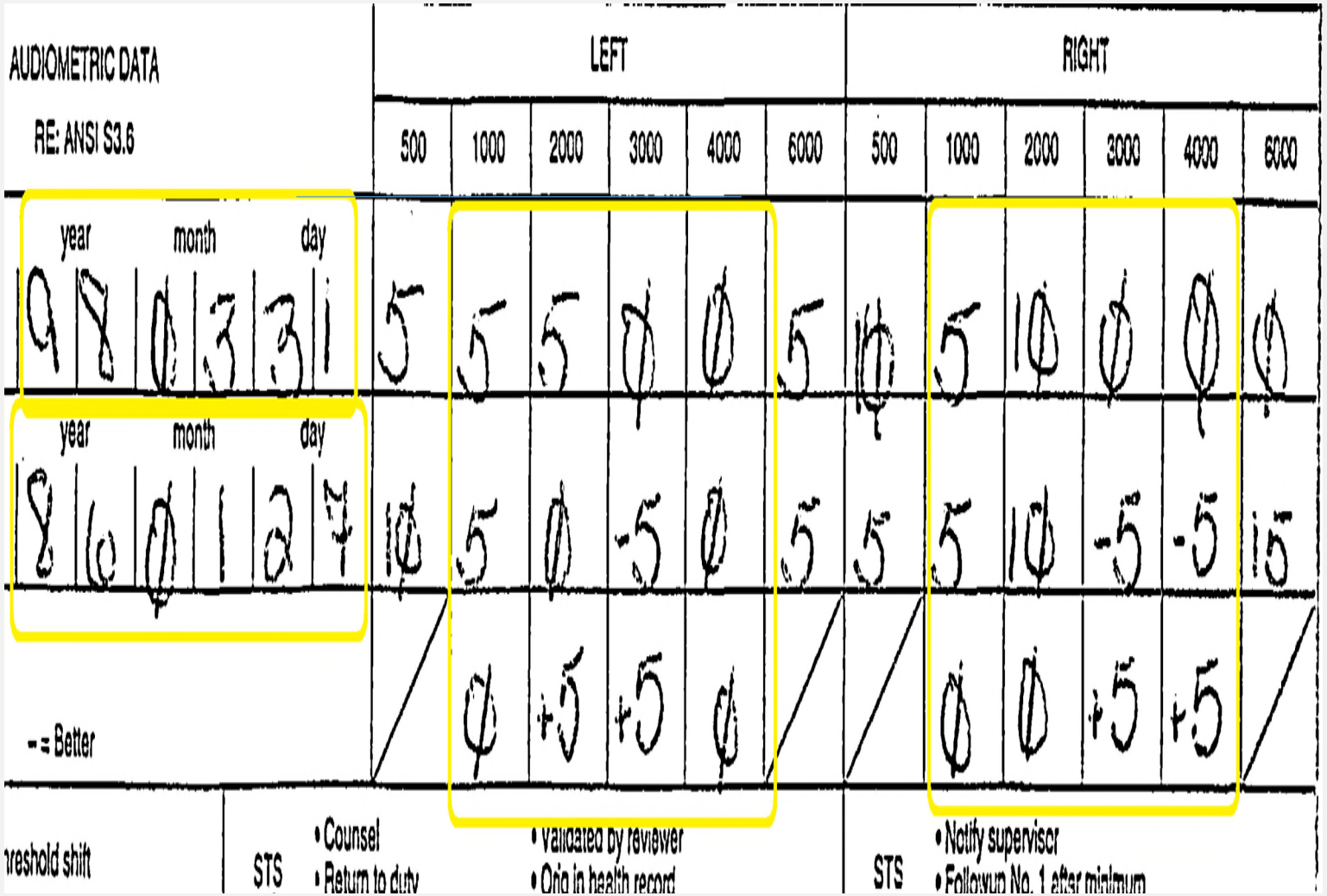
PRIVATE TREATMENT RECORDS AND SPECIALTY EXAMS

Different look/format

Same information

- Note the date of the record
- Look for any symptoms listed
- Check for diagnoses
- Ask the veteran for clarification

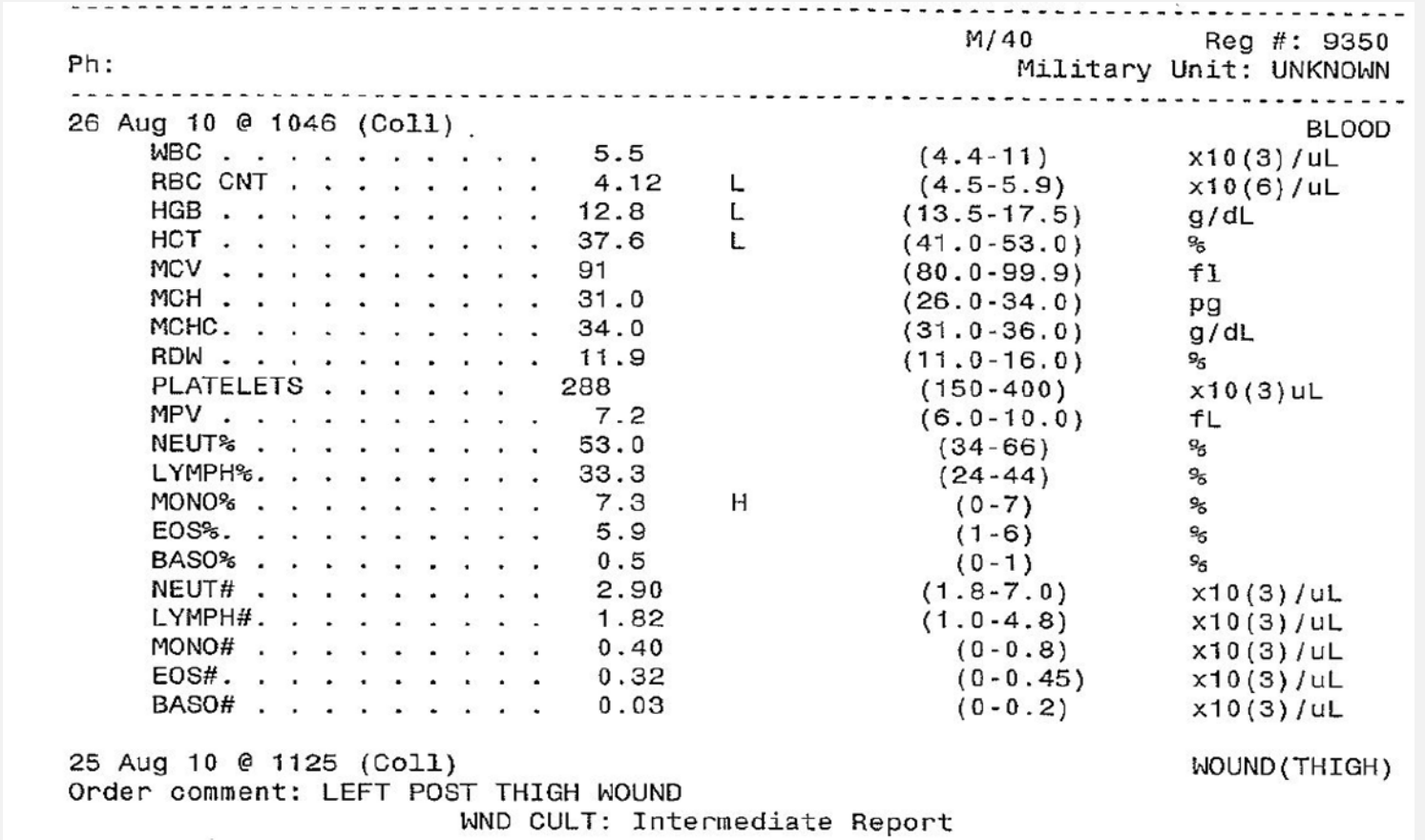
AUDIOGRAMS



- For Audiograms, you need the average results of the 1000-4000 range
- On DBQs, this is already done for you

LAB REPORTS

- Not expected to memorize labs
- Most lab reports indicate normal/abnormal values
- Look for any actual diagnoses on the lab report and attached documentation



M/40 Reg #: 9350
Ph: Military Unit: UNKNOWN

26 Aug 10 @ 1046 (Coll) BLOOD

WBC	5.5		(4.4-11)	x10(3)/uL
RBC CNT	4.12	L	(4.5-5.9)	x10(6)/uL
HGB	12.8	L	(13.5-17.5)	g/dL
HCT	37.6	L	(41.0-53.0)	%
MCV	91		(80.0-99.9)	fl
MCH	31.0		(26.0-34.0)	pg
MCHC	34.0		(31.0-36.0)	g/dL
RDW	11.9		(11.0-16.0)	%
PLATELETS	288		(150-400)	x10(3)uL
MPV	7.2		(6.0-10.0)	fL
NEUT%	53.0		(34-66)	%
LYMPH%	33.3		(24-44)	%
MONO%	7.3	H	(0-7)	%
EOS%	5.9		(1-6)	%
BASO%	0.5		(0-1)	%
NEUT#	2.90		(1.8-7.0)	x10(3)/uL
LYMPH#	1.82		(1.0-4.8)	x10(3)/uL
MONO#	0.40		(0-0.8)	x10(3)/uL
EOS#	0.32		(0-0.45)	x10(3)/uL
BASO#	0.03		(0-0.2)	x10(3)/uL

25 Aug 10 @ 1125 (Coll) WOUND(THIGH)
Order comment: LEFT POST THIGH WOUND
WND CULT: Intermediate Report

RADIOLOGY REPORTS/MRI'S

Report Text
MRI right knee 5/6/15

History: S/P IM nail left femur after skydiving incident in November 2014, please eval for medical meniscus tear, ACL tear

Technique: Axial PDW with fat saturation, sagittal PDW/PDW with fat saturation and coronal t1/t2 with fat saturation obtained through right knee without contrast

Findings: Minimal joint effusion is present
Patella is in normal position. Cartilage appears intact

Increased intrasubstance signal noted in the posterior horn of medial meniscus with linear signal which is extending into the inferior articular surface representing an oblique tear. Rest of menisci appears intact.

Quadriceps tendon appears intact. Minimal thickening and intermediate signal involving distal patella tendon representing minimal tendinosis.

ACL appears intact. Minimal thickening involving proximal PCL at the femoral attachment.

Medial and lateral collateral ligaments demonstrate normal signal. The marrow demonstrates normal signal.

Impression: 1. Minimal joint effusion. 2. Oblique tear involving posterior horn of medial meniscus. 3. Minimal distal patella tendinosis. 4. Minimal thickening involving proximal PCL. ACL appears intact.

Electronically signed by: Dr. John Doe Department of Radiology Fort Belvoir Community Hospital

Date 05/07/15 Time 06:56

Radiology reports can reveal conditions that the veteran wasn't even aware of

LOCATING STRs

1. Ebenefits/VA.gov

2. National Personnel Records Center (NPRC)
   1 Archives Drive
   St. Louis, MO 63138
   https://www.archives.gov/

3. Private Treatment Facilities/Private Doctors

4. State and Local Government offices

5. National Guard/ Reserve Units

NO MEDICAL RECORDS?

You can still file the claim!

- VA will attempt to obtain medical records
  - Federal records – no form necessary
  - Private records – requires 21-4142 and 21-4142a for VA to obtain, no form is necessary if the veteran provides their records

An ITF may be helpful if the veteran does not have their records available

HOW CAN YOU STILL FILE?

- Explain that records can be obtained at any time during the claims process

- Conduct a verbal interview/assessment with the veteran
  - Be sensitive and PROFESSIONAL
  - Ask about specific diagnoses and injuries
  - Explain that exams will likely be necessary

- Consider military occupation and duty locations for presumptive conditions or exposures

A FEW KEY POINTS TO REMEMBER

- Not everything in the STRs is a claimable condition
- Rarely are all of the veteran's disabilities listed in the STR or medical records
- If a veteran insists on filing for something that you cannot find in the medical records, add it to the claim. (Unless it involves fraud)

COMMUNICATE WITH YOUR VETERAN!!

WHEN ARE EXAMINATIONS NEEDED?

38 CFR 3.159(c)(4): Providing medical examinations or obtaining opinions

In a claim for disability compensation, VA will provide a medical examination or obtain a medical opinion based on a review of the evidence of record if VA determines it is necessary to decide the claim.

WHEN ARE EXAMINATIONS NEEDED?

- Examinations are required when the medical evidence is too ambiguous to rate the claim properly.
- If ordered, the veteran must attend, or the claim will be denied.
- No exam is needed if adequate information is of record. This is called Acceptable Clinical Evidence (ACE).
- POWs must have an exam before denial.
- A private physician's statement may be sufficient.

38 C.F.R. §3.326

MEDICAL OPINIONS

- In cases for service connection VA should ask for a medical opinion to go along with the exam
- Medical opinions for service connection discuss the likelihood that a disability is related to military service or another service-connected disability
- Medical opinions can also discuss other issues such as the need for aid and attendance, incompetence, or to justify an 1151 claim
- Medical opinions **can** be provided by private medical providers

MEDICAL OPINIONS

All medical opinions regarding service connection should address the following question:

*Is the claimed disability **<u>at least as likely as not</u>** related to active military service?*

What does "at least as likely as not" mean?

MEDICAL OPINIONS

One of the most common reasons that VA will disregard a medical opinion is if it does not contain a rationale.

A rationale is the reason why the doctor believes that their opinion is valid

Without a rationale, the medical opinion is inadequate

If an examiner states that a medical opinion cannot be given without resorting to mere speculation, they still must provide a reason why they can't offer an opinion.

VETERANS OF FOREIGN WARS.

Credible And Probative

- Credible Value
  - Inherently believable
  - Has been received from a competent source

- Probative Value
  - Relevant to the issue
  - Has sufficient weight to persuade the decision-maker

M21-1.III. iv. 5. A

EVALUATION OF MEDICAL EVIDENCE

Examples…

- **Credible**

  A physician provides an opinion with a rationale to link a disability to an in-service event or injury.

- **Non-Credible**

  The claimant's spouse (non-medically trained) provides a statement linking the disability to an in-service event or injury.

VETERANS OF FOREIGN WARS.

VA Questions When Weighing Evidence

- Did the evidence originate in service or in close proximity to service?
- Is the medical opinion supported by clinical data and review of medical records?
- How detailed, clear, or persuasive is the opinion?
- Is the opinion based on personal knowledge? Or is it based on secondhand history provided by another person?

38 C.F.R. § 4.6 and M21-1 III.iv.5.A.9.b

EVALUATION OF MEDICAL EVIDENCE

Weighing Evidence

When evidence in favor of the claimant weighs the same as evidence against the claimant, the evidence is in equipoise.



Commonly referred to as…

Reasonable Doubt

38 C.F.R. § 3.102

EVALUATION OF MEDICAL EVIDENCE

Medical Assessments VA Considers:

- Diagnoses: Identifies injuries or disease
- Opinions: Deals with questions on cause or onset
- Examination: Collection of relevant facts by a medical professional including diagnostic testing
- History: A recounting of life events, habits, routines, symptoms and treatments

M21-1. III.iv.5.A.3.b

GENERAL EXAMINATIONS:

General Medical Examinations screen all body systems to:

- Document normal findings, or
- Identify disabilities that are found or suspected.

Required:

- Within **1 year** of discharge
- For whole disability picture
    - Unemployability or pension

NOTE: It is not necessary to request a general medical examination if an original claim for compensation is being rated many years after separation from service.

SPECIALIST EXAMINATIONS:

Specialist Examinations

- A specialist examination is an examination that is required to be conducted by a clinician who specializes in a particular field.
- All vision, hearing, dental, and psychiatric examinations ***must*** be conducted by a specialist.

Specialist examinations may be required when:

- The claim is unusually complex
- Conflicting opinions or diagnoses
- Based on a Board of Veterans Appeals (BVA) remand, if remand order specifies a specialist examination is required

DISABILITY BENEFITS QUESTIONAIRE (DBQ)

Disability Benefits Questionnaires are internal VA documents that help examiners relay information to the VA about the veteran's examination in a standard format.

- DBQs are specific to the disability claimed
- DBQs can be accessed from VA.GOV website
- VA is authorized to accept private provider DBQs

WHEN TO UTILIZE A DBQ?

Recommend a Disability Benefits Questionnaire if:

- To allow the veteran's PCM or Specialist provide an exam that may be used in lieu of a VA contracted C&P exam
- To refute findings from a C&P exam utilizing the same criteria established by VA

SIGNATURES:

If the DBQ or examination report was prepared by a ...	Then the certification and signature block must contain his/her ...
VHA clinician	- signature, printed name and credentials.
VBA-contracted provider	- signature, credentials, and specialty
non-VA health care provider	- signature - printed name and credentials - phone and/or fax number, and license # ***Exception***: Phone/fax *not* required if the DBQ is satisfactorily completed, and contact info can be verified via Internet

NOTE: Veterans Service Center employees are *not* expected to routinely scrutinize or question the medical professional's credentials, unless there is contradictory evidence of record.

M21-1. III.iv.3.D.2

EXAMINATION NOTIFICATION LETTERS

- **Exam Informational letter:** sent when it is determined that an exam is required.

- **Review Exam Informational letter:** sent at the point a review of veteran benefits triggers the need for exam to update the stability or continued severity of a disability.

- **Exam Notice Letter:** sent by the provider conducting the exam; usually includes the date and time of the exam or requests a call to schedule

WHAT IF THE VETERAN MISSES THEIR EXAM?

- If a veteran misses their exam and it is not rescheduled, VA will most likely deny their claim

- To reschedule a missed examination before the claim is decided, send a 21-4138 to request that the missed exam be rescheduled and explain that the veteran is ready and willing to report to the exam

- To reschedule an exam after the claim is decided use a 20-0995 (Supplemental Claim Form)

INADEQUATE EXAMINATIONS

- An inadequate examination is an exam that does not meet the criteria for a complete exam
- This may include a lack of medical tests, missing information, improper measurement of joints, lack of a medical opinion, etc.
- If you believe that an exam is inadequate, appeal and request a new examination

38 C.F.R. §4.70

RE-EXAMINATIONS

To request a re-examination, the VA must:

- Document the reason
- Identify any specific information needed in the examination report
- Give name and the facility of the medical examiner who conducted the prior examination

EDUCATE THE VETERAN

When talking to your veterans explain that exams are a good thing. It's the veteran's chance to tell VA what's really going on and to have a medical professional confirm the disability

Do **NOT** instruct the veteran to lie or embellish the severity – VA needs the truth to create an accurate decision

Explain that when going to an exam, the VA is evaluating you from the moment you arrive to the moment you leave

VETERANS OF FOREIGN WARS®

How to Review Rating Decisions

Topics

- What is a rating decision?
- What does a rating decision look like?
- Types of rating decisions
- Why do we review rating decisions?
- How to review a rating decision
- What to do if you find an error
- Common errors
- Tips to improve efficiency

What is a Rating Decision?

A rating decision is a document prepared by VA that explains the outcome of a veteran or dependent's claim for benefits.

All compensation and pension claims should receive a rating decision once a VA rater renders a decision.

What Does a Rating Decision Look Like?

VETERANS OF FOREIGN WARS.

