

ELIGIBILITY FOR BENEFITS CHART

THIS CHART SHOWS THE ELIGIBILITY FOR BENEFITS BASED ON THE TYPE OF DISCHARGE A MEMBER IS AWARDED. IT DOES NOT INDICATE ANY OTHER CRITERIA THAT MAY ALSO BE REQUIRED FOR AN INDIVIDUAL TO BE ELIGIBLE FOR THE BENEFITS INDICATED.⁶⁹

DD --	Dishonorable Discharge
BCD GCM --	Bad-Conduct Discharge awarded at a General Court-Martial
BCD SPCM --	Bad-Conduct Discharge awarded at a Special Court-Martial
OTH --	Other than Honorable
GEN --	General (under honorable conditions)
HON --	Honorable Discharge
E --	Eligible
NE --	Not Eligible
A --	Eligible only if the administering agency determines that, for its purposes, the discharge was not under dishonorable conditions.

	DD	BCD GCM	BCD SPCM	OTH	GEN	HON
<u>VA Benefits</u>						
Wartime disability compensation	NE	A	A	A	E	E
Wartime death compensation	NE	A	A	A	E	E
Peacetime disability compensation	NE	A	A	A	E	E
Peacetime death compensation	NE	A	A	A	E	E
Dependency and indemnity compensation to survivors	NE	A	A	A	E	E
GI Bill	NE	NE	NE	NE	NE	E
Pensions to widows and children	NE	NE	A	A	E	E
Hospital and domiciliary care	NE	A	A	A	E	E
Medical and dental care	NE	A	A	A	E	E
Prosthetic appliances	NE	A	A	A	E	E
Seeing-eye dogs, mechanical and electronic aids	NE	A	A	A	E	E
Burial benefits (flag, national cemeteries, expenses)	NE	A	A	A	E	E
Special housing	NE	NE	A	A	E	E
Vocational rehabilitation	NE	A	A	A	E	E
Survivor's educational assistance	NE	A	A	A	E	E
Autos for disabled veterans	NE	NE	A	A	E	E
Inductees reenlistment rights	NE	NE	A	A	E	E

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⁶⁹ It should be noted that this is not an all-inclusive list of benefits available to qualifying service members. Additionally, every effort should be made to ensure the accuracy of each benefit at the time of separation as each individual agency, state, or awarding entity oversees its own application of these benefits.

Enlisted Administrative Separations

CRITERIA THAT MAY ALSO BE REQUIRED FOR AN INDIVIDUAL TO BE ELIGIBLE FOR THE BENEFITS INDICATED.

	DD	BCD GCM	BCD SPCM	OTH	GEN	HON
<u>Military Benefits</u>						
Mileage	NE	NE	NE	NE	E	E
Payment for accrued leave	NE	NE	NE	NE	E	E
Transportation for dependents & household goods	E	E	E	E	E	E
Retain and wear uniform home	NE	NE	NE	NE	E	E
Notice to employer of discharge	NE	NE	NE	NE	E	E
Award of medals, crosses, and bars	NE	NE	NE	NE	E	E
Admission to Naval Home	NE	NE	NE	NE	E	E
Board for Correction of Naval Records	E	E	E	E	E	E
Death gratuity	NE	NE	A	A	A	E
Use of wartime title and wearing of uniform	NE	NE	NE	NE	E	E
Naval Discharge Review Board	NE	NE	E	E	E	E

	DD	BCD GCM	BCD SPCM	OTH	GEN	HON
<u>Other Benefits</u>						
Homestead preference	NE	NE	NE	NE	E	E
Civil Service employment preference	NE	NE	NE	NE	NE	E
Credit for retirement benefits	NE	NE	NE	NE	NE	E
Naturalization benefits	NE	NE	NE	NE	NE	E
Employment as District Court bailiffs D.C. police, fireman, & teacher retirement credit	NE	NE	NE	NE	E	E
Housing for distressed families of veterans	NE	NE	A	A	E	E
Farm loans and farm housing loans	NE	NE	A	A	A	E
Jobs counseling, training, placement	NE	NE	A	A	E	E
Social Security wage credits for WW-II service	NE	NE	A	A	A	E
Preference in purchasing defense housing	NE	NE	A	A	A	E

