

# Department of Ohio Post Service Officers



## Training Manual

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# THE AMERICAN LEGION - DEPARTMENT OF OHIO

## POST SERVICE OFFICERS TRAINING MANUAL

### INTRODUCTION

The American Legion Department of Ohio veterans' service program has grown strong over the years. We support a professional service department with staffed Department Service Officers (DSO) in the Cleveland VARO, Cleveland VAMC, Dayton VAMC, Columbus ACC and Cincinnati VAMC. In addition, we also support the established County Veteran Service Offices (CVSO) located in each of the 88 counties of Ohio with nearly 250 accredited American Legion County Veteran Service Officers (CVSO). The main goal of a Post Service Officer (PSO) in Ohio is to be familiar with the benefits available to the veteran, and their dependents, and through established relationships with the nearest accredited American Legion Department Service Officer of whom is either an employee of the Department or located in the County offices.

This manual was created to assist the prestigiously selected PSO's to better perform their duties and when and how to apply for various Department of Veterans Affairs (VA) benefits. It also explains ways service officers may assist veterans with other service-related issues, i.e., military affairs, employment, legislation, state benefits, etc.

**Due to the complicated nature of filing veterans' claims, we do not allow volunteer PSO's to assist with completing claim forms. PSO's are not required to decide the merits of individual cases before advising veterans or their dependents about possible benefit entitlements.** PSO's should simply have a basic knowledge of the benefit being sought and refer claimants to a DSO or CVSO in order to obtain additional information about benefits and for completing benefit claim forms. All PSO's should, however, at least read this American Legion Department of Ohio Service Officers Training Manual and review the links provided so they may know when a veteran should apply for benefits and when referrals are appropriate. This manual provides basic guidance for PSO's and is intended to link veterans to the DSO's and CVSO's for a full explanation of various benefits available for veterans, their dependents, and survivors.

PSO's are advised to attend the Post Service Officer School, which is offered annually at the American Legion Department Headquarters the first Saturday in November "Certificate of Training" and Post Service Officer pin is provided from the Department of Ohio after attending The American Legion Department of Ohio Post Service Officers School.

Please remember this manual is simply a training tool; it is not an official government publication of veterans benefit statutes and regulations and it should not be used as such. Although I sincerely believe the information provided is 100% correct, please contact The American Legion Department of Ohio Veterans Benefits Coordinator if you believe you have found an error.

Thank you for your commitment to veterans' services. Please do not hesitate to contact The American Legion Service Office using the following contact information whenever veterans service problems or questions arise: The American Legion, Cleveland Office, William (Bill) Genochio, Veterans Benefits Coordinator, Cleveland VARO Supervisor, 1240 E. 9th Street, Room 923, Cleveland, OH 44199; (O) (216) 522-3504, (F) (216) 357-5668; (740) 816-7589 (Legion Mobile) email: [william.genochio@va.gov](mailto:william.genochio@va.gov) or [genochio@ohiolegion.com](mailto:genochio@ohiolegion.com).



TOPIC 1  
AMERICAN LEGION  
SERVICE OFFICER  
AND  
ORGINIZATIONAL INFORMATION

# NOTES

## PURPOSE

The American Legion is a congressionally chartered non-profit veterans service organization committed to proper treatment of U. S. military veterans, their families, troops serving today and transition support. The American Legion takes great pride in being able to provide you with this abbreviated and comprehensive guide to veteran's benefits. This is not intended to make you an authority on benefits provided by the Department of Veterans Affairs (VA) but to make you aware of available benefits and services you may be entitled to, and how to apply for them. Questions concerning benefits or eligibility should be addressed to an American Legion Department Service Officers <https://www.ohiolegion.com/about/staff/> or at the National site [www.legion.org/serviceofficers](http://www.legion.org/serviceofficers) , a VA Regional Office, State Department of Veterans Affairs, or a County Veterans Service Officer.

### The American Legion at Your Assistance

Professional American Legion service officers are located at the Cleveland VA regional office, Cincinnati VA Medical Center, Columbus VAACC, Dayton VA Medical Center and the Wade Park VA Medical Center in Cleveland are available to provide veterans and their dependents with free VA claim-related assistance, regardless of membership in The American Legion (this is also a opportunity to inform non-members about the American Legion Department of Ohio). Depending on where you live, these representatives are typically either appointed by The American Legion, state employees or county veteran service officers and are accredited to represent veterans on behalf of The American Legion. American Legion Posts also have non-accredited post service officers who may provide basic information and referrals. Don't go it alone. If you are thinking about filing a VA claim, or want more information about VA programs and services, call 1-800-433-3318 or visit [www.legion.org/veteransbenefits/departmentofficers](http://www.legion.org/veteransbenefits/departmentofficers) to locate a professional American Legion service officer in your area.