DEPARTMENT OF VETERANS AFFAIRS
Veterans Benefits Administration
Regional Office

Joe Veteran

VA File Number
000-00-1234

Represented By:
VETERANS OF FOREIGN WARS OF THE US
Rating Decision
07/03/2019

INTRODUCTION

The records reflect that you are a Veteran of the Gulf War Era. You served in the U.S. Army for the current period of service beginning of August 10, 2015. You filed an original disability claim that was received on April 17, 2019. Based on a review of the evidence listed below, we have made the following decisions on your claim.

Please Note: The determination of entitlement to VA benefits is contingent upon your discharge from service and upon having the requisite character of service. We will review all evidence of record upon discharge to ensure the information provided in this decision is accurate. This rating decision will only be corrected, if necessary, based on the final review after your discharge

DECISION

1. Service connection for bilateral temporomandibular joint dysfunction (claimed as TMJ) is granted with an evaluation of 30 percent effective August 10, 2019.

2. Service connection for left ankle torn peroneus longus tendon with stage 3 osteochondral defect of lateral talar dome (claimed as left ankle condition to include chronic pain) is granted with an evaluation of 10 percent effective August 10, 2019.

3. Service connection for scar, residual status post ganglion cyst excision, painful (claimed as residuals of right hand ganglion cyst removal to include scar) is granted with an evaluation of 10 percent effective August 10, 2019.

4. Service connection for ganglion cyst, status post excision, right hand (claimed as residuals of right hand ganglion cyst removal to include scar) is granted with an evaluation of 0 percent effective August 10, 2019.

5. Service connection for scar, residual status post ganglion cyst excision (claimed as residuals of right hand ganglion cyst removal to include scar)is granted with an evaluation of 0 percent effective August 10, 2019.

6. Service connection for a left shoulder disorder (claimed as left shoulder condition to include chronic pain) is denied.

EVIDENCE

- Service treatment records, received April 17, 2019, for the period August 10, 2015 to August 9, 2019
- DD Form 214, Certificate of Release or Discharge from Active Duty, dated May 15, 2019, for the period August 10, 2015 to August 9, 2019
- VA Form 21-526 EZ: Application for Disability Compensation and Related Compensation Benefits, received April 17, 2019
- VA QTC Medical Services contract examination, dated May 9, 2019

REASONS FOR DECISION

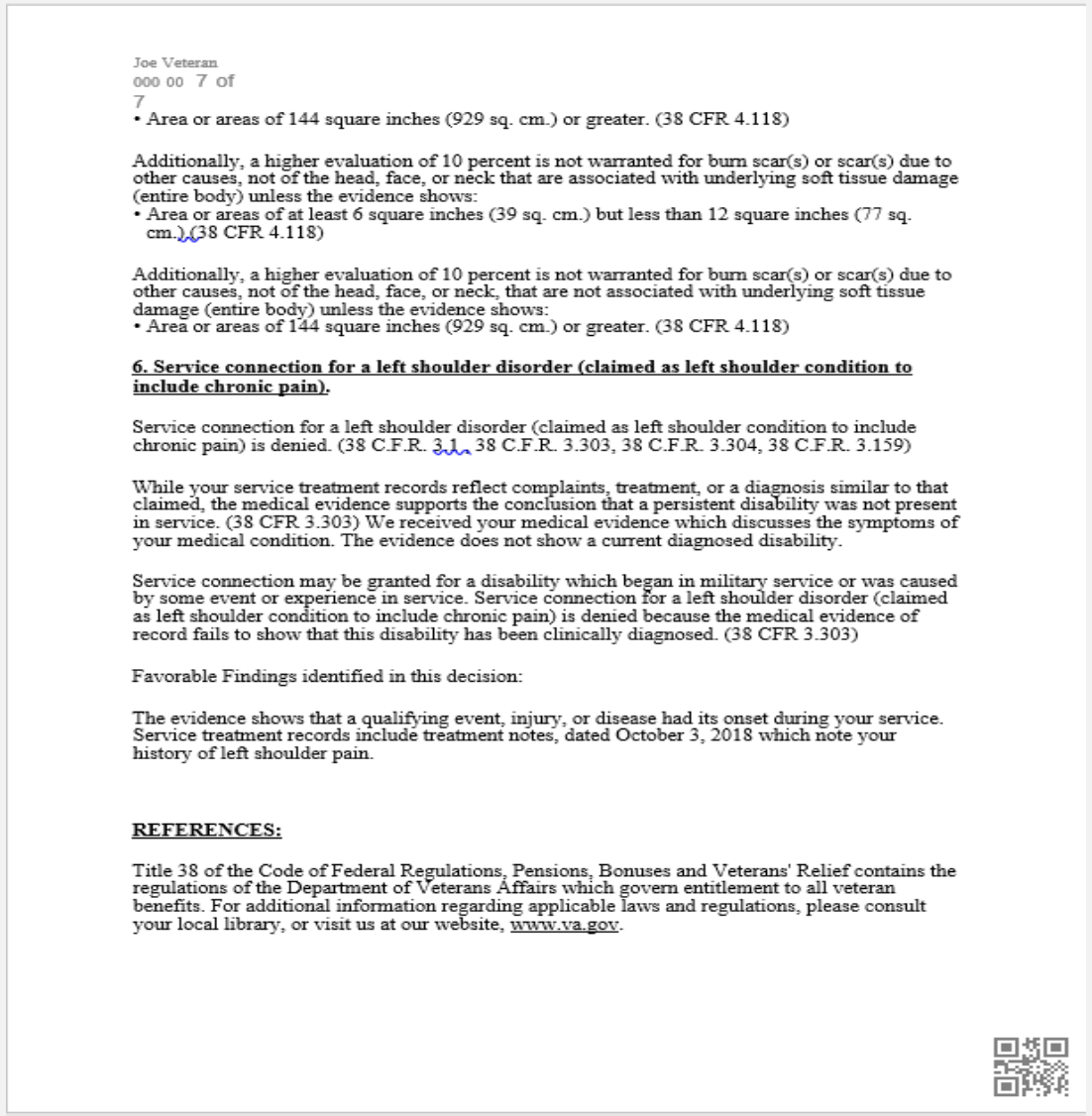
1. Service connection for bilateral temporomandibular joint dysfunction (claimed as TMJ).

Service connection for bilateral temporomandibular joint dysfunction (claimed as TMJ) is granted with an evaluation of 30 percent effective August 10, 2019. (38 CFR 3.1., 38 CFR 3.303, 38 CFR 3.304, 38 CFR 3.159, 38 CFR 3.400, 38 CFR 3.401)

The effective date is August 10, 2019, the day following the date of your separation from active military service.

Service connection for bilateral temporomandibular joint dysfunction (claimed as TMJ) has been established as directly related to military service. (38 CFR 3.303, 38 CFR 3.304)

What Does a Rating Decision Look Like?



Joe Veteran
000 00 7 of
7
• Area or areas of 144 square inches (929 sq. cm.) or greater. (38 CFR 4.118)

Additionally, a higher evaluation of 10 percent is not warranted for burn scar(s) or scar(s) due to other causes, not of the head, face, or neck that are associated with underlying soft tissue damage (entire body) unless the evidence shows:
• Area or areas of at least 6 square inches (39 sq. cm.) but less than 12 square inches (77 sq. cm.) (38 CFR 4.118)

Additionally, a higher evaluation of 10 percent is not warranted for burn scar(s) or scar(s) due to other causes, not of the head, face, or neck, that are not associated with underlying soft tissue damage (entire body) unless the evidence shows:
• Area or areas of 144 square inches (929 sq. cm.) or greater. (38 CFR 4.118)

6. Service connection for a left shoulder disorder (claimed as left shoulder condition to include chronic pain).

Service connection for a left shoulder disorder (claimed as left shoulder condition to include chronic pain) is denied. (38 C.F.R. 3.1, 38 C.F.R. 3.303, 38 C.F.R. 3.304, 38 C.F.R. 3.159)

While your service treatment records reflect complaints, treatment, or a diagnosis similar to that claimed, the medical evidence supports the conclusion that a persistent disability was not present in service. (38 CFR 3.303) We received your medical evidence which discusses the symptoms of your medical condition. The evidence does not show a current diagnosed disability.

Service connection may be granted for a disability which began in military service or was caused by some event or experience in service. Service connection for a left shoulder disorder (claimed as left shoulder condition to include chronic pain) is denied because the medical evidence of record fails to show that this disability has been clinically diagnosed. (38 CFR 3.303)

Favorable Findings identified in this decision:

The evidence shows that a qualifying event, injury, or disease had its onset during your service. Service treatment records include treatment notes, dated October 3, 2018 which note your history of left shoulder pain.

REFERENCES:

Title 38 of the Code of Federal Regulations, Pensions, Bonuses and Veterans' Relief contains the regulations of the Department of Veterans Affairs which govern entitlement to all veteran benefits. For additional information regarding applicable laws and regulations, please consult your local library, or visit us at our website, www.va.gov.

The first part of the rating decision is called the Narrative. It contains Demographic Info, Introduction, Decision, Evidence Considered, Reasons for Decision, Favorable Findings, and References

What Does a Rating Decision Look Like?

Narrative:

- **Demographic Info**: States the veteran's name, claim number, and the date of the decision
- **Introduction:** States the era in which the veteran served, service dates, the type of claim, when the claim was received by VA, and the effective date of the claim
- **Decision:** States VA's decision on each issue
- **Evidence Considered:** Lists all of the evidence that VA considered when making the decision

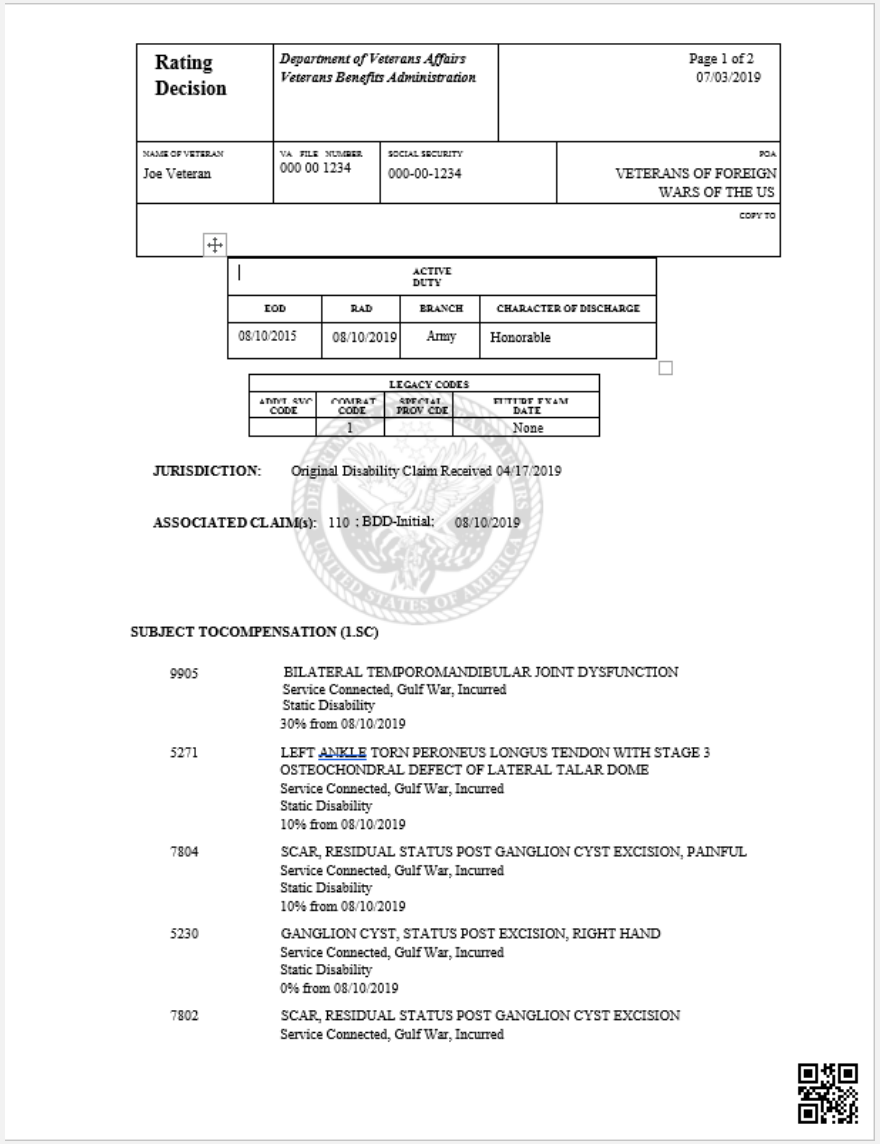
What Does a Rating Decision Look Like?

VETERANS OF FOREIGN WARS.

Narrative:

- **Reasons for Decision:** Lists each issue separately with the reason why VA made their decision. If the issue was granted, VA will also include the requirements for the next higher rating
- **Favorable findings:** If an issue is denied, VA will list any favorable findings
- **References:** Lists which legal references were used to make the decision

What Does a Rating Decision Look Like?



Rating Decision	*Department of Veterans Affairs* *Veterans Benefits Administration*	Page 1 of 2 07/03/2019

NAME OF VETERAN	VA FILE NUMBER	SOCIAL SECURITY	POA
Joe Veteran	000 00 1234	000-00-1234	VETERANS OF FOREIGN WARS OF THE US

COPY TO

ACTIVE DUTY			
EOD	RAD	BRANCH	CHARACTER OF DISCHARGE
08/10/2015	08/10/2019	Army	Honorable

LEGACY CODES			
ADVI SVC CODE	COMBAT CODE	SPECIAL PROV CDE	FUTURE EXAM DATE
	1		None

JURISDICTION: Original Disability Claim Received 04/17/2019

ASSOCIATED CLAIM(s): 110 : BDD-Initial: 08/10/2019

SUBJECT TOCOMPENSATION (1.SC)

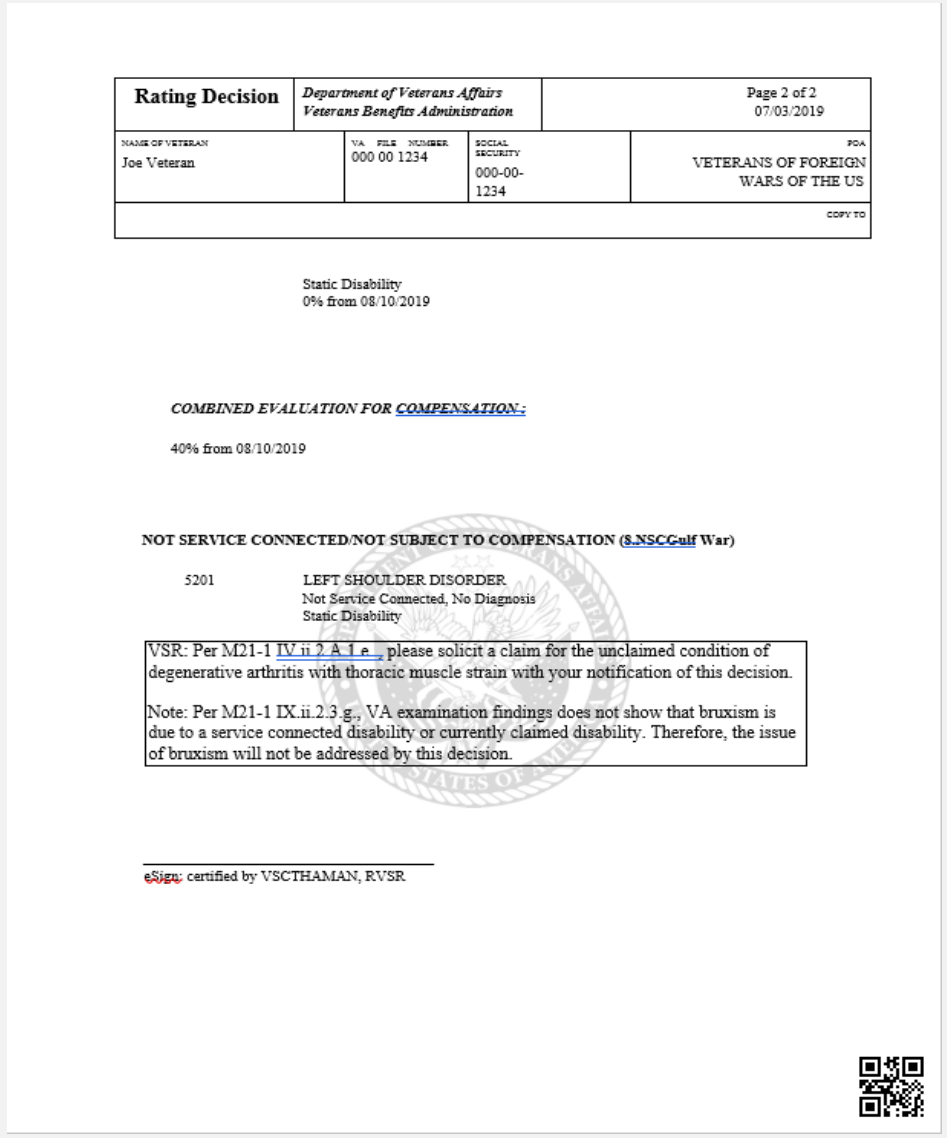
9905 BILATERAL TEMPOROMANDIBULAR JOINT DYSFUNCTION
Service Connected, Gulf War, Incurred
Static Disability
30% from 08/10/2019

5271 LEFT ANKLE TORN PERONEUS LONGUS TENDON WITH STAGE 3 OSTEOCHONDRAL DEFECT OF LATERAL TALAR DOME
Service Connected, Gulf War, Incurred
Static Disability
10% from 08/10/2019

7804 SCAR, RESIDUAL STATUS POST GANGLION CYST EXCISION, PAINFUL
Service Connected, Gulf War, Incurred
Static Disability
10% from 08/10/2019

5230 GANGLION CYST, STATUS POST EXCISION, RIGHT HAND
Service Connected, Gulf War, Incurred
Static Disability
0% from 08/10/2019

7802 SCAR, RESIDUAL STATUS POST GANGLION CYST EXCISION
Service Connected, Gulf War, Incurred



Rating Decision	*Department of Veterans Affairs* *Veterans Benefits Administration*	Page 2 of 2 07/03/2019

NAME OF VETERAN	VA FILE NUMBER	SOCIAL SECURITY	POA
Joe Veteran	000 00 1234	000-00-1234	VETERANS OF FOREIGN WARS OF THE US

COPY TO

Static Disability
0% from 08/10/2019

COMBINED EVALUATION FOR COMPENSATION :

40% from 08/10/2019

NOT SERVICE CONNECTED/NOT SUBJECT TO COMPENSATION (8.NSCGulf War)

5201 LEFT SHOULDER DISORDER
Not Service Connected, No Diagnosis
Static Disability

VSR: Per M21-1 IV.ii.2.A.1.e., please solicit a claim for the unclaimed condition of degenerative arthritis with thoracic muscle strain with your notification of this decision.

Note: Per M21-1 IX.ii.2.3.g., VA examination findings does not show that bruxism is due to a service connected disability or currently claimed disability. Therefore, the issue of bruxism will not be addressed by this decision.

eSign: certified by VSCTHAMAN, RVSR

What Does a Rating Decision Look Like?

The Code Sheet contains Demographic Info, Active Military Service, Legacy Codes, Future Exam Dates, Jurisdiction, Associated Claims, A list of Service Connected and Non-Service Connected Issues, The Combined Evaluation, Special and Ancillary Benefits, and the Rater's Signature

What Does a Rating Decision Look Like?