BENEFITS AT SEPARATION

E Eligible
 NE Not Eligible
 TBD To be determined by Administering Agency
 DV Eligibility for these benefits depend upon specific disabilities of the veteran

Honorable *DD Form 2564*

General *Under Honorable Conditions DD Form 237A "4"*

Other Than Honorable "5"

Bad Conduct Discharge

Dishonorable Discharge
General Court-Martial "6"

1. Payment for Accrued Leave	E	E	NE	NE	NE	37 USC 501-503; DODPEM Par. 40401a
2. Death Gratuity (six months pay)	E	E	E	E	NE	10 USC 1480; DODPEM Par. 40501b
3. Wearing of Military Uniform	E	E	NE	NE	NE	10 USC 771b, 772; AR 670-1
4. Admission to Soldiers' Home "1"	E	E	NE	NE	NE	24 USC 49, 50
5. Burial in Army National Cemeteries	E	E	NE	NE	NE	38 USC 1002; AR 290-5
6. Burial in Army Post Cemeteries "2"	E	E	NE	NE	NE	AR 210-190
7. Army Board for Correction of Military Records	E	E	E	E	E	10 USC 1552; AR 15-185
8. Army Discharge Review Board	E	E	E	NE "9"	NE	10 USC 1553; AR 15-180
9. Transportation to Home "3"	E	E	E	E	E	37 USC 404; JTR par. U7500-7506
10. Transportation of Dependents and Household Goods to Home	E	E	TBD "8"	TBD "8"	TBD "8"	37 USC 406; JTR par. U5225, par. U5370
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1. Pre-separation Counseling	E	E	E	E	E	10 USC Section 1142
2. Employment Assistance	E	E	E	E	NE	10 USC Section 1143, 1144
3. Health Benefits	E	E	NE	NE	NE	10 USC Section 1145
4. Commissary/Exchange	E	E	NE	NE	NE	10 USC Section 1146
5. Military Family Housing	E	E	NE	NE	NE	10 USC Section 1147
6. Overseas Relocation Assistance	E	E	NE	NE	NE	10 USC Section 1148
7. Excess Leave/Permissive TDY	E	E	NE	NE	NE	10 USC Section 1149
8. Preference for USAR/ARNC	E	E	NE	NE	NE	10 USC Section 1150
9. Montgomery G.I. Bill (Additional Opportunity)	E	NE	NE	NE	NE	38 USC Section 3011
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1. Dependency and Indemnity Compensation	E	E	E	E	NE	38 USC 410(b)
2. Pension for Non-Service Connected Disability or Death	E	E	TBD	TBD	NE	38 USC 521; 38 USC 3103
3. Medal of Honor Roll Pension	E	E	TBD	TBD	NE	38 USC 562; 38 USC 3103
4. Insurance	E	E	TBD "11"	TBD "11"	TBD "11"	38 USC 711, 723; AR 608-2
5. Vocational Rehabilitation (DV)	E	E	TBD	TBD	NE	38 USC 1502, 1503
6. Educational Assistance	E	NE	NE	NE	NE	38 USC 1411
7. Survivors & Dependents Educational Assistance	E	E	E	E	NE	38 USC 1701-1765
8. Home and other Loans	E	E	TBD	TBD	NE	38 USC 1802, 1818
9. Hospitalization & Domiciliary Care	E	E	TBD	TBD	NE	38 USC 610; 38 USC 3103
10. Medical and Dental Services	E	E	TBD	TBD	NE	38 USC 612; 38 USC 3103
11. Prosthetic Appliances (DV)	E	E	TBD	TBD	NE	38 USC 614; 38 USC 612(b); 38 USC 3103
12. Guide Dogs & Equipment For Blindness (DV)	E	E	TBD	TBD	NE	38 USC 614; 38 USC 3103
13. Special Housing (DV)	E	E	TBD	TBD	NE	38 USC 801; 38 USC 3103
14. Automobiles (DV)	E	E	TBD	TBD	NE	38 USC 1901; 38 USC 3103
15. Funeral and Burial Expenses	E	E	TBD	TBD	NE	38 USC 902; 38 USC 3103
16. Burial Flag	E	E	TBD	TBD	NE	38 USC 901; 38 USC 3103
17. Burial in National Cemeteries	E	E	TBD	TBD	NE	38 USC 1002