Code Sheet:

- **Demographic Info**: States the veteran's name, claim number and the date of the decision
- **Active Military Service:** Lists the veteran's active-duty dates, branch of service, and character of discharge
- **Legacy Codes:** These are used to help determine eligibility to other Non-VA benefits
- **Future Exam Dates:** Shows when and if the veteran will be scheduled for a routine future examination

What Does a Rating Decision Look Like?

Code Sheet:

- **Jurisdiction**: Shows the type and date of the claim
- **Lists of Service Connected and Non-Service Connected Disabilities:** Lists each disability in the order of severity. There may be two lists, one for service connected and one for non-service connected. This also shows the Diagnostic Codes, Era, Type of Service Connection, Future Examination, Percentage Granted, and Effective Date
- **Combined Evaluation:** The total evaluation granted including Bilateral Factors and Effective Dates

What Does a Rating Decision Look Like?

VETERANS OF FOREIGN WARS.

Code Sheet:

- **Special and Ancillary Benefits**: Lists any Special Monthly or Ancillary Benefits and their Effective Dates

- **Rater's Signature:** This space is reserved for the signature of the person who decided the claim

Types of Rating Decisions

- **Original/New:** Issues that the veteran has never claimed before
- **Supplemental Claims:** Can be claims for increase or a reopening of an issue that was previously denied
- **Non-Service Connected Pension:** Claims for pension based on non-service connected conditions
- **Proposal to Reduce:** Preliminary decisions that notify the veteran of the VA's intent to reduce a rating or sever service connection

Types of Rating Decisions

- **Death/Burial Decisions:** Determines if a veteran's death is service connected and eligibility to burial benefits
- **Survivor Claims:** Claims initiated by surviving dependents, can be for compensation or pension
- **Administrative Decisions:** Used for non-rating issues such as character of discharge determinations

How to Access Rating Decisions

In order to review rating decisions, you must have access to VA's Veterans Benefits Management System (VBMS)

Once logged in, define the search criteria to find the ratings needing review.

The current search criteria can be found in the VBMS filters Job aid in the Resources section of the Online Learning Portal

How to Review a Rating Decision

VETERANS OF FOREIGN WARS.

1. Ensure that you have the correct rating decision to review and determine the type of rating.

2. Look at the issues decided compared to what the veteran claimed on the claim form – Are they the same? Did VA address all the issues?

3. Check the evidence VA used to make their determination. Did they consider all of the pertinent evidence in the file?

How to Review a Rating Decision

4. Review the Reasons for Decision. Did VA correctly decide each issue? If the issue was granted, use your CFR to determine if the correct rating percentage was applied. If the issue was denied, look at the reason and determine if it is a valid reason for denial.

5. Check the effective dates for each granted issue.

6. Determine if bilateral factors, special benefits, or ancillary benefits have been correctly applied.

What To Do if You Find an Error

- If you discover an error during your review notify the veteran and discuss possible appeal options
- Annotate the error and any actions taken in TVB.
- Remember: There is a big difference between a factual error and a difference in opinion. Not every denial is an error.

Common Errors

- **Missed Evidence:** Did VA consider all of the evidence? Did they miss something in the STR, Medical Record, E-Folder?
- **Effective Dates:** Did VA apply the correct effective date? Be sure to look for ITF or other ways that an effective date may be earlier that the date on the claim form.
- **Bilateral Factors:** Did VA apply all of the eligible bilateral factors?
- **Special Monthly Benefits:** Is the veteran eligible for SMC?
- **Chapter 35**: Did VA grant CH 35 if eligible?
- **Missed contentions:** Did VA address all issues claimed?

Tips to Improve Efficiency

- The type of decision will determine the type of review. (i.e. For initial claims you may need to review the STR, whereas for increases you do not)
- You are looking for obvious errors (don’t dig too deep)
- Have all of your reference material readily accessible
- Use VBMS-R and Online tools if necessary

VETERANS OF FOREIGN WARS®

Questions?

VETERANS OF FOREIGN WARS®

Determining the Correct Effective Date of a Claim

TOPICS

- What is an effective date?
- Effective date principles
- General Effective Date Rule
- Exceptions to General Effective Date Rule
- Effective Dates Based on Previous Claims
- Protecting the Effective Date
- Finding and Requesting Earlier Effective Dates

WHAT IS AN EFFECTIVE DATE?

Effective date: The date at which a contract or statutory obligation begins

- Effective date may be a past, present, or future date
- Effective date is *not* the date of the decision awarding benefits

Can you think of some examples?

EFFECTIVE DATE PRINCIPLES

Effective date: Date from which you are deemed entitled to benefits (medical care/ compensation/ancillary benefits)

Effective date of payment: Date from which you are entitled to be paid (retro payment)

Date of payment: Date paycheck hits your account

Are these dates usually the same? Or different?

EFFECTIVE DATE PRINCIPLES

VETERANS OF FOREIGN WARS.

38 CFR 3.31

Monthly benefit payments (effective date of payment) are paid the 1st of the following month after the effective date of payment

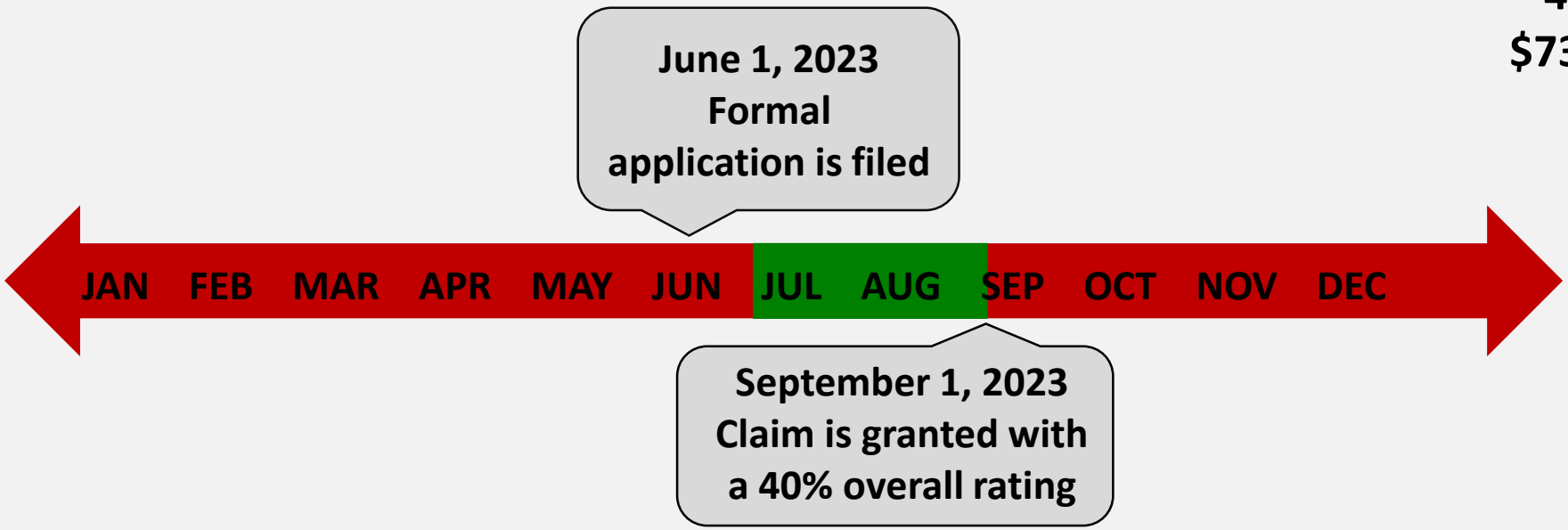
Exceptions:

- Month of death benefit (same month)
- Temporary 100% for hospitalization all in the same month
- Offsets/reductions/apportionments (due process waiting period for reduced benefits)
- BAH for education benefits

EXAMPLE: WHY EFFECTIVE DATE IS IMPORTANT

VETERANS OF FOREIGN WARS.

* 40% rating = $731.86/month



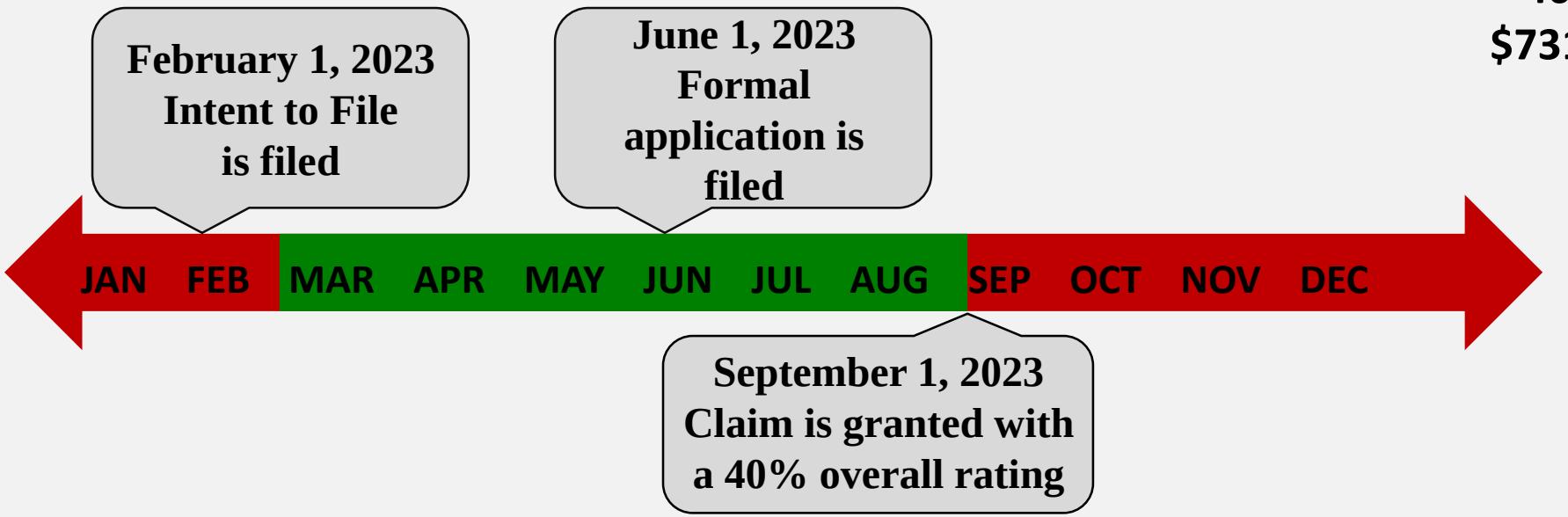
EFFECTIVE DATE: June 1, 2023
EFFECTIVE DATE OF PAYMENT: July 1, 2023

TOTAL RETROACTIVE PAY = $1,463.72

EXAMPLE: WHY EFFECTIVE DATE IS IMPORTANT

VETERANS OF FOREIGN WARS.

* 40% rating = $731.86/month



EFFECTIVE DATE: FEBRUARY 1, 2023
EFFECTIVE DATE FOR PAYMENT: MARCH 1, 2023

TOTAL RETROACTIVE PAY = $4,391.16

GENERAL EFFECTIVE DATE RULE

38 CFR 3.400

Except as otherwise provided, (Yes, there will be exceptions)

The effective date…will be the date of:

- **receipt of the claim OR**
- **the date entitlement arose whichever is *the later*.**

DATE OF RECEIPT OF CLAIM

- Date of submission of Intent to File can be considered date of receipt of claim, if complete claim received by VA within one year of ITF **38 CFR 3.155**

- If no ITF, date of receipt of complete claim by VA

Review: What is a complete claim? **38 CFR 3.160(a)**

WHAT ELSE CAN BE A CLAIM?

- **38 CFR 3.153:** Application for Social Security Death Benefits on joint VA/SSA form
- **38 CFR 3.151:** Claim for pension/service connection *can be* a claim for the other
- **38 CFR 3.700-3.753:** Election of benefits (e.g., compensation v. pension; compensation v. military retired pay)
- **38 CFR 3.155(d)(2):** Special Monthly Compensation should be considered as part of rating for underlying service-connected disability. Does not require a separate claim form to be granted. If veteran is service connected for disability, point out to VA when medical records show SMC eligibility.

WHEN DATE ENTITLEMENT AROSE IS LATER THAN CLAIM DATE

Medical evidence may show that the veteran did not meet the criteria at the time of the claim, but did before a decision was made

Service connection example: Veteran had high blood sugar readings prior to filing claim, diagnosed with diabetes while claim was pending

Increased rating example: Veteran initially rated 10% for diabetes. Veteran appeals and is granted a 20% evaluation but wasn't prescribed medication for diabetes until after claim was filed.

*When different levels of compensation are given for a disability over different time periods within one rating decision, this is called a "staged rating"

WHEN DATE ENTITLEMENT AROSE IS BEFORE CLAIM DATE

Veterans and Survivors/Dependents usually do not file for benefits before “entitlement arose”

- Under general effective date rule, the claim date would be later than the date entitlement arose, and veteran would lose out
- VA recognizes that disability may prevent a veteran from filing a claim right away
- Exceptions to general effective date rule allow claimant to receive benefits as of the date entitlement arose, provided the claim is filed within one year of date entitlement arose

COMMONLY OCCURRING EFFECTIVE DATES UP TO ONE YEAR PRIOR TO CLAIM

VETERANS OF FOREIGN WARS.

- **Pre-Discharge and Claims if ITF or claim received within one year of active duty separation:**

  Day after discharge from active duty - **38 CFR 3.400(b)**

- **DIC/Survivor Pension:**

  First day of the month in which death occurred, if ITF or claim received within one year - **38 CFR 3.400(c)**

- **Increased Compensation/IU:**

  Date medical evidence shows increase, if ITF or claim received within one year – **38 CFR 3.400(o)(2)**

- **Dependency (birth/marriage/adoption):**

  Date of event, if claim received within one year of event, or within one year of decision awarding 30% - **38 CFR 3.401**

MORE EFFECTIVE DATES UP TO ONE YEAR PRIOR TO CLAIM

VETERANS OF FOREIGN WARS.

- **Helpless child benefit:** 18th birthday, if claim to continue dependency received within one year – **38 CFR 3.403**
- **Medical negligence/1151 Claim** – From date of event, if filed within one year of procedure/treatment - **38 CFR 3.400(i)**
- **Pension** – Up to one year prior to claim, if P&T disability prevented veteran from filing – **38 CFR 3.400(b)**
- **Hospitalization** – Date of hospitalization – **38 CFR 4.29***
- **Convalescence** – Date of release from hospital - **38 CFR 4.30***
- **Character of Discharge Upgrade** – Date of upgrade, if reopened claim filed within one year – **38 CFR 3.400(g)**

*** 38 CFR 3.400(o) also applies: these are increased ratings**

EFFECTIVE DATES BASED ON CHANGE IN LAW

VETERANS OF FOREIGN WARS.

- **Non-Liberalizing Law**

  From date of law change or date set by the law

- **Liberalizing Law**

  From date of law change or up to one year prior to claim submission, whichever is later - **38 CFR 3.114**

- **Change in the Rating Schedule**

  From date the final regulation is published in the federal register, sometimes 30 days later – **5 USC §553 (APA)**

- **Precedent Setting Court Case**

  Applies to all cases **pending and undecided** at the time of the decision – **VAOPGCPREC 10-94, M21-1 III.iv.5.C.7.n**

EFFECTIVE DATES OF APPEALS

38 CFR 3.400(h)

A claim which was appealed timely will usually be granted with the effective date of the **original claim**, regardless of how long the appeal takes to be granted.

Lack of confirmation of stressor/nexus opinion at time of filing does not matter as long as evidence secured during appeal)

Exceptions:

- Entitlement did not arise (disability not present, income criteria not met, etc.) until after claim
- Granted based on a law that came into effect while the appeal was pending; may be **date of law change**

EFFECTIVE DATES OF APPEALS

Under Appeals Modernization Act (AMA), 3 decision review options exist:

- Supplemental
- Higher Level Review
- Appeal to BVA

- **Continuously pursued claims** can remain alive indefinitely if one of the decision review options is chosen in the applicable time frame
- **Effective date** will be the **date of the original claim** (if entitlement arose at that time)
- **38 CFR 3.2500(h)**

EFFECTIVE DATES BASED ON DUE PROCESS

- Effective dates of a reduction in monetary payment will always be *after* proposal to reduce, and time for veteran to respond
- At minimum, 120 days after proposal, usually longer (60 days to submit evidence, additional 60 days due process after final reduction)

38 CFR 3.105(e)

Reduction or Severance of benefit that veteran was receiving

38 CFR 3.500-3.552

Apportionment of award to dependent

38 CFR 3.353

Incompetency determinations

EFFECTIVE DATES BASED ON PREVIOUS CLAIMS

In certain cases, an effective date of an earlier claim can be assigned if the veteran failed to appeal but was later granted benefits

VA may assign this effective date right away, or you may have to appeal the effective date assigned in order to argue for an earlier date

Some Examples:

- Pending Claim that VA Failed to Adjudicate
- Claim granted based on service department records that existed at the time of the original claim
- Clear and Unmistakable Error (CUE)
- Presumptive Herbicide Exposure under *Nehmer*
- Blue Water Navy Vietnam Veterans Act of 2019 (PL 116-23)

UNADJUDICATED CLAIMS AND APPEALS

Although rare, if you find an unadjudicated claim or appeal, it is still pending, and if granted, the effective date may go back years

- Often occurred before standard forms were required
- **Example:** Veteran submitted new evidence within 1 year of rating decision under legacy appeals program, evidence was never addressed, no decision issued
- If no decision/statement of case was ever issued, it is still pending, and you can ask VA to decide (and probably expedite!)

***Beraud v. Shinseki*, 26 Vet. App. 313 (2013)**

CLEAR AND UNMISTAKABLE ERROR

38 CFR 3.400(k); 38 CFR 3.105(a)

- If a claim was denied and became final (no new and relevant evidence or appeal filed within one year), the effective date dies with the claim

- UNLESS you can show that based on the law and the evidence at the time of the decision, the claim should have been granted and VA made a clear and unmistakable error by not granting

- Effective date will be ***AS IF THE ORIGINAL CLAIM HAD BEEN GRANTED AT THAT TIME***

CLEAR AND UNMISTAKABLE ERROR

A Clear and Unmistakable Error (CUE) has 3 elements:

- Decision was undebatably erroneous
- Manifestly changed outcome due to the alleged error
- Error was based on law and evidence that existed at time of the decision **NOT** a difference of opinion **38 CFR 3.105(b)**

***Russell v. Principi*, 3 Vet. App. 310 (1992)**

CLEAR AND UNMISTAKABLE ERROR

VETERANS OF FOREIGN WARS.

38 CFR 3.105; 38 CFR 3.500(b)

- VA may also find CUE in their own decision without any request from the veteran or VSO
- This type of CUE can go both ways: to grant or reduce benefits
- May result in an earlier effective date, if grant of benefits
- Often result of VA's quality review, may also happen when VA is reviewing a new or reopened claim
- If VA finds a CUE that results in a reduction or severance of benefits, the veteran will not have to repay any benefits unless the CUE was due to fraud on the veteran's part

Newly Discovered Service Records

- **38 CFR 3.156(c):** Supplemental claim granted based on newly discovered service records
- It could be considered CUE that the service records were not part of the file, however you don't have to prove the difficult standard of CUE
- Grant must be based in part on the newly discovered service records

RETROACTIVE EFFECTIVE DATES: *NEHMER*

Whenever a new presumptive condition is added to **38 CFR 3.309(e)**, based on herbicide (Agent Orange) exposure:

- If Veteran had previously filed for that condition after 9/23/85 but was denied because the condition was not on the presumptive list
- The benefit will be granted with the **effective date of the original claim**, as long as the veteran had the condition at that time
- Must have proof of exposure to herbicides during presumptive period

RETROACTIVE EFFECTIVE DATES: *NEHMER*

- If the veteran is now deceased, his/her survivor will receive the accrued benefits back to the effective date of the original claim
  - If no survivors exist, benefits may go to the estate of the veteran
- Survivors who filed for DIC and were denied are also covered; they will receive DIC back to the effective date of the original claim
- Most *Nehmer* claimants have been identified, but not all surviving spouses – keep an eye on these

38 CFR 3.816; *Nehmer v. Department of Veterans Affairs*

BLUE WATER NAVY VIETNAM VETERANS ACT OF 2019 – PL 116-23

VETERANS OF FOREIGN WARS.

- This law, which went into effect on January 1, 2020, specifically allows earlier effective dates for covered veterans who were previously denied benefits due to their service in the offshore waters of Vietnam not being considered presumptive herbicide exposure
- As long as the veteran had the condition at the time they previously filed a claim, the effective date of benefits will be **as if the claim had been granted at that time**
- Same dates apply as for *Nehmer*
- Submit all medical records on disability: may not have been given a C&P exam during initial claim
- Survivors who filed for DIC and were denied are also covered; they will receive DIC back to the effective date of the original claim

PROTECTING THE EFFECTIVE DATE

- File claim within one year of ITF
- File dependent information as soon as event occurs
- File decision review option within one year of receiving rating decision

FINDING THE EARLIEST EFFECTIVE DATE

VETERANS OF FOREIGN WARS.

We are always looking for the earliest date that applies to when the claim *was* or *should have been* granted

For original claims, simple process:

- Date of claim or date entitlement arose
  - Remember date of claim can be date of ITF
  - What is considered a claim?
- Do any of the “one year prior to claim” rules apply to allow effective date of date entitlement arose?
- VA may give effective date of medical evidence or C&P exam – which is more favorable for the veteran?

FINDING THE EARLIEST EFFECTIVE DATE

- For supplemental claims – the question is, does the effective date of an earlier claim apply?

- Effective dates can “stack” – if you go back to an earlier claim date, you might be able to use the one-year rules to go back earlier than the original date of filing. Otherwise, date of claim.

REQUESTING AN EARLIER EFFECTIVE DATE

VETERANS OF FOREIGN WARS.

If you are still within the one-year appeal period after a grant of benefits:

- File a decision review request disagreeing with the effective date assigned, stating what it should be, and why

If you are more than one year after the grant of benefits, what can you do?

- Look at whether a CUE applies and file a 526EZ alleging CUE in the effective date assigned, attach 4138 explaining why
- If CUE was in a BVA decision, must file motion for revision based on CUE with the BVA directly
- CUE is not a claim, it is a request for review of an earlier decision
- A rating decision denying revision based on CUE may be appealed just like any other decision

KEY TAKEAWAYS

- Many types of claims allow for an effective date up to one year prior to the claim date

- Protect the veteran's payments by submitting ITF, claim forms, new and relevant evidence, and appeals forms in a timely manner

- Effective Dates can "stack" - if the effective date should go back to a previous claim, any special effective dates that applied to the previous claim (such as filing within one year of discharge) *also* apply.

REFERENCES – EFFECTIVE DATES

- **38 CFR 3.31**
- **38 CFR 3.105**
- **38 CFR 3.114**
- **38 CFR 3.151**
- **38 CFR 3.152**
- **38 CFR 3.153**
- **38 CFR 3.155**
- **38 CFR 3.156**
- **38 CFR 3.157 (prior to 3/24/15)**
- **38 CFR 3.160**
- **38 CFR 3.400**
- **38 CFR 3.401**
- **38 CFR 3.402**
- **38 CFR 3.500-3.552**
- **38 CFR 3.816**
- **38 CFR 3.2500**
- **38 CFR 4.29(a) and 4.30**
- **38 USC 5110**
- ***Beraud v. Shinseki,* 26 Vet.App. 313 (2013)**
- ***Russell v. Principi,* 3 Vet.App. 310 (1992)**
- ***Nehmer v. United States Department of Veterans Affairs,* No. CV-86-6160 TEH (N.D. Cal).**
- **M21-1 Part III, Subpart iv, Chapter 5, Section C – Effective Dates**

CONDUCTING AN INTERVIEW

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OBJECTIVE

In this class, we are going to discuss how to prepare for and conduct an interview.



INTRO

"I need to file a claim for Pact Act!"

"There is no such condition as 'Pact Act'"

"You are my rep and I need you to file me claim for Pact Act or I'm going to DAV"

SECTION V: CLAIM INFORMATION (Continued) (For additional space, use Section XIII: Claim Information (Addendum))			
CURRENT DISABILITY(IES)	IF DUE TO EXPOSURE, EVENT, OR INJURY, PLEASE SPECIFY (e.g., Agent Orange, radiation, burn pits)	EXPLAIN HOW THE DISABILITY(IES) RELATES TO THE IN-SERVICE EVENT/EXPOSURE/INJURY	APPROXIMATE DATE DISABILITY(IES) BEGAN OR WORSENED
1. PACT ACT	PACT ACT LAW PASSING	ASK THE VETERAN	Good luck
2.			

PURPOSE

- Interviews clarify
- Interviews help manage expectation for the veteran



“Whassup?. What’cha need?”

TYPES OF INTERVIEWS

- What are some **types** of interviews?

Hiring
Criminal
Intake Interview
Miscommunication Interview

- What is the most common interview used by VFW service officers?



Intake Interview

PREPARATION

- What should the service officer do prior to veteran’s arrival?
- Connectivity?
- Forms
- References



PREPARATION

- How do you set up your veteran for success?
  - Did you let them know what to bring?
  - Do you have a checklist you send?

- How were they referred to your office?
  - What might this tell you if they were referred by the Vet Center?

- What should you make sure the veteran understands before the initial interview?
  - What is your security like in your building…what about parking?

ENVIRONMENT – Your Attire

- Dress properly

  - What is your office dress code?
  - Shirt Check…
    - Wrinkles?
    - Collared Shirt?
    - Does it pass the smell fresh test?





ENVIRONMENT - PII

- Check the office to not have claims or records sitting out

- That last veteran you assisted…is that info still on the screen or desk?



ENVIRONMENT – Office/Desk

- Is this your desk?
- Look at your space from the veteran's point of view
- Bring in a friend or family member to view your space
- Is their chair lower than yours?



LIMIT DISRUPTIONS – Privacy

- Do you use an “in meeting” **sign**?
  - *Not a “Go Away” Sign*

- Are **disruptions** frequent in your office when you have a client?

- What do you do about **incoming calls**?
  - What signal does it send to your veterans if you take a call during the interview?

INTRODUCTIONS

- Introduce yourself to the veteran or claimant
  - Handshake or Fist bump?

Not this



  - Please don’t shake someone’s fist bump

- Let the veteran know your background
  - “I’m a Navy veteran” or “My brother is Army”
  - Common ground helps build rapport

- Ask the purpose of the visit

SET THE TONE

When setting the tone, consider:

- Context of meeting
  - Reductions, appeals…how pleasant are those?



Introduction/greeting

Do you greet the veteran when they arrive? Get up from the desk and meet at the door if possible

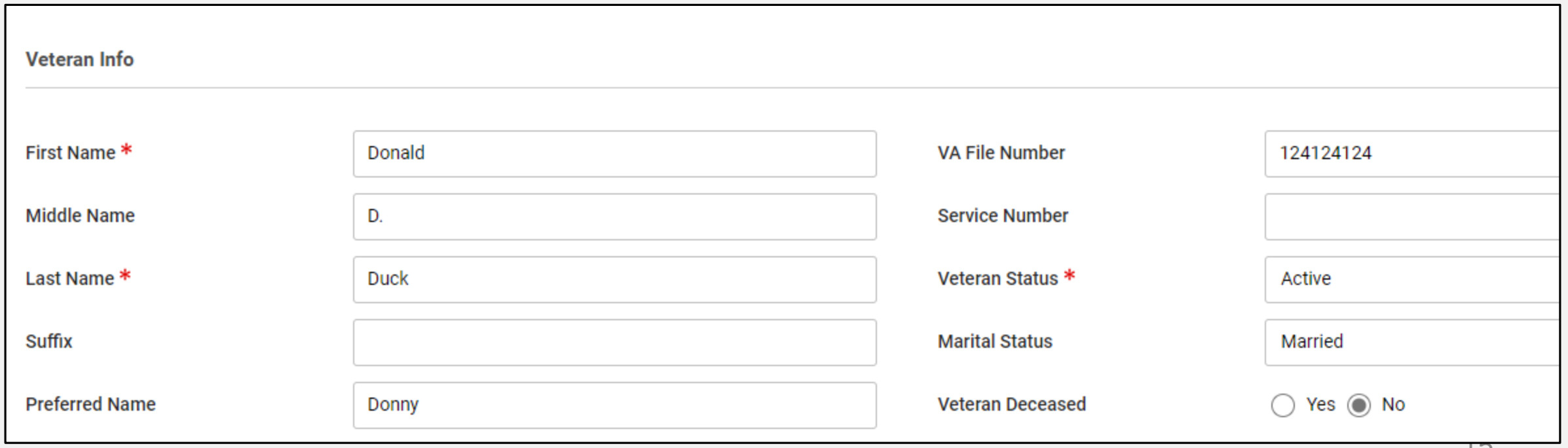


Representation

- First form?
  - VA 21-22
  - Does it need to be updated?
  - What has been your experience with older VA 21-22s?
  - What about veterans who want to switch to VFW?

TVB/Claims Management System

- Get the basic info into TVB/claims management system
  - It will help populate forms
  - Don’t forget the communications section.
    - This assists other service officers



MAKE SURE YOU ARE UNDERSTOOD

“Do you understand the words that are coming out of my mouth?!”

- Avoid jargon
  - “Let me fire up old Jake the computer and see what’s in VBMS”
  - “I see what you put in SEP, but it’s not cested yet”
  - “Let me get this on a TPS report. The boss wants it on there”

- Consider the client’s background, do not condescend
  - “You filled out section II on the 674. Did you not read the instructions?”
  - Think of VA forms like IRS forms. It’s just as foreign to the veteran

ACTIVE LISTENING – This is difficult

During an interview, use the following active listening steps:

- Turn your focus to your customer/your client
- Listen carefully to what he/she is saying
- Restate what you heard
- Allow the client to correct or clarify the information

TYPES OF QUESTIONS

The question type can influence the level of detail received

Close-ended **Vs** ***Open-ended***

- Requires only short or single word answers
- Provides factual information
- Service Officer controls conversation

- Allows for elaboration
- Provides information containing opinions and feelings
- Gives veteran control of the conversation

IDENTIFY POTENTIAL ELIGIBILITY TO BENEFITS

- **Listen to conversational cues**

"I see you are retiring from the military in 4 months. Are you staying in the area?"

"Yes and we are looking at buying a new home - we're looking to downsize since our kids are all off to college now"

COMMUNICATING WITH THIRD PARTIES

Remember the claim is the client's

- Family members in the interview?
- Family member who may be a veteran; set a date/time for their claim
- Ensure a VA form 21-0845 is signed by client if claim information is to be disclosed to a third party
- What if veteran says – Do not disclose to my spouse.
  - Note it in their claims management file, and never assume

STRONG EMOTIONS:
ALWAYS REMAIN PROFESSIONAL

- Sometimes veterans come in with “baggage”
- Don’t argue with the veteran.
- Tearful veterans
- Veterans who get off topic, “And this scar was when I was in…”
- Disrespectful veterans. We reserve the right to revoke our representation if necessary

ENDING THE INTERVIEW AND FOLLOWING UP

- Thank them for their visit/call, and walk them to the lobby
- “Oh one other thing…” What do you do?
- Add summary in TVB/claims management system

Transition Assistance Program Participation

- VSOs may participate in the VA day for TAP:
- VA accredited (OGC #)
- Have a PIV card and access to the VA desktop
- Sign up in the VA system (be logged into your VA desktop)
  - https://dvagov.sharepoint.com/sites/vbaoted/apps/vsoReg/vsoEventRegistration.aspx
- Don’t be a no show - We get a monthly by-name report on slackers

Transition Assistance Program Participation

- Great opportunity to let Service Members know you are there to help them!
- You are usually their first contact with a VFW rep
- Not a membership drive – This is your opportunity to show your support for Service Members
- Attire – business casual at the minimum
  - It is a myth you get class credibility by walking in with a Harley Davidson t-shirt and jeans

TAP Details

- 15 minute time slot at the end of the VA TAP day
- Cannot bring slide with you – there is a generic slide in the TAP circulum
- Bring cards, bring your service hat
- Please remember you are a guest on the military installation and further, a guest of the VA

VETERANS OF FOREIGN WARS®

?'s

VETERANS OF FOREIGN WARS®

CHARACTER OF DISCHARGE, POA & ITF

DISCUSSION/OBJECTIVES

- The Importance of the DD form 214
- Alternatives to the DD form 214
- Character of discharge
- VA regulations for Representation
- Correcting a DD form 214

IMPORTANCE OF DD-214

- The **DD Form 214**, “certificate of release or discharge from active duty”, proves active military service
- Some veterans may have more than one DD 214
- Obtaining copies of all of the veteran’s DD 214s is essential for access to veteran benefits
- Contains important information necessary for accessing benefits, retirement, employment, and membership in veterans service organizations

ALTERNATIVES TO DD-214

- **DD form 215**: A supplemental form used to correct or amend the DD form 214
- **NGB-22**: Issued to veterans who served with the Army National Guard or Air National Guard
- **DD-256**, Issued to Reservists after the completion of the entire service contract

*Before 1950, separation documents also included:

WD AGO 53, WD AGO 55, WD AGO 53-55, NAVPERS 553, NAVMC 78PD and NAVCG 553

COPIES OF DD-214

- A DD Form 214/215 is prepared in eight copies and distributed as follows:
- **Copy 1** – Service Member
- **Copy 2** – Service Personnel File (OMPF or 201 file)
- **Copy 3** – United States Department of Veterans Affairs
- **Copy 4** – Member (if initialed in Block 30)
- **Copy 5** – United States Department of Labor
- **Copy 6** – State Director of Veteran Affairs
- **Copy 7 & 8** – Distributed in accordance with Military Service Department directions

WHICH COPY DO YOU NEED?

- Member 4 copy is what is requested for most benefits, federal veterans preference, etc.
- Service 2 is identical to Member 4: they both provide separation code and other “long form” information.
- VSOs can certify DD-214s by completing TRIP training and getting a stamp made that certifies the authenticity of the document
- This verification allows the claim to proceed more quickly through the development process

WHICH COPY DO YOU NEED?

Although the different copies of the DD form 214 are intended for different purposes, VA will accept any non-redacted/condensed copy as proof of military service.

BREAKDOWN OF A DD 214

Blocks 1 thru 10 (see Peter Jones DD 214)

1 – Name
2 – Branch
3 – SSN
4a/b – Rank and Pay Grade
5 – Date of Birth
6 – Reserve Obligation Date
7a – Place Of Entry
7b – Home of Record at Entry
8a – Last Command
8b – Station where separated
9 – Command to which transferred
10 – SGLI Coverage

BREAKDOWN OF A DD 214

Blocks 11 thru 20 (see Peter Jones DD 214)

11 – MOS / Job Specialty
12 – Dates of Service
13 – Awards Earned
14 – Military Education
15 – Commission/Loan Repayment
16 – Leave Paid
17 – Dental Exam
18 – Continuation Block
19a/b – Mailing address and Nearest Relative
20 – Copies to be provided to Military Service Department

BREAKDOWN OF A DD 214

Blocks 21 thru 30 (see Peter Jones DD 214)

21 – Member Signature
22 – Authorizer
23 – Type of Separation
24 – Character of Discharge
25 – Separation Authority
26 – Separation Code
27 – Reentry Code
28 – Separation Narrative
29 – Time Lost
30 – Member 4 Request

HISTORICAL VERSIONS OF DISCHARGE DOCUMENTS

Discharge documents have changed formats several times over the years. However, all of the information needed for benefits is still included on past versions of the DD form 214.

In your packet there are 3 historical discharge documents:

1. Which veteran received a Purple Heart?
2. When and into which branch of service did Vincent Gambini enlist?
3. What is Ben Fold's birthdate?

CHARACTER OF DISCHARGE 38 CFR 3.12

- **HONORABLE DISCHARGE -** All veteran and military benefits
- **GENERAL DISCHARGE UNDER HONORABLE CONDITIONS -** Most veteran and military benefits (EXCEPT FOR GI BILL)
- **OTHER THAN HONORABLE CONDITIONS DISCHARGE** (OTH) – VA will determine if eligible for any benefits
- **BAD CONDUCT DISCHARGE (BCD) -** VA will determine

CHARACTER OF DISCHARGE 38 CFR 3.12

- **DISHONORABLE DISCHARGE -** No veteran or military benefits

- **OFFICER DISMISSAL -** Commissioned officers may receive a dismissal notice which is the same as a dishonorable discharge.

Because commissioned officers do not have an enlistment period, if they are not retired or medically separated they can resign their commission just like resigning a job. Resignation will usually be an honorable discharge but check DD-214.

- **UNCHARACTERIZED/ENTRY LEVEL SEPARATION (ELS) -** No benefits earned; benefits generally require serving longer than 180 days, unless you were injured or incurred an illness as a result of service

VA CHARACTER OF DISCHARGE DETERMINATIONS

- When an original claim is filed on the service of a former service member that does not have an honorable or general discharge, VA will make a character of discharge determination which is an administrative decision
  - Exception: birth defect claims – character of discharge does not matter
- If the determination is negative, no further development will take place because VA does not consider the person a veteran and does not have a duty to assist
- A negative decision can be appealed
- A “good” period of service can qualify a veteran for benefits even if a subsequent period of service was a bad paper discharge

WHAT TO DO IF THE DD-214 DOESN'T LOOK RIGHT?

Although it is not common, some unscrupulous veterans may try to alter their discharge paperwork in order to obtain benefits.

Some things to look out for:

- Different Fonts
- Misaligned Entries
- Spelling Errors (Metal vs Medal)
- Unobtainable or Unauthorized awards

*Verify **character of discharge, dates of service**, etc. to see if they match other documents.

WHAT TO DO IF THE DD-214 DOESN'T LOOK RIGHT?

VETERANS OF FOREIGN WARS.

- If you suspect that a document has been altered, tell the client that the paperwork doesn't appear to be a certified copy so they will have to make a request to the National Personnel Records Center (NPRC). https://www.archives.gov/veterans/military-service-records
- NPRC will send an official copy to the veteran's house in a few weeks
- If the documents have been altered, they probably won't return

DO NOT CONFRONT OR ACCUSE THE VETERAN

CORRECTING A DD-214

If military service record requires change or correction, the veteran will need to need to submit one of the following forms to their branch of service:

- **DD Form 293**, *"Application for the Review of Discharge or Dismissal from the Armed Forces of the United States"*. This form is used to request an upgrade to a discharge that occurred less than 15 years ago.