CLAIMS FOR VA BENEFITS AND CHARACTER OF DISCHARGE

GENERAL INFORMATION

Claims for VA Benefits and Character of Discharge

Basic eligibility for Department of Veterans Affairs (VA) benefits depends upon the type of military service performed, the duration of the service, and the character of discharge or separation. VA looks at the “character of discharge” to determine whether a person meets the basic eligibility requirements for receipt of VA benefits under title 38 of the United States Code. Any discharge under honorable conditions satisfies the character of discharge requirement for basic eligibility for VA benefits. Certain types of discharges, along with the circumstances surrounding those discharges, bar an individual from basic eligibility for VA benefits. Other types of discharges require VA to make a character of discharge determination in order to assess basic eligibility for VA benefits.

Q: What criteria does VA use to determine the character of discharge with respect to eligibility for VA benefits?

A: A discharge characterized by the military as under honorable conditions is binding on VA and allows for VA to provide benefits if other eligibility requirements are met. If a discharge was not characterized as under honorable conditions, benefits are not payable unless VA determines the discharge was “under conditions other than dishonorable.” By law, certain situations resulting in a discharge under less than honorable conditions constitute a legal bar to the payment of benefits.

Q: What situations constitute a statutory bar to the payment of VA benefits?

A: Under the law (38 U.S.C. § 5303), a release or discharge for any of the following reasons constitutes a statutory bar to benefits, unless it is determined that the Servicemember was insane at the time he/she committed the offense that resulted in the discharge:

- sentence of a general court-martial
- being a conscientious objector who refused to perform military duty, wear the uniform, or otherwise comply with lawful orders of competent military authority

Disabilities determined by VA to be related to your military service can lead to monthly non-taxable compensation, enrollment in the VA health care system, a 10-point hiring preference for federal employment and other important benefits. Ask your VA representative or Veterans Service Organization representative about Disability Compensation, Pension, Health Care, Caregiver Program, Career Services, Educational Assistance, Home Loan Guaranty, Insurance and/or Dependents and Survivors' Benefits.



U.S. Department
of Veterans Affairs



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- desertion
 - resignation by an officer for the good of the service
 - absence without official leave (AWOL) for a continuous period of 180 days or more, without compelling circumstances to warrant such prolonged unauthorized absence (as determined by VA).
 - requesting release from service as an alien during a period of hostilities, or

This means that if an individual is discharged for any of the above reasons, the law prohibits VA from providing any benefits.

Q: Are there other situations, in addition to the statutory bars, in which the nature of discharge may prevent payment of VA benefits?

A: Yes. As established by VA regulation 38 CFR § 3.12(d), an individual's character of discharge is considered to have been issued "under dishonorable conditions" if he/she was released under any of the following circumstances:

- acceptance of an undesirable discharge to escape trial by general court-martial
- mutiny or spying
- an offense involving moral turpitude (generally including conviction of a felony)
- willful and persistent misconduct, or
- homosexual acts involving aggravating circumstances or factors affecting the performance of duty, e.g. child molestation, homosexual prostitution, homosexual acts or conduct accompanied by coercion or assault, and homosexual acts or conduct when a service member has taken advantage of his or her superior rank, grade, or status.

Before making a character-of-discharge determination, VA reviews facts and circumstances surrounding the incident(s) that led to the discharge, as reported by the military, as well as any supporting evidence furnished by the claimant or obtained from third parties. On a case-by-case

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basis, VA determines whether the incidents that led to the discharge may be found to have been “under conditions other than dishonorable,” and thus whether basic eligibility for VA benefits can be established.

Q: What if the individual in question had more than one period of active military service?