- **DD Form 149**, *"Application for Correction of Military Records"*. This form is used for all corrections (such as medals, dates of service) and to request an upgrade to a discharge that occurred more than 15 years ago.

Recap so far

- A **DD form 214** is used as proof of active military service and is the gateway to all VA benefits
- Character of Discharge: **38 CFR 3.12**
- The **DD form 215** is used to make corrections to the **DD form 214**
- Contact the NPRC to request official copies of the DD form 214 of official military personnel file
- If you suspect that a document has been altered **DO NOT ACCUSE**, instead ask for an official copy

WHO IS ELIGIBLE FOR BENEFITS?
(38 C.F.R. §3.12)

VETERANS OF FOREIGN WARS.

Veteran status…

Who can we assist and what can we assist them with?

Honorable	**Although eligibility to VA benefits may be affected by the type of discharge, the VFW represents all veterans except those who have received a dishonorable discharge.**
General, General under Honorable	
Other than Honorable	
Uncharacterized/Entry Level Separation	
Bad Conduct	
Dishonorable	**Not unless discharge is upgraded**

ADMINISTRATIVE DECISIONS

VA administrative decisions are used when VA needs to determine eligibility to benefits

Some examples include:

- Line of Duty
- Character of Discharge Determinations

Administrative decisions are full decisions and can be appealed in the same manner as any other VA decision

REPRESENTATION - VA REGULATIONS

Purpose: To ensure that beneficiaries have responsible, qualified representation in the preparation, presentation, and prosecution of claims for veterans' benefits.

- **38 CFR §14.626**

REPRESENTATION - VA REGULATIONS

- **§ 14.629** Requirements for accreditation of service organization representatives; agents; and attorneys.

- **§ 14.630** Authorization for a particular claim

REPRESENTATION - VA REGULATIONS

- §14.631 Powers of attorney; disclosure of claimant information.
- **VA Form 21-22**, July 2023*
  - Required for representation
  - Authorizes VA disclosure of information to VFW
  - Requires signature of the claimant and the VFW
  - If an outdated form is used or of record VA will **restrict our access to the file** and send a current version to the veteran to fill out and return – this will not affect the outcome of the claim

REPRESENTATION - VA REGULATIONS

§ 14.632 Standards of conduct for persons providing representation before the Department

- Faithfully execute duties
- Understand the issues of fact and law relevant to the claim
- Will NOT Violate standards, rules of conduct

REPRESENTATION - VA REGULATIONS

- Withdrawal of representation **§20.6**
  - Prior to Certification to the Board follow NVS policy and procedure, more to follow…
  - After Certification to the Board – must show good cause
- Change in representation **§20.1304** & **20.1305**
  - 90 days following appeal to the Board

VFW POLICY – ACCEPTING REPRESENTATION

- Claimant must **NOT** be represented by an attorney on any issue before the VA (CAVC representation does not count)

- Claimant must **NOT** restrict access to any records (See VA Form 21-22, Block 19)

- Claimant **CANNOT** have a pending appeal at the Board of Veterans Appeals (VA Form 9 or VA Form 10182)

- **EXCEPTION TO BVA RULE:** Must have <u>compelling circumstances</u> AND <u>advance approval by NVS Director or designee</u> to accept a POA after an appeal to the BVA is filed.

ONCE ACCEPTED:

- VA must officially acknowledge the 21-22 before the VFW can provide representation
- Information concerning a claimant **CANNOT** be released to non-accredited personnel in a VFW Post, County Council, District or Department without a VA form 21-0845.
  - This includes Post Benefits Advisors

VFW POLICY – REVOKING REPRESENTATION

VFW representation can only be revoked once authorization is given by the DSO or Office Supervisor (**or** if the claimant revokes POA by selecting a new representative or notifying VA)

The DSO or Office Supervisor must inform both the veteran **AND** the VA of the decision in writing.

You do not need authorization from NVS to revoke representation, but once the decision has been made to revoke representation, notify NVS

VFW POLICY – REVOKING REPRESENTATION

Informing the veteran **must** be done in writing

When writing the letter/statement be sure to include:

- the veteran's or claimant's name
- claim number or SSN
- reasons why we are no longer representing the veteran
- that they can seek other representation if they so choose

VFW POLICY – REVOKING REPRESENTATION

When notifying the VA of your decision to revoke representation, fill out a VA Form 21-4138 informing VA that the VFW is no longer representing the veteran.

We also recommend attaching a copy of the letter you sent to the veteran informing them of your decision.

VFW POLICY – REVOKING REPRESENTATION

Once the decision has been made to revoke, update the veteran's TVB POA field to "revoked" and upload a copy of the letters to the veteran and VA into the documents area.

Remember to always document any interactions in the communications section in TVB, especially if you plan to revoke representation.

VFW POLICY – REVOKING REPRESENTATION

Some reasons to revoke representation:

- Abusive verbal or physical behavior towards a VFW representative or staff by a client or prospective client

- Client's repeated and persistent failure to cooperate with a VFW representative

What are some other reasons you would request to revoke VFW representation?

VFW POLICY – REFUSING REPRESENTATION

- Repeated changes of powers of attorney where the claim is without apparent merit.
- Fraud or attempted fraud
- Dishonorable discharge

Why else would you refuse a POA?

VFW POLICY – REFUSING REPRESENTATION

Kenny Proll is in your office asking for VFW representation. When you looked up his record you learned that he is currently represented by the Marine Corps League and has a claim pending. When you asked about this, Mr. Proll stated that their office is closed today for training, and he doesn't want to have to come back another day to find out the status of his claim.

Should you accept representation?

HOW CAN A VETERAN FIND OUT IF THEY HAVE A REPRESENTATIVE?

- Log into E-Benefits – Click on Representation
- Inquire with VA
- Ask a VSO to check SHARE

HOW TO COMPLETE THE 21-22 (July 2023 version)

- Section I
  - Key notes: Only fill out block 3 (VA File number) and block 5 (veteran's service number) if you have that information, otherwise leave them blank
- Section II
  - Key notes: Only fill out this section if someone other than the veteran is requesting representation (Surviving spouse, child)
- Section III
  - Key notes: Put your name and title in blocks 16A and B. Do not put "any accredited representative". Use your office's general mailbox for block 17

HOW TO COMPLETE THE 21-22

- Section IV
  - Block 19 MUST be checked to allow access to medical records
  - Block 20 CANNOT be checked
  - Block 21 to allow address change is optional but we recommend checking it
- Section V
  - Both you and the veteran/claimant must sign

INTENT TO FILE

- Effective March 24, 2015
  - No More Informal Claims - **38 CFR §3.155**
  - Must Use Specific Form- VA form 21-0966

Why is it important to know when this program went into effect?

INTENT TO FILE- WHAT IS IT?

- VA Form 21-0966
- Alerts VA that you are going to file a claim within 1 year of submission of the ITF
- Protects date of claim
- Allows time to gather information

Why is protecting the date of claim important?

INTENT TO FILE- WHAT IS NEEDED

- Personal Information
- What benefit is being sought (Compensation, Pension, Survivors Benefits)
- Signature

38 CFR §3.155(2)

INTENT TO FILE- HOW TO FILE?

- Representative can initiate electronically using SEP or by submitting VA form 21-0966 through any approved method

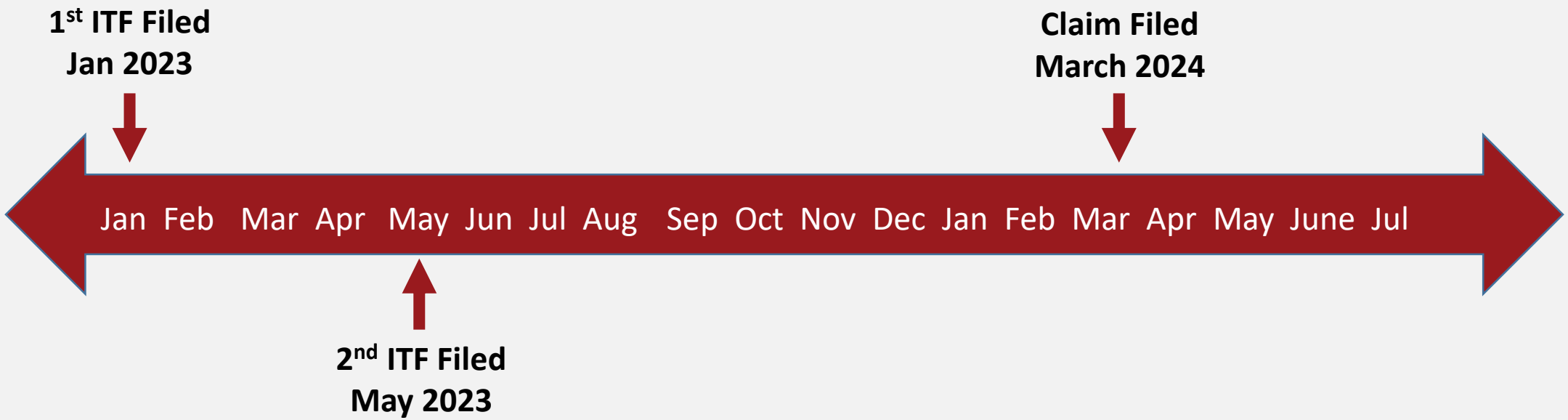
  (TVB, Quick Submit, Fax, Mail, Public contact)

- Veteran can initiate electronically using eBenefits, VA.gov, over the phone (800-827-1000), or by submitting VA form 21-0966

INTENT TO FILE

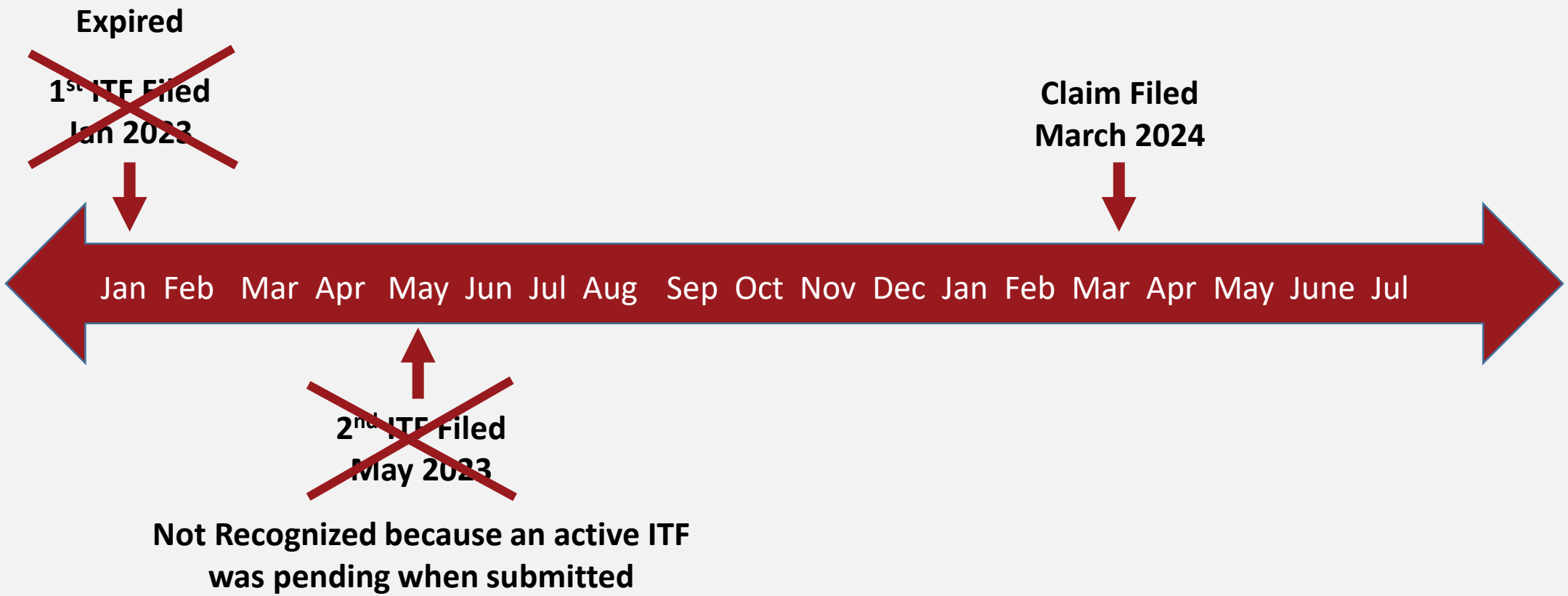
- Must file the claim within 1 year of ITF – this timeline cannot be extended by submitting an additional 21-0966
  - Pre-discharge claims/BDD
  - Survivor benefits (DIC)
  - For these programs, if ITF is filed within the one-year timeframe, it preserves the effective date as if the claim was filed within the original year.
- You cannot have more than one active ITF per benefit at a time
- ITF is no longer active once you submit a completed claim
- Once the ITF is no longer active (used or expired) another ITF can be submitted but if a 2nd ITF is submitted while the first is still active, the 2nd ITF will not be recognized

INTENT TO FILE



Which ITF will VA recognize for the March 2024 claim?

INTENT TO FILE



Neither ITF is valid; the veteran's effective date of claim would be March 2024

INTENT TO FILE – PREVIOUSLY DENIED CLAIMS

- If a veteran was previously denied a benefit, VA will still accept an ITF for that specific issue
- The veteran must submit a Supplemental Claim (VA form 20-0995) with new and relevant evidence (This will be explained in the Appeals class)
- If you plan to submit a new claim and a supplemental claim, you must submit them together for the ITF to apply to both
- This policy was addressed by the Fed. Circuit in July 2021 – The Court decided that ITF regulations apply to Supplemental Claims

HOW TO COMPLETE THE 21-0966
(Feb 2023 Version)

VETERANS OF FOREIGN WARS.

Key Items:

- Section I
  - Block 1 – Use the Veteran's name even if a dependent is filing
- Section II
  - If someone other than the Veteran is filing, enter their information here
- Section III
  - Select the benefit that will be filed for, you can select more than one
- Section IV
  - You can only sign for the veteran if it is not their original claim; remember to put Veterans of Foreign Wars in block 15

REPRESENTATION OF VA CLAIMANTS BY VSOs “Power of Attorney”

- VA Regulations
  - 38 CFR § 3.12
  - 38 CFR §14.626, 14.629 - 14.632
  - 38 CFR §20.6
  - 38 CFR §20.1304
  - 38 CFR §20.1305

- VFW Policy & Procedure

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

VETERANS OF FOREIGN WARS.

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) of the automobile.

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 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 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 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:

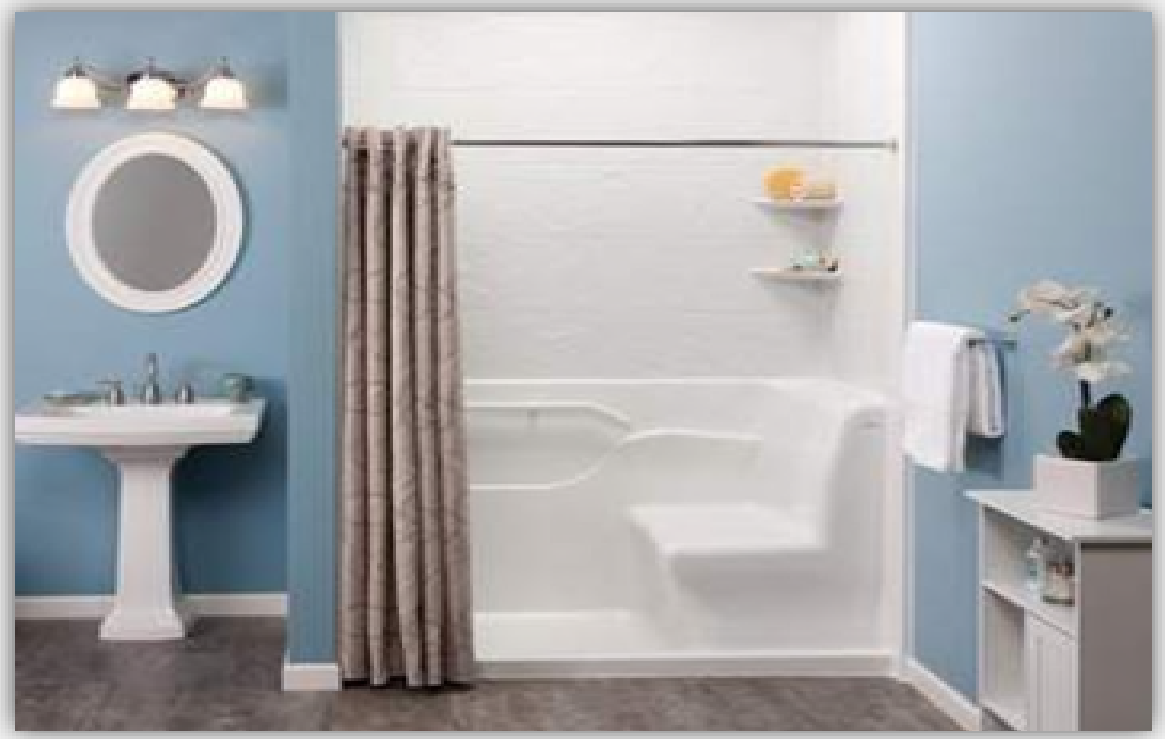
- Loss, or permanent loss of use, of one or both feet
- Loss, or permanent loss of use, of one or both hands
- Impairment of vision 20/200 or less in better eye with correction or peripheral field less than 20 degrees,
- Severe burns causing contracture which limits motion of limbs,
- Amyotrophic lateral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



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.
- Current 2025 SAH maximum is $121,812.
- The grant can be awarded three times 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

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 2025 SHA maximum is $24,405
- The grant can be awarded three 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 for 2025 is $49,062
- SHA maximum for 2025 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)

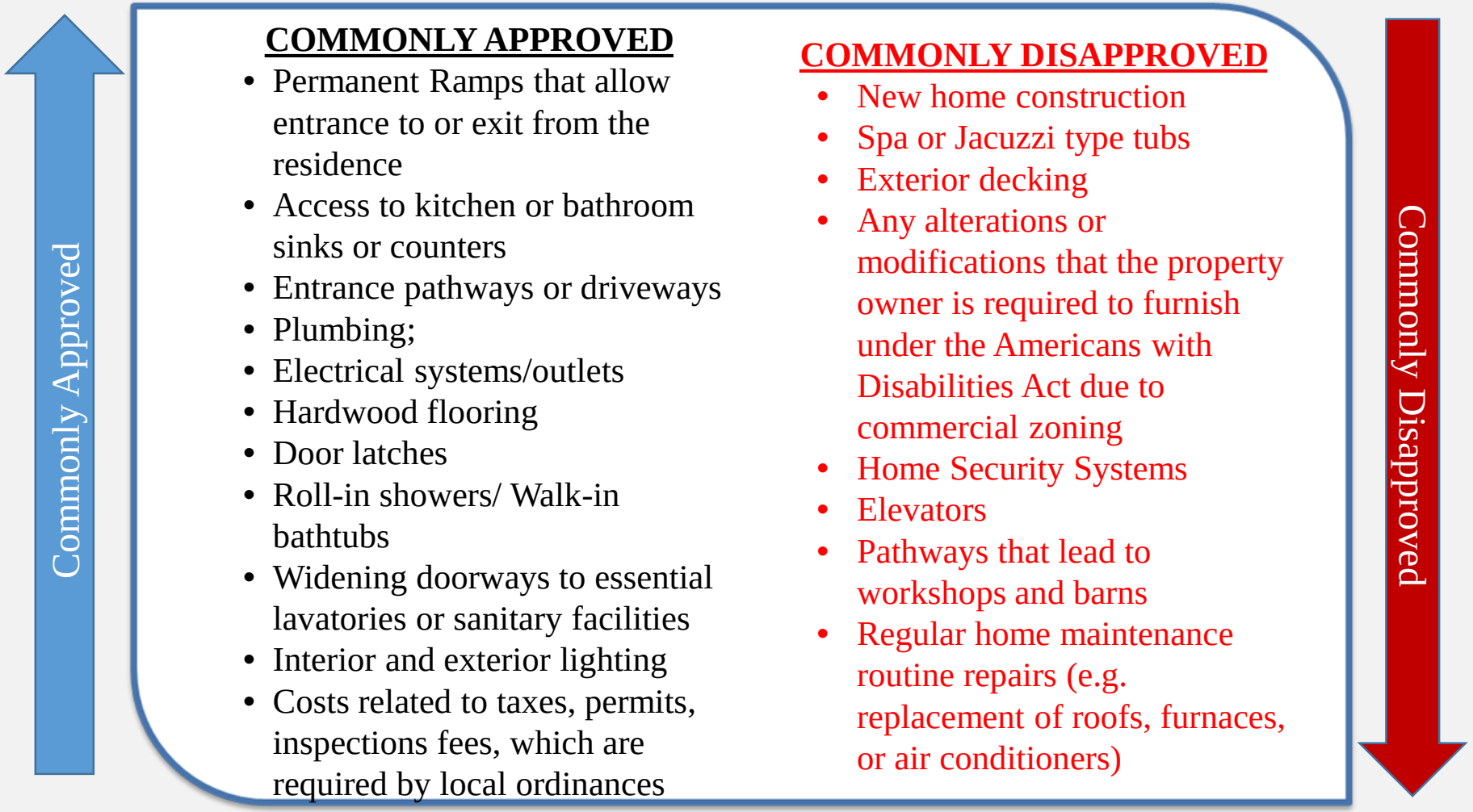
VETERANS OF FOREIGN WARS.