A: A discharge found by VA to have been issued under dishonorable conditions does not, in and of itself, bar an individual from receiving VA benefits based on a separate period of service which terminated under honorable conditions. In addition, the law provides for basic eligibility for benefits based on completion of the full term of an enlistment even if no discharge was issued at the completion of that period of service due to enlistment or reenlistment. For example, if an individual enlisted for three years, completed the three years and reenlisted for two more years, then received a discharge under other than honorable conditions during the second enlistment, VA benefits may be provided based on the first period of service, even if it is determined that the character of discharge of the second period of service is a bar to benefits. However, disability compensation would be payable only for disabilities incurred during the first period of service, not for disabilities that were incurred during the second period of service.

Q: Are VA health care benefits available when disability compensation cannot be paid due to a discharge “under other than honorable conditions”?

A: Yes, in some situations: If an individual received a discharge “under other than honorable conditions,” he or she may still be eligible for treatment at a VA medical facility for disabilities determined to be service connected, unless the individual is subject to one of the statutory bars to benefits specified in 38 U.S.C. § 5303.

Q: When does VA consider the character of discharge?

A: VA does not consider character of discharge until it receives a claim for benefits. A claim for benefits may be in the form of a request for medical treatment received at a VA medical facility, or it may be an application for compensation or pension received at a VA regional office. VA cannot make a final decision regarding entitlement to benefits until the character-of-discharge issue is resolved.



Q: How is an application for benefits submitted to VA?

A: An individual may visit a VA medical center to apply for medical treatment or may apply on-line, by mail, or over the phone. If available records do not show a discharge under honorable conditions, the medical center may defer treatment pending a decision by the local VA regional office regarding the character of discharge, although emergency treatment may be provided based on a tentative determination of eligibility.

A claim for compensation for service-connected disabilities is normally submitted to a VA regional office, using an application form. Claimants may apply online through eBenefits, or they may mail the application or personally deliver it to a VA office.

Q: How are claims involving a character of discharge issue processed?

A: VA submits a request to the appropriate service department for verification of an individual's character of discharge and facts and circumstances surrounding the incident(s) resulting in the discharge. Simultaneously, VA sends a letter to the claimant asking the claimant to furnish any evidence or statements pertaining to the discharge

When requested Federal and/or private records have been received, or efforts to obtain them have been exhausted, VA reviews all available evidence of record to determine whether the discharge was "under conditions other than dishonorable". VA then documents its determination in a format referred to as an administrative decision.

Q: How is the evidence obtained?

A: VA requests relevant service records, to include facts and circumstances surrounding the incident(s) resulting in the discharge, from the appropriate service department. VA concurrently sends a letter to the claimant, which invites him/her to furnish any statements or evidence that may shed light on any extenuating circumstances regarding the other-than-honorable discharge. The claimant typically submits evidence via mail or hand delivers it to a VA office. A claimant may also request a hearing for the purpose of presenting evidence. The hearing is held at a VA regional office.



VA also offers assistance to the claimant for obtaining third-party evidence. The claimant must provide a signed release of information, the name and mailing address of the third party, and the type of information to be released. While it is still the claimant's responsibility to ensure the evidence is provided, VA will use the release of information and attempt to obtain evidence on behalf of the claimant.

Q: What does VA consider when determining the character of discharge or whether there is a bar to benefits?

A: VA reviews military service records, including facts and circumstances surrounding the incident(s) leading to the discharge. VA also considers the following when making its determination:

- * any mitigating or extenuating circumstances presented by the claimant
- * any supporting evidence provided by third parties who were familiar with the circumstances surrounding the incident(s) in question
- * length of service
- * performance and accomplishments during service
- * nature of the infraction(s), and
- * character of service preceding the incident(s) resulting in the discharge.

Q: Do in-service disabilities, including post-traumatic stress disorder, have any direct effect on VA's determination of the character of discharge?

A: As stated earlier, VA considers whether an individual was insane when determining whether a statutory bar to benefits exists. When no statutory bar to benefits exists, the impact of disabilities may be considered during the analysis of any mitigating or extenuating circumstances that may have contributed to the discharge.

For More Information, Call Toll-Free 1-800-827-1000 or Visit Our Web Site at <http://www.va.gov>

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