- 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 beneficiary and close 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 VA to help replace articles of clothing that are worn out faster because of their prosthesis.

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

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

- Veterans are 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 $1,024.50

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
- A new application must be submitted each year

VA HOME LOAN GUARANTY FUNDING FEES



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.

VA HOME LOAN GUARANTY FUNDING FEES

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 a 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 prior to 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 E-benefits

- 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 OF FOREIGN WARS.

- 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 OF FOREIGN WARS.

38 CFR Part 9

Enrollment Period

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 OF FOREIGN WARS.

- 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)

VETERANS OF FOREIGN WARS.

- S-DVI is an optional life insurance for service-connected veterans only that stopped taking applications after December 31, 2022.
- If a veteran was already enrolled in S-DVI they can keep it
- The basic S-DVI program insures eligible Veterans for up to $10,000 of 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%)

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.

VETERANS AFFAIRS LIFE INSURANCE (VALIFE)

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 with at least a 20% compensation rating or who have a 10% rating with a serious employment handicap.

- 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)

Basic period of eligibility:

- Ends 12 years from the date of notification of one of the following, whichever is later:
  - Date of separation from active military service
  - Date the veteran was first notified by VA of a service-connected disability rating.

The basic period of eligibility may be extended if a Counselor determines that a veteran has a Serious Employment Handicap and needs extra time.

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

38 CFR Part 4

Schedule for Rating Disabilities

OVERVIEW

- This Class is designed to be a general overview and summary of 38 CFR Part 4
- You do not need to memorize the regulations
- By the end of this session you will understand VA math
- After the session we will use the breakout rooms to practice VA Math

SUBPART A
GENERAL POLICY IN RATING
38 CFR 4.1-38 CFR 4.31

§ 4.1 ESSENTIALS OF EVALUATIVE RATING

- Explains the purpose of the rating schedule including that rating percentages represent the Average Impairment of Earnings Capacity resulting from disabilities or diseases

- Also explains that accurate Medical Exams are *Required to determine the limitation of activity imposed by the disabling condition and that all e*valuations must be viewed in relation to its history

§ 4.3 RESOLUTION OF REASONABLE DOUBT

"When after careful consideration to all procurable and assembled data, a reasonable doubt arises regarding the degree of disability such doubt will be resolved in favor of the claimant"

- One small paragraph, one giant effect!
- Does **NOT** mean that the VA is required to prove the disability is not related to service
- Require a relatively equal balance of positive and negative evidence (equipoise)
- Refer to **38 C.F.R. 3.102**

§ 4.6 EVALUATION OF EVIDENCE

This regulation explains that all evidence that is part of the claim must be thoroughly evaluated and considered prior to rendering a decision

§ 4.7 HIGHER OF TWO EVALUATIONS

"Where there is a question as to which of two evaluations shall be applied, the higher evaluation will be assigned if the disability picture more nearly approximates the criteria required for that rating. Otherwise the lower rating will be assigned."

- Arguably the most arguable regulation!
- Arbitrary - allows for assigning either a higher, or lower evaluation???

Example:

A veteran has a disability with symptoms that warrant both a 30% and 40% rating. The rater should look at which rating most closely resembles the current severity of the disability and assign that rating percentage

§ 4.9 CONGENITAL DEFECTS

Congenital or developmental defects are ***NOT*** normally compensable or service-connected!

But… Is there a way???

§ 4.10 FUNCTIONAL IMPAIRMENT

- The basis of an evaluation is the ability of the body, as a whole, to function under ordinary conditions of daily life.
- Regardless of the body system affected, evaluations are based on the usefulness of the affected body part or system
- The examiner must provide a full description of the effects of the disability on the veteran's ordinary activity to include employment
- Must be remembered that although the veteran may be up and about or can function at home, they still may be too disabled to maintain employment

§ 4.13 EFFECT OF CHANGE OF DIAGNOSIS

- This regulation explains that if the medical evidence shows that a change in diagnosis could be assigned it must be an actual medical change based on the symptoms not on the interpretation or thoroughness of the examiner

- Repercussions of change

- This regulation is often used when rating mental health disorders **(38 CFR 4.125)**

- Ensure any changes in diagnosis align with **38 CFR 4.7**

§ 4.14 AVOIDANCE OF PYRAMIDING

- VA will not rate the same disability or symptom more than once
- Pay close attention to which symptoms relate to each disability as many body systems overlap and symptoms can often relate to more than one disability
- Special rules (exemptions) are in the Rating Schedule
- NSC versus SC etiologies
- VA is very aware of this rule!

§ 4.15 TOTAL DISABILITY RATINGS

- Disabilities can affect people differently
- Ratings are based on the average impairment of earning capacity – not the individuals success in overcoming it
- Individual success should still be measured as the VA can use it to determine a rating if the veteran does not have the average amount of success overcoming or adapting to the disability
- Total Disability (P&T) Ratings – Disability is severe enough to prevent an average person from securing or maintaining employment
- A total disability rating does not mean that the veteran is not allowed to work

§ 4.16 TOTAL RATINGS BASED ON INDIVIDUAL UNEMPLOYABILITY

VETERANS OF FOREIGN WARS.

- Compensation will be paid as if the veteran was rated 100% disabled if it is shown that service connected disabilities prevent the veteran from securing or maintaining ***substantially gainful*** employment.
- The VA must find that the veteran is unable to work due to service-connected disabilities.
- It is not sufficient to state that the veteran is unemployable due to nonservice-connected disabilities.

To qualify for TDIU a veteran must have:

- A single disability evaluated at **60%** or more (can be multiple disabilities based on the same etiology)

or

- Two or more disabilities that equal a combined **70%** and at least one **40%** rating
- An extra-schedular evaluation can be granted if a veteran has an exceptional or unusual disability picture due to marked interference with employment or frequent periods of hospitalization which are not reflected by regular schedular standards.

§4.18 UNEMPLOYABILITY

- A veteran may be considered unemployable upon termination of employment provided the termination was due to a disability
- For amputations, sequelae of fractures, and other residuals of traumatism that are static, a veteran can show continuous unemployability from date of incurrence or stabilization
- May be attributed to a static disability
- Increase in severity of combined service connected and non-service connected disabilities, §4.16 should be considered

§ 4.17A MISCONDUCT ETIOLOGY

The regulation explains that a veteran can still obtain a permanent and total disability even if they acquired a disability due to willful misconduct as long as:

- (a) The veteran has innocently acquired 100 percent disability
- (b) The veteran has other disabilities innocently acquired that render them unemployable

§4.19 AGE IN SERVICE-CONNECTED CLAIMS

- May not be used
  - deciding service-connected disability or unemployability
  - as a basis to grant a total disability rating
- Age can be a factor in evaluations of disability not resulting from service (Non-Service Connected Pension)

§4.27 USE OF DIAGNOSTIC CODE NUMBERS

VETERANS OF FOREIGN WARS.

- Arbitrarily assigned for showing the basis of the evaluation and statistical analysis by the VA
- No other numbers may be assigned with the exception of analogous diagnostic codes (§4.20)
- Injuries will be represented by the number assigned to residuals conditions
- Diseases assigned with preference given to the disease itself

§4.20 ANALOGOUS RATINGS

- An Analogous Rating will be assigned if the veteran has a disability that is not listed in the rating schedule
- The unlisted disability will be rated under diagnostic codes for a closely related disease or injury
- Instead of a 4 number code, the code will have 2 sets of 4 digits
- The first code identifies the body system, the second code is the closest related disability
- Analogous ratings are not used for organic diseases/functional disorders

COMMON ANALOGOUS CODES

- **Arthralgia** 5099-5003 (arthritis)
- **Chondromalacia patellae** 5099-5014 (osteomalacia)
- **Pneumonia** 6899-6845(restrictive lung disease)
- **Mitral valve prolapse** 7099-7000 (valvular heart disease)
- **Gastroenteritis** 7399-7307 (gastritis)
- **Crohn's Disease** 7399-7323 (ulcerative colitis)
- **Colostomy** 7399-7333 (rectum and anus stricture)
- **Shingles/folliculitis** 7899-7806 (dermatitis or eczema)
- **Carpal tunnel syndrome** 8599-8515 (median nerve paralysis/incomplete paralysis)

§4.21 APPLICATION OF RATING SCHEDULE

- Used to sufficiently identify disease/disability
- Establishes criteria to ascertain level of disability or functional impairment
- Does not include all disabilities (analogous)
- Organized by body system in ranges from 0 to 100%

§4.28 PRE-STABILIZATION RATING FROM DATE OF DISCHARGE FROM SERVICE

VETERANS OF FOREIGN WARS.

VA can assign a 50% or 100% rating to veterans for 12 months who were recently discharged and have a disability that is still healing or not yet stable

- **Unstabilized condition with severe disability— Substantially gainful employment is not feasible or advisable = 100%**
- **Unhealed or incompletely healed wounds or injuries— Material impairment of employability likely = 50%**
- Not to be assigned in lieu of a total rating or TDIU
- Pre-stabilization 50% rating is not to be used in any case in which a rating of 50% or more can be assigned under regular provisions

§4.29 HOSPITALIZATION

- 100% rating will be assigned for hospitalization for SC disability for a period in excess of 21 days
- Temporary release approved by a VA doctor as part of treatment will not be considered an absence
- If convalescence is required may be continued for an additional 1-3 months
- Additional periods may be approved by the Veterans Service Center Manager (VSCM)

§4.30 CONVALESCENT RATINGS

- Total ratings will be assigned if convalescence is required or surgery with severe postoperative residuals
- Immobilization by cast without surgery of one or more major joints
- Extensions of 1-3 months beyond the initial 3 months may be made
- Extensions of 1 or more months up to 6 months beyond the initial 6 months may be made by the VSCM

§4.31 ZERO PERCENT EVALUATIONS

- Every service connected condition can be granted a 0% rating if the criteria for the minimum compensable rating is not met

- This means that if the veteran has a diagnosed disability that is related to service but does not have severe enough symptoms to warrant the minimum rating in the schedule, VA can assign a 0% rating

38 CFR Part 4
Subpart- B
Disability Rating
§4.40 - §4.150

§4.40 FUNCTIONAL LOSS

- Functional loss is the inability to perform the normal working movements of the body and is determined by:
  - Strength
  - Speed
  - Coordination
  - Endurance

- Weakness and Limitation of Motion are both important

§4.40 FUNCTIONAL LOSS

***DeLuca v. Brown*, 8 Vet.App. 202 (1995)**

States that if a veteran has a disability of a joint that is painful upon motion or repetitive use, VA should assign the minimum compensable rating or increase the rating by one level if the veteran is already entitled to a compensable rating.

§4.41 HISTORY OF INJURY

- Residuals of an injury
- Mechanism of Injury
- Treatment
  - Effectiveness
  - Duration

- **<u>The absence of clear cut evidence of injury, may reflect congenital or developmental etiology, or the effects of a healed disease</u>**

§4.42 COMPLETE MEDICAL EXAMINATION OF INJURY CASES

- Must include all systems of the body affected
  - General examination
  - Complete Neurological & Psychiatric
  - Special Exams as indicated
    - Orthopedic
    - Surgical

§4.43 OSTEOMYELITIS

- DC 5000
  - Chronic or recurring
  - Considered continuously disabling
  - Unless removed by amputation
  - A permanent rating can be combined with other ratings for residual conditions

§4.44 THE BONES

- Malunion
- Disarticulation
- Shortening
  - Consider strain on neighboring joints

§4.45 THE JOINTS

- Less movement
- More movement
- Weakened movement
- Fatigability
- Incoordination
- Pain

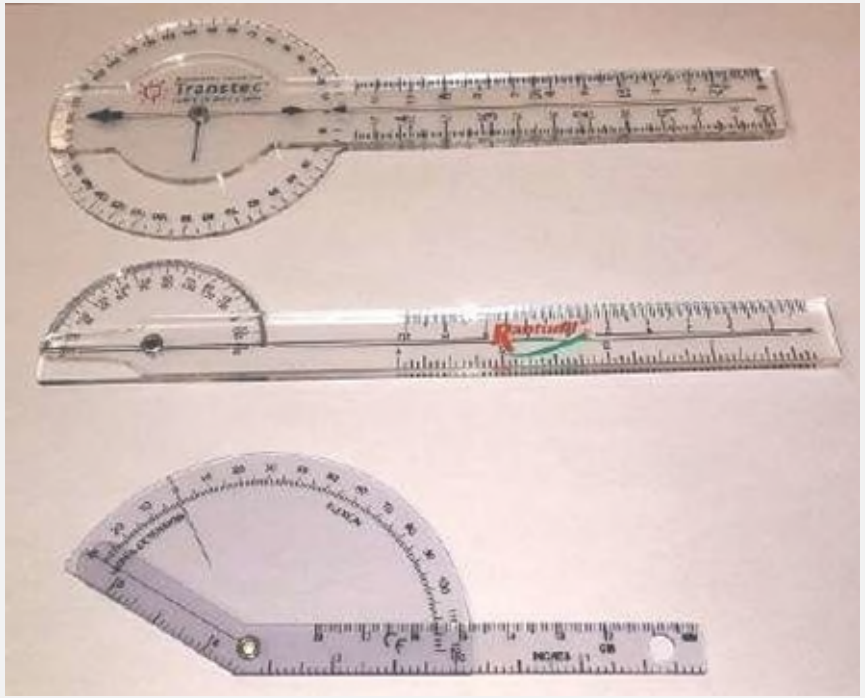
- **Major Joints** – Shoulder, elbow, wrist, hip, knee, ankle
- **Minor Joints** – Vertebrae, all smaller joints

§4.46 – Accurate Measurement

- Insist on accurate measurement of lengths of stumps, movement of joints and dimensions and locations of scars

- **If an examination does not have accurate measurements, it's inadequate!**

- Joint movement is measured by a Goniometer



§4.55 PRINCIPLES OF COMBINED RATINGS FOR MUSCLE INJURIES

- 38 CFR §4.73 – Schedule of Ratings
  - DC 5301-5323
- 32 groups
- 8 regions

§4.55 PRINCIPLES OF COMBINED RATINGS FOR MUSCLE INJURIES

- **Muscle Injuries ratings** and **Peripheral Nerve Paralysis ratings** cannot be combined if they are part of the same body part unless they affect different functions

- If a joint is **Ankylosed**, the muscles that act on that joint will not be rated
- Exceptions: Knees, Shoulders

§4.55 PRINCIPLES OF COMBINED RATINGS FOR MUSCLE INJURIES

VETERANS OF FOREIGN WARS.

Multiple muscles

- **Same Region but Different joint:** The evaluation for the most severely injured muscle group will be raised one level and used as the evaluation for all muscle groups in the region.

- **Different Region:** Rate separately

§4.56 EVALUATION OF MUSCLE DISABILITIES

There are 4 levels of severity for muscle disabilities:

- Severe
- Moderately Severe
- Moderate
- Slight

§4.56 EVALUATION OF MUSCLE DISABILITIES

VETERANS OF FOREIGN WARS.

When VA evaluates muscle disabilities they consider:

Cardinal signs and symptoms (S/S)

- Loss of power
- Weakness
- Lowered threshold of fatigue
- Fatigue-pain
- Impairment of coordination
- Uncertainty of movement

Type of injury

- Blunt trauma
- Gun shot
- Shrapnel

History and complaint

- Type of treatment required
- Length of treatment

Objective findings

- Residuals

§4.56	SLIGHT	MODERATE	MODERATELY SEVERE	SEVERE
TYPE OF INJURY	• Simple Wound • No Debridement	• Through & through • Single Bullet	• Through & through • Small high velocity or large low-velocity • Debridement • Prolonged infection • Intramuscular scarring	• Through & Through • High-velocity • Open comminuted fracture • Extensive debridement • Prolonged infection • Sloughing of parts • Intermuscular binding & scarring
HISTORY & COMPLAINT	• Brief Treatment • Return to Duty • Good Function • No Cardinal Signs	• One or more cardinal S/S • Lowered threshold of fatigue that affects function	• Hospitalization • Cardinal S/S • Inability to keep up with work requirements	• Hospitalization/prolonged treatment • Consistent complaint of cardinal S/S
OBJECTIVE FINDINGS	• Minimal scar • No functional impairment • No retained foreign bodies	• Small linear scars • Some loss of fascia or muscle • Decreased power when compared	• Scars • Loss of deep fascia/muscle • Impaired strength and endurance	• Scaring/Adhesions • Loss of fascia or muscle • Muscle(soft & flabby or hard & swollen) • Impaired function • X-ray evidence of Foreign Body

§4.57 STATIC FOOT DEFORMITIES

VETERANS OF FOREIGN WARS.

- Bilateral Flatfoot – Must be determined if congenital or acquired
  - Congenital – Not service connected
  - Acquired – Rating based on:
    - Arch depression
    - Calluses
    - Tenderness
    - Rotation
    - Pain
    - With regard to exercise

§4.58 ARTHRITIS DUE TO STRAIN

- Lower extremity amputation or shortening

- Service connection for Arthritis
  - in joints under strain
  - Both lower extremities
  - Lumbar spine

§4.59 PAINFUL MOTION

- Recognize painful, unstable, or malaligned joints

  …at least the minimal compensable rating for that joint.
  - Arthritis
  - Objective pain
  - Muscle spasm
    - Active/Passive motion
    - Weight-bearing/Non weight-bearing

§4.61 EXAMINATION

- Examinations for arthritis must cover all major joints
- Exception – Traumatic arthritis

§4.62 CIRCULATORY DISTURBANCES

- Circulatory disturbances are generally rated as phlebitis
- Pay close attention to the lower extremity in the popliteal space

§4.63 LOSS OF USE OF HAND OR FOOT

- No function remains
- Equally served by an amputation
- **Hand** - **Foot**
  - Grasping - Balance
  - Manipulation - Propulsion

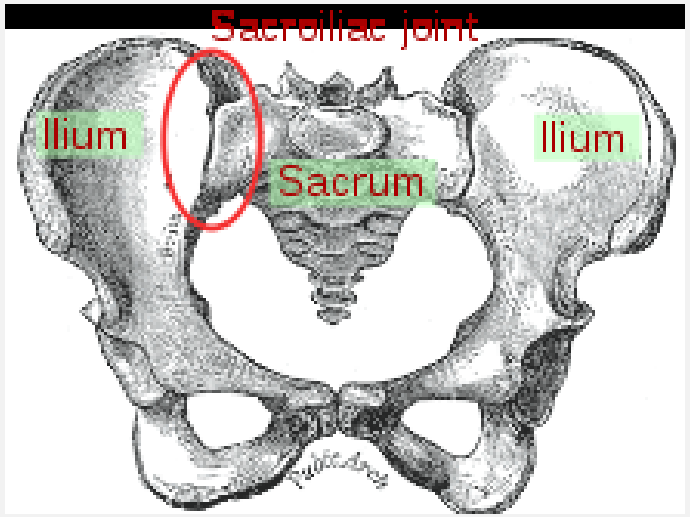
- Unfavorable ankylosis
- Complete paralysis
- Special Monthly Compensation** (**38 CFR 3.350**)

§4.64 LOSS OF USE OF BOTH BUTTOCKS

- Cannot rise from sitting/stooped position without assistance
- The assistance can be from their arms, another person, or an assistive device

§4.66 SACROILIAC JOINT

- Lumbosacral and sacroiliac joints are considered one segment
- X-ray
- Tenderness
- Limitation of flexion and extension of hip
- Trauma is rare cause



§4.67 PELVIC BONES

- Rate the Residuals
  - Posture
  - Limitation of motion
  - Painful motion
  - Muscle spasm
  - Neuritis

§4.68 AMPUTATION RULE

- Combined rating of an extremity will not exceed the rating if there was an amputation at that level

- Example:
  - Veteran has 5 disabilities of the left knee and ankle which when combined equal 70%
  - Knee level amputation (**DC 5164**) is rated at 60%
  - Veteran will be rated at 60%

§4.69 DOMINANT HAND

- Determined by evidence of record or testing at VA exam

- Ambidextrous
  - Can only have one dominant hand
    - Injured or most severely injured is dominant

§4.71 MEASUREMENT OF ANKYLOSIS AND JOINT MOTION

- Plates I and II
- Plate III for fingers
- Favorable or unfavorable ankylosis is determined by rating schedule

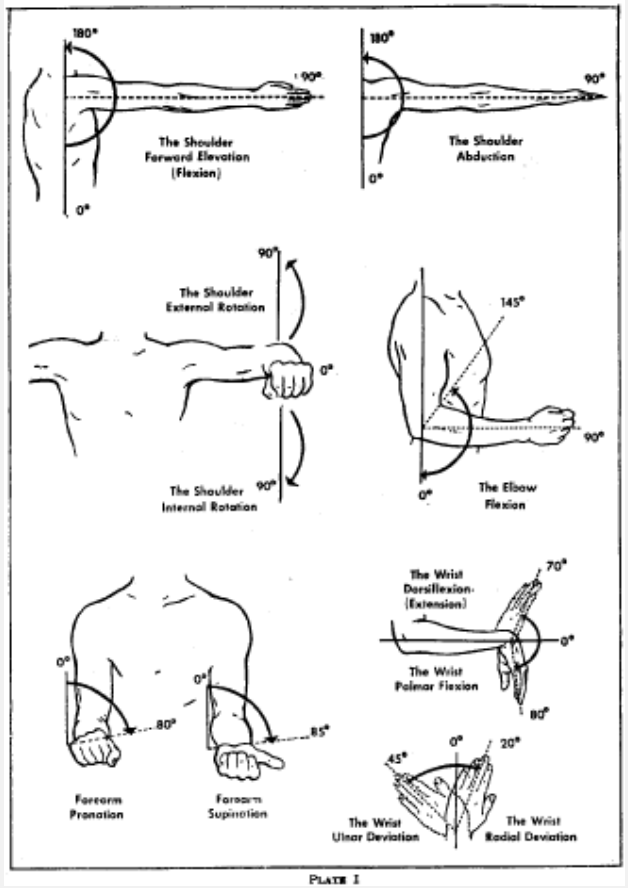


Plate I

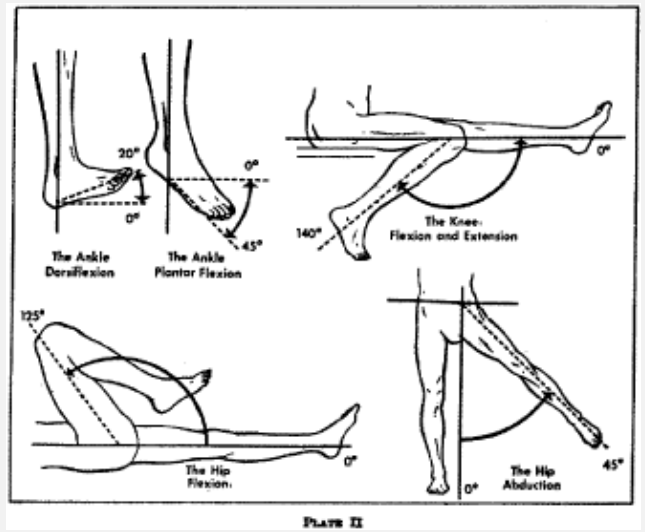


Plate II

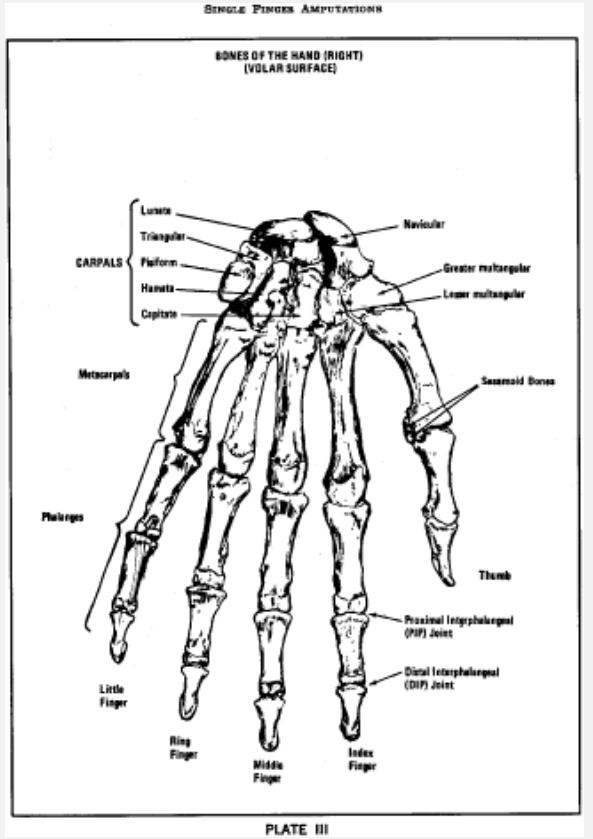


Plate III

§4.71A- §4.150
RATING SCHEDULE

§4.71A & 4.73 SCHEDULE OF RATINGS-MUSCULO-SKELETAL SYSTEM/MUSCLE INJURIES

- DC 5000-5298 pertain to musculo-skeletal system
- DC 5301-5329 pertain to muscle injuries
- *Remember §4.56 (how to evaluate muscle injuries)

§4.75 GENERAL CONSIDERATIONS FOR EVALUATING VISUAL IMPAIRMENT

Visual impairment is based on impairment of visual acuity, visual field, and muscle function.

Developmental refractive errors cannot be service connected

- Examination must be conducted by a optometrist or ophthalmologist and must identify the cause of any impairment
- For rating purposes, if only 1 eye is service connected, the other eye will be considered 20/40
- Maximum evaluation for 1 eye– cannot exceed 30% unless there is anatomical loss
- Anatomical loss-no prosthesis add 10%
- SMC (**38 CFR 3.350**)

§4.76 - §4.77 VISUAL ACUITY & VISUAL FIELDS

- Vision examinations must include central uncorrected and corrected for distance (no glasses and with glasses)
- Evaluation – if acuity falls between two ratings, give the higher one
- **4.76a** contains graphs and charts used to determine visual fields
- **4.77** lists the types of authorized visual field tests, how to evaluate visual fields, and how to evaluate a combination of visual field and acuity disabilities

§4.78 & §4.78 MUSCLE FUNCTION and SCHEDULE OF RATINGS-EYE

- **4.78** Explains which tests are authorized for use and examination requirements

- **4.79** contains the listing of eye disabilities DC 6000-6091

§4.85 - §4.87 Hearing Impairment and Ears

- Exams for hearing loss must be performed by an State-licensed audiologist and must include a Maryland CNC speech discrimination test
- Tables VI, VIA, VII are used to determine evaluations
- How to determine non-exceptional hearing loss: (**DC 6100**)

  Step 1: Determine the puretone threshold average by averaging the loss at 1000, 2000, 3000, & 4000 Hertz for each ear

  Step 2: Locate the Speech discrimination score for each ear

  Step 3: Determine the roman numeral for each ear using table VI using the puretone threshold average & speech discrimination score

  Step 4: use Table VII to combine the roman numerals and determine the evaluation

4.86 explains when to use table VIA for exceptional patterns of hearing loss (Severe cases)

4.87 contains the listing of ear disabilities DC 6200-6260

§4.87a SCHEDULE OF RATINGS- OTHER SENSE ORGANS

- Loss of Smell
  - DC 6275
- Loss of Taste
  - DC 6276
- Both are rated at 10% but can only be assigned if there is an anatomical or pathological basis for the condition

§4.88a CHRONIC FATIGUE SYNDROME

A diagnosis of chronic fatigue syndrome requires:

- New onset of decreased daily activity to 50% or less
- Symptoms not due to another diagnosis
- Six or more:
  - Acute onset
  - Low grade fever
  - Headaches
  - Non-exudative pharyngitis
  - Tender clavicle lymph nodes
  - Fatigue > 24hrs after exercise
  - Muscle aches/weakness
  - Migratory joint pain
  - Neuropsychologic (brain function) symptoms
  - Sleep disturbance

§4.88b – §4.89 INFECTIOUS DISEASES, IMMUNE DISORDERS, NUTRITIONAL DEFICIENCIES, & TB

- **4.88b** contains the listing of infectious diseases, immune disorders and nutritional deficiencies DC 6300-6354
- **4.88c** explains how to rate inactive nonpulmonary tuberculosis for veterans who become entitled ***after*** August 19, 1968 (100% for 1 year after date of inactivity then rate residuals)
- **4.89** explains how VA rated inactive nonpulmonary tuberculosis for veterans who become entitled ***before*** August 19, 1968 (Graduated rating scale)

§4.96 – 4.97 SPECIAL PROVISIONS REGARDING EVALUATION OF RESPIRATORY CONDITIONS

- Explains which disabilities cannot be combined with each other
- When these disabilities coexist, a single rating will be assigned using the predominant disability then that rating will be raised to the next higher level
- Special Monthly Compensation may apply (**3.350**)
- Evaluation criteria
  - Pulmonary function tests
  - Bronchodilators
  - FVC, FEV-1
- **4.97** contains the listing of disabilities of the respiratory system DC 6502-6847

§4.100 - §4.104 CARDIOVASCULAR SYSTEM

- **4.100** explains how to apply diagnostic codes 7000-7007,7011, & 7015-7020
- Cardiac Hypertrophy or Dilatation (determined using EKG, Echo, X-ray) and medication must be determined in all cases
- METS – Must be determined in most cases (exceptions are listed)
- LVEF testing - If not of record, alternate criteria can be used to determine severity unless the examiner states otherwise
- **4.104** contains the listing of disabilities of the cardiovascular system DC 7000-7123

§4.110 - §4.114 DIGESTIVE SYSTEM

- **4.110** explains that the location of ulcers must be identified (stomach, Duodenum), and that the term “peptic ulcer” cannot be used to rate
- **4.111** discusses postgastrectomy syndromes specifically “Dumping Syndrome” and manifestations of hypoglycemia
- **4.112** **Substantial weight loss:** > 20% of baseline weight, for 3 months
  Minor weight loss: >10-20% of baseline weight, for 3 months
  Inability to gain weight: Substantial weight loss that cannot be regained
  Baseline weight: Average weight for past 2 years, before problem
- **4.113** Watch out for pyramiding in abdominal claims
- **4.114** contains the listing of disabilities of the digestive system DC 7200-7354

§4.115 - §4.115b GENITOURINARY SYSTEM

- **4.115** discusses nephritis and its symptoms
- Diseases of the heart & nephritis not rated separately unless there is only 1 kidney or dialysis is required
- **4.115a** contains the ratings for dysfunctions of the genitourinary system and explains that only the predominant area of dysfunction shall be considered for rating purposes
- **4.115b** contains the ratings for diagnoses of the genitourinary system

§4.116 – §4.119 GYNECOLOGICAL CONDITIONS, DISORDERS OF THE BREAST, HEMIC & LYMPHATIC SYSTEMS, SKIN, ENDOCRINE SYSTEM

VETERANS OF FOREIGN WARS.

- **4.116** contains the ratings for diagnoses of the gynecological conditions & disorders of the breast DC 7610-7632
- **4.117** contains the ratings for diagnoses of the hemic and lymphatic systems DC 7702-7725
- **4.118** contains the ratings for diagnoses for skin conditions DC 7800-7833
- Review of rating for DC 7800,7801,7803,7804,& 7805 before October 23, 2008
- **4.118** contains the ratings for diagnoses for endocrine conditions DC 7900-7919 (Type 2 Diabetes)

§4.120 – §4.124a Neurological Conditions

- **4.120** Explains the different symptoms that must be considered and used to rate neurological conditions in proportion to impairment
  - Refer to the appropriate schedule
- **4.121** explains that seizures must be witnessed or verified by a physician; frequency and effect can be by lay testimony
- **4.122** gives a description of psychomotor epilepsy and notes that seizures and chronic psychiatric disturbances are not uncommon

§4.120 – §4.124a NEUROLOGICAL CONDITIONS

- **4.123** discusses cranial or peripheral neuritis which is characterized by loss of reflexes, muscle atrophy, sensory disturbances, and constant pain at times excruciating. If there are no organic changes the highest rating is moderate, for sciatic nerve w/o organic change moderately severe

- **4.124** Explains that neuralgia is to be rated according to the nerve affected and is characterized by dull intermittent pain. It is rated according to the nerve affected

- **4.124a** contains the ratings for neurological conditions DC 8000-8914

§4.125 DIAGNOSIS OF MENTAL DISORDERS

- Diagnosis must conform to DSM-5 criteria
- If a diagnosis is changed the rater must determine if it is:
  - Progression of prior diagnosis
  - Correction of an error
  - Development of a new/separate condition

§4.126 EVALUATION OF DISABILITY FROM MENTAL DISORDERS

- Rater must consider full picture of disability
  - Frequency, severity, duration of symptoms
  - Length of remissions
  - Consider social impairment
  - Neurocognitive disorders (head injuries) will be rated separately and combined with evaluation
  - If rated as both physical and mental disorder the more dominant condition DC is utilized

§4.127 INTELLECTUAL DISABILITY (INTELLECTUAL DEVELOPMENTAL DISORDER) & PERSONALITY DISORDER

- Not diseases or injuries for service connection
- Consider aggravation §3.310(a)
- Mental disorder superimposed may be service connected

§4.128 CONVALESCENCE RATINGS FOLLOWING EXTENDED HOSPITALIZATION

- Mental disorder at 100% due to continuous hospitalization, lasts 6 months or more
- Must continue the 100% indefinitely until improvement is shown
- Evaluation 6 months after release and may be decreased in accordance with **§3.105(e)**

§4.129 MENTAL DISORDERS DUE TO TRAUMATIC STRESS

- If discharged due to this
  - Service connect at no less than 50%
  - Re-examination within 6 months

§4.130 SCHEDULE OF RATINGS – MENTAL DISORDERS

- The General Rating Formula for Mental Disorders is used to rate all mental health conditions except for eating disorders

- Pay close attention to symptoms when determining ratings

§4.150 SCHEDULE OF RATINGS- DENTAL & ORAL CONDITIONS

- 4.150 contains the listings for Dental and Oral conditions DC 9900-9918
- Separately evaluate loss of vocal articulation, loss of smell, loss of taste, neurological impairment, respiratory dysfunction, and other impairments under the appropriate diagnostic code and combine under §4.25 for each separately rated condition

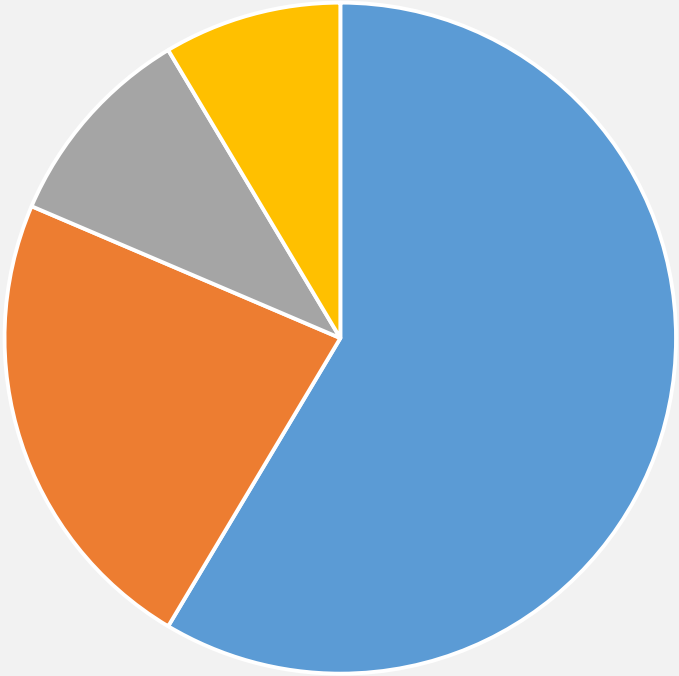
Part 4 Appendices

APPENDIX A-TABLE OF AMENDMENTS & EFFECTIVE DATES SINCE 1946

APPENDIX B- NUMERICAL INDEX OF DISABILITIES

APPENDIX C- ALPHABETICAL INDEX OF DISABILITIES

VA MATH





VA MATH CONCEPT

- **VA does not add disability ratings together, rather they combine the disabilities using the combined ratings table**

- To help understand the concept of VA Math think of a sale:
  - A shirt costs $100 regular price
  - The store advertises 50% off – The new price is $50
  - The store takes off an additional 50% – New price is $25 you save 75% total
  - Why? Because you take the additional percentage from what's left of the original price
  - The veteran is the original price, the disabilities are the sale, and the total saved is the combined rating

§4.25 COMBINED RATINGS TABLE

- Calculated in order from highest percentage to lowest
- Read down, then across - figure at intersection represents the actual (true) percentage
- After all the disabilities are combined the final value is rounded to the nearest 10% to create the combined percentage (values ending in 5 are rounded up)
- Table begins at 19 (combination of two 10 % disabilities)
- **What would be the combined rating if the veteran had disabilities rated at 20% and 30%?**

BASIC VA MATH EXAMPLE

Example:

- 20% Left shoulder limitation of motion
- 10% Tinnitus

Step 1 Start with **100% Whole Veteran**

-20% Left Shoulder

80% Whole / 20% Disabled

Step 2 Continue to combine disabilities **80% Remaining**

- 10% Tinnitus (10% of 80 is 8)

72% Whole / 28% Disabled

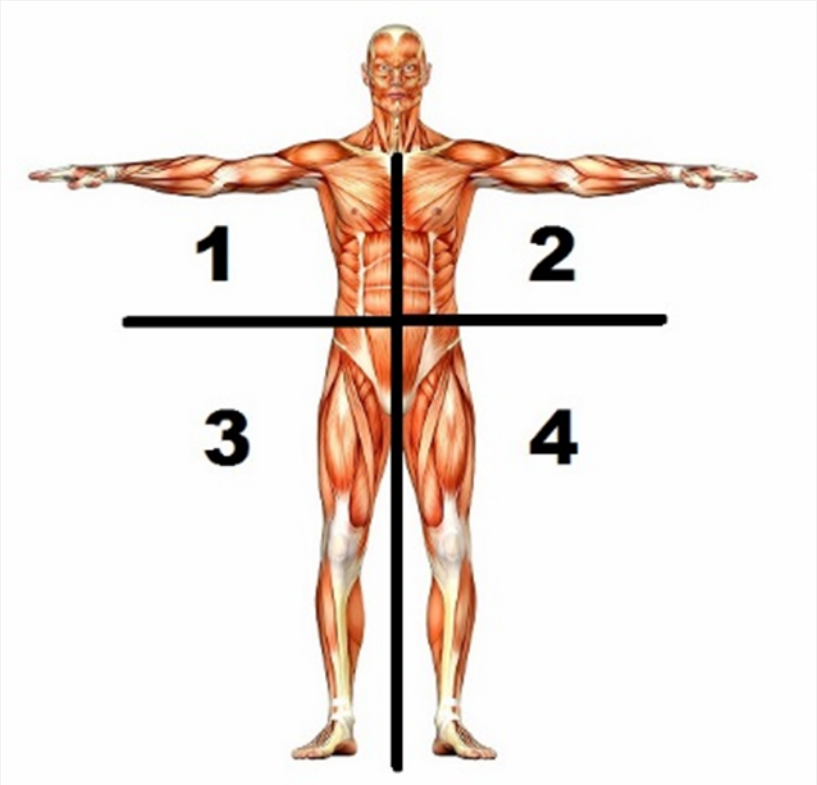
Actual rating is 28% VA will round and assign the veteran a 30%

§4.26 BILATERAL FACTOR

- Requires more than one **compensable** disability
  (both arms, both legs, paired skeletal muscles)

- Applied before any other combinations are carried out and treated as one disability when combining with non-bilateral disabilities
- **Combine** in order of severity
- **Add** additional 10 percent before combining other non- bilateral disabilities **(not combined, added)**

§4.26 BILATERAL FACTOR



In order for a bilateral factor to be applied, the veteran must have disabilities of the extremities in sections across from each other.
(1 & 2) or (3 & 4)

§4.26 BILATERAL FACTOR EXAMPLE

- 10% Left Shoulder Limitation of Motion
- 10% Right Elbow Sprain
- 50% PTSD

Step 1 Combine Bilateral Disabilities: **100% Whole Veteran** **90% Whole Veteran**

-10% Left Shoulder **-10% Right Elbow**

90% Whole / 10% Disabled **81% Whole / 19% Disabled**

Step 2 Determine Bilateral Factor: **19% Disabled + 1.9 (10% of 19 = Bilateral Factor) = 20.9 (round to 21)**

Step 3 Determine Bilateral Rating **100% Whole Veteran**

-21% Bilateral Disabilities

79% Whole / 21% Disabled

Step 4 Continue to combine disabilities **79% Remaining**

-50% PTSD

§4.26 BILATERAL FACTOR EXAMPLE WITH WORKSHEET

- We have provided you a Bilateral Factor Worksheet in the OLP and chat box which can be used to help combine ratings with bilateral factors

- Use the worksheet determine the combined rating for the following disabilities:
    - 60% Left hand loss of use
    - 30% Cervical disc disease with right upper arm radiculopathy
    - 10% Amputation of the left ring finger
    - 10% Tinnitus

How to Use Title 38 CFR

VFW Basic Training

HOW TO USE TITLE 38 CFR

VETERANS OF FOREIGN WARS.

- What is the CFR?
- Why Learn the CFR?
- How is the CFR Organized?
- Browsing the CFR and eCFR
- What is in the CFR?
- What is the Rating Schedule?
- How to Read a Diagnostic Code
- Searching the eCFR
- How to Obtain a CFR

WHAT IS THE CFR?

VETERANS OF FOREIGN WARS.

"Titles" of the CFR are issued for each Government Agency

Title 38 governs all VA benefits

- Books are updated once per year
- If there are any changes between printings, the changes will be printed in the Federal Register (www.federalregister.gov) and eCFR (www.ecfr.gov)

Title 10 governs DoD Benefits

- Active duty benefits, military retired pay, commissary

WHY LEARN THE CFR?

38 CFR:

- Is the basis of all VA decisions
- Helps you understand eligibility for benefits
- Helps you be an informed advocate: back up your arguments

HOW IS THE CFR ORGANIZED?

The CFR is divided into “Parts”

- A part is like a chapter of a book
- It describes a particular area of benefits
- Title 38 has Parts 0 through 200
- Not all parts are currently used – some have been “reserved” for future use

HOW IS THE CFR ORGANIZED?

Most Commonly Used Parts of Title 38 CFR:

Part 3: Adjudication/Eligibility
Part 4: Rating Schedule
Part 14: Accreditation
Part 17: Health Care
Part 19: Appeals
Part 20: Appeals

THE eCFR

Where to find the eCFR:

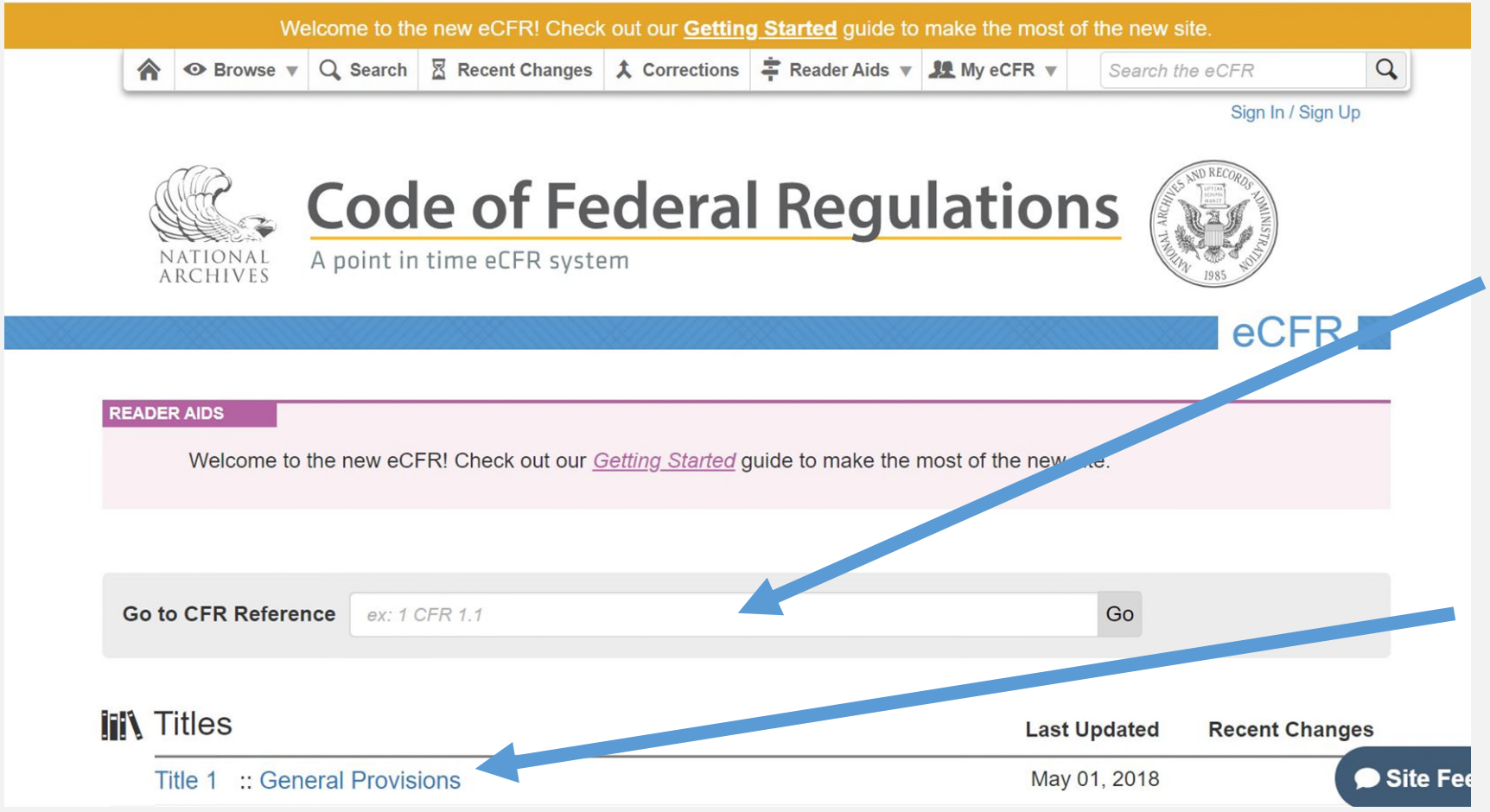
http://www.ecfr.gov

- Updated frequently (paper CFR is only updated once a year, typically in July)
- Search feature

USING THE eCFR

VETERANS OF FOREIGN WARS.

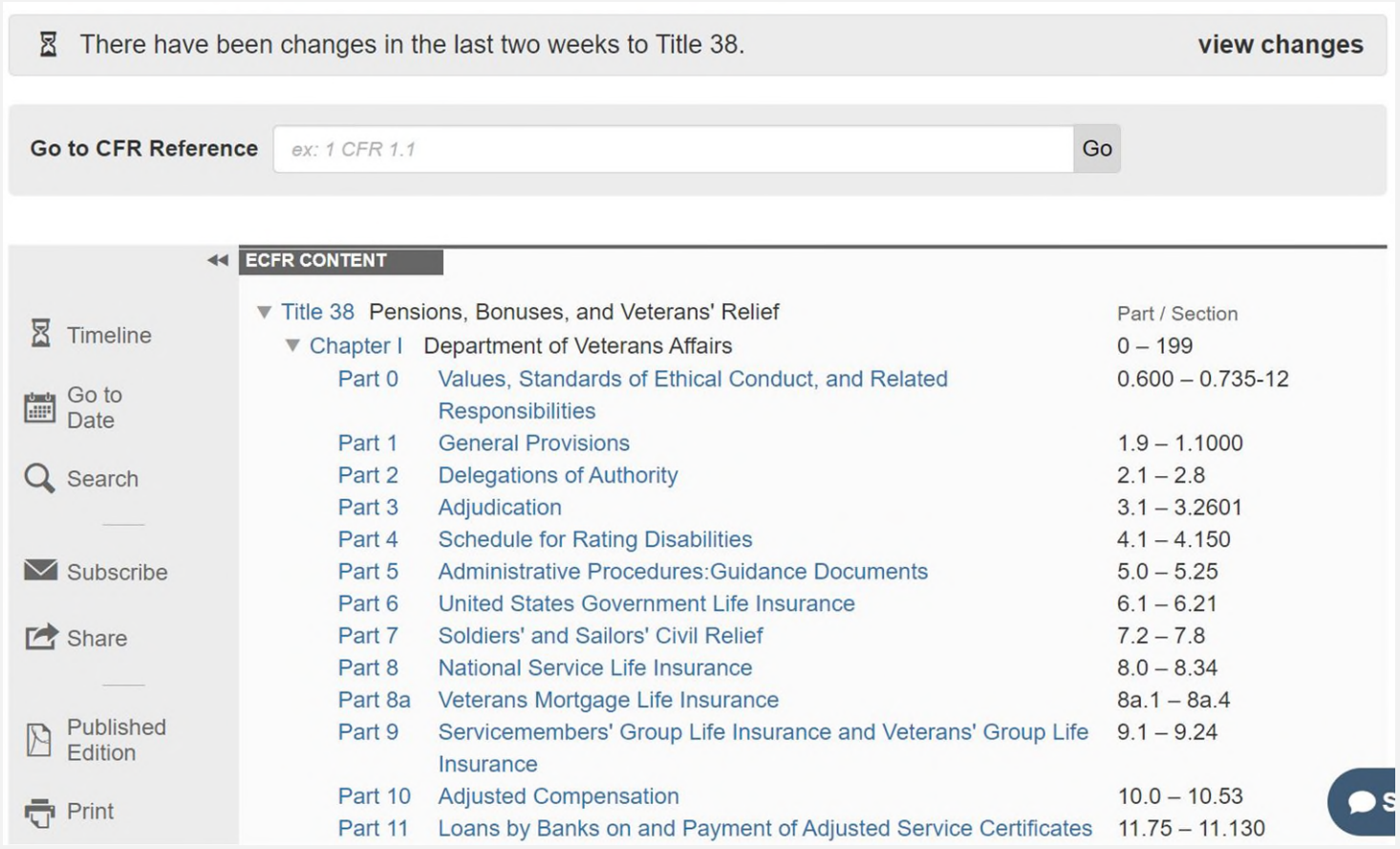
When you visit the eCFR you will be taken to this homepage



You can search for a direct reference here using the citation or a keyword

If you do not know the citation number, you can browse the CFR by clicking the title (Title 38)

USING THE eCFR



- After you select Title 38, select which part of the CFR you want to browse
- Parts 0-17 contain the most commonly searched benefits – compensation, pension, survivor benefits, health care
- Parts 18-199 include appeals, education benefits, loan guaranty, cemeteries, and special programs

BROWSING THE CFR

VETERANS OF FOREIGN WARS.

Tips for Browsing the CFR

- Become familiar with what you will find in each Part
- In the GPO version and the eCFR, at the beginning of each Part is a list of all the Subparts, which helps organize the Part

Let's look at the beginning of Part 20.

In which Subpart will you find information about legal holidays?

SEARCHING THE eCFR

VETERANS OF FOREIGN WARS.

Tips for Searching the eCFR

- Use the “Search” feature if you know a keyword you are looking for
- Try to use more uncommon keywords: “unemployability” versus “compensation”

HOW IS THE CFR ORGANIZED?

- Each Part is further divided into Sections
- A period or decimal point is used to separate Part and Section
- Sections are found in numerical order
- Example:

  38 CFR 3.304 comes after 38 CFR 3.57

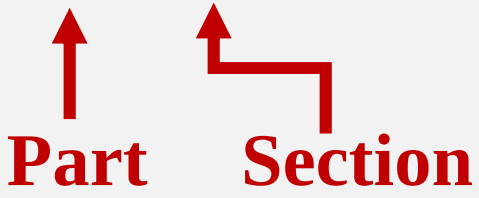
HOW IS THE CFR ORGANIZED?

- § is a symbol that means section when referencing legal code such as (38 CFR § 3.1)
- When you hear someone refer to a section of the CFR, you will typically hear them cite the Title, Part, Point, and Section.
- For example, what is the subject of “Thirty-Eight CFR Three Point One-Five-Five”?
- If you say, “Thirty-Eight CFR Three Point One Hundred Fifty-Five”, you will still be understood

QUICK TIP # 1

Instead of looking at the entire number as a whole, look at the digits before and after the decimal point as two separate numbers.

Example: 3 . 957



QUICK TIP # 2

Do NOT reference the CFR by page numbers

HOW IS THE CFR ORGANIZED?

- Sections may be divided into subparagraphs
- Works like an outline you may have used in school
- For every “A”, there is a “B”, for every “i” there is a “ii”

HOW IS THE CFR ORGANIZED?

Example: 38 CFR §3.1(n)(2)

First Find 3.1

Then

Find Paragraph (n)

Then

Find Subsection (2)

What is VA's stance when it comes to willful misconduct and police regulations?

WHAT IS IN THE CFR?

VETERANS OF FOREIGN WARS.

Definitions

- Definitions of the same term may be different for different benefits
- Example: Definition of a veteran?
- Compare: 38 CFR 3.1(d)(1) versus 38 CFR 3.1(d)(2)

WHAT IS IN THE CFR?

May vs Shall

The difference between may & shall is extremely important

- May = expresses a possibility
- Shall = expresses an instruction
- **38 CFR §3.151:** A claim by a veteran for compensation ***may*** be considered to be a claim for pension; and a claim by a veteran for pension may be considered to be a claim for compensation.
- **38 CFR §4.68:** The combined rating for disabilities of an extremity ***shall*** not exceed the rating for the amputation at the elective level, were amputation to be performed. For example, the combined evaluations for disabilities below the knee ***shall*** not exceed the 40 percent evaluation

WHAT IS IN THE CFR?

Other important terms:

- And/Or/Not/Except
- Not limited to/Such as
- Before/After/Not later than/Not before
- Earlier/Later

WHAT IS IN THE CFR?

VETERANS OF FOREIGN WARS.

Cross-References

- Sometimes you will start reading one section and need to refer to another section for the full definition or eligibility criteria

- Look up **38 CFR 3.52(a)** – Which regulation does it direct you to reference?

WHAT IS IN THE CFR?

Footnotes

There are footnotes in many sections of the CFR but most are found in the VA Schedule for Rating Disabilities, Part 4, Subpart B (called the “rating schedule” or “VASRD”)

Look at 38 CFR §4.97 – What does Note 1 state?

WHAT IS THE RATING SCHEDULE?

VETERANS OF FOREIGN WARS.

- The Rating Schedule contains information on how to determine disability ratings and listings of rateable disabilities
- The Rating Schedule is divided into “diagnostic codes” that are used to evaluate the severity of a veteran's disability
- Pay close attention – notes may be placed before or after the diagnostic code

HOW TO READ A DIAGNOSTIC CODE

Look up 38 CFR §4.119 DC 7913

- Notice the percentages read from highest to lowest
- It helps to start at the bottom and work up
- Pay attention to the and(s), or(s), and Notes

What is the correct rating if a veteran's diabetes is manageable by restricted diet only?

QUICK TIP #3

Don’t try to memorize the CFR!

HOW TO OBTAIN A CFR

Where to find the Paper CFR:

- Order 38 CFR through Government Publishing Office (GPO)
- Order "LEXIS-NEXIS Veterans Laws, Rules & Regulations"
- Older pdf versions are available at gpo.gov

Final Thoughts

- The CFR is the most important reference that you will use to help veterans
- Always make sure that you are using the correct version whether that be the most current or an older version
- Never guess a regulation… **always** look it up if you are not 100% sure of the law