Your American Legion Department Service Officers are:

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## **POST SERVICE OFFICER**

The American Legion's post service officer (PSO) is a volunteer position within an individual post. A PSO serves as a link between the veteran or dependent and a representative holding American Legion accreditation. An effective PSO understands benefits afforded to veterans and dependents; however, the PSO is not authorized to file any claims on behalf of the claimant. PSOs serve as valuable resources to veterans in local posts to ensure that our veterans and their dependents receive their earned benefits. The American Legion has created this guide to assist PSOs in their duties.

### **Points of contact**

Each PSO should have readily available the contact information for various resources in their local area that could be beneficial to veterans and their dependents. These resources can include, but are not limited to:

- American Legion department service officer (DSO)
- County/local representatives with American Legion accreditation
- Agencies for senior citizens • State and local nursing homes
- Homeless shelters • State and national cemeteries
- Department of Veterans Affairs contact information, including phone numbers and website addresses

Dependent upon location, state and municipal governments may provide benefits to disabled veterans; PSOs should contact DSOs and/or local accredited representatives to gather information that could be provided through state government programs.

## **SUGGESTED DUTIES AND RESPONSIBILITIES FOR POST SERVICE OFFICERS**

1. Study and learn veterans' benefits programs:
  - a. Read thoroughly VA's Federal Benefits for Veterans, Dependents and Survivors. (This one of our links in this Manual).
  - b. Attend local Veterans Service Seminars and Veterans events.
  - c. Attend and/or organize American Legion Veterans Service Seminars or events (training and presentations can be requested through the VBA Coordinator).
  - d. Complete the Department of Ohio Service Officers, Post Service Officer School.
  - e. Communicate with the Department Service Officers when veterans' benefits questions arise.
  - f. Read and share with Post members, information from Department of Ohio Veterans Service update articles.
  
2. Inform claimants about filing claims
  - a. Offer information about filing claims to your Post and/or District members.
  - b. Offer information about filing claims to other veterans in your communities.
  - c. Visit Post and District members when they are hospitalized and let them know if they might be entitled to Compensation or Pension benefits.
  - d. Help claimants obtain evidence to support their claims.
  - e. Let the County Veteran Service Officer know who you are and offer your assistance.
  
3. Help Develop and promote veterans' Legislative issues:
  - a. Listen to concerns about veteran's service / benefits issues and develop ideas for solutions.
  - b. Help Post develop veterans' benefits resolutions to present to their District and the Department.
  - c. Keep Post informed about the importance of "grass roots" legislative issues.
  - d. Communicate the Legion's mission and programs to elected public officials when necessary.

4. Discuss the importance of membership at every gathering in which you attend and to veterans outside the Post you may assist or advise.
5. Help American Legion hospital and nursing home chairpersons find volunteers for their programs.
6. Assist with other post and district service activities, such as, decorating veterans' graves, and providing financial assistance to needy veterans and their survivors.

## **AMERICAN LEGION**

### **POST SERVICE OFFICER CODE OF ETHICS**

1. Maintain a reputation for honesty and integrity with claimants, other service officers, and government agencies, including the VA.
2. Always maintain confidentiality when providing veterans' services. Claimants' cases, claimants' physical or mental conditions, or anything else learned through the Post service officer/claimant relationship is never for publication and should never be discussed with other than authorized officials.
3. Post Service officers have an obligation to their claimants to keep current with changing veterans' benefit programs and veterans service issues.
4. Post Service Officers should never attempt to answer questions for which they do not know the answers. Veterans' benefits are too complex to expect Post service officers to know all the answers all the time. When faced with a difficult question, the Post service officer should simply inform the inquiring person that he or she will provide an answer following proper research.
5. Do not ask a veteran to change his or her Power of Attorney from another organization to the American Legion. When other service organizations hold the Power of Attorney and the veteran has a claim pending, professional courtesy requires us to encourage the claimant to continue with the organization presently holding power of attorney -- at least until VA completes the processing of the pending claim or appeal.
6. American Legion Post Service Officers should never imply to a claimant that he or she may perform a better job than another American Legion Service Officer or imply to a claimant that another American Legion Post Service Officer is incompetent in his or her duties.
7. Never guarantee a post member or veteran a grant of sought benefits or compensation award. Only advise the veteran of the benefits in which they are entitled to file for.

## **POST SERVICE OFFICERS' INTERACTION WITH THE AMERICAN LEGION DEPARTMENT OF OHIO**

### **VAVS AND GIFTS FOR YANKS PROGRAM**

The American Legion, Department of Ohio Veterans Affairs Voluntary Services (VAVS) Program is funded through donations received from individual members, as well as Legion Posts and Districts and falls within the Gifts For Yanks (GFY) Program. Those funds are then allocated to appoint American Legion VAVS Program Volunteers who support veterans at VA Medical Centers (VAMC), Community Based Outpatient Clinics (CBOC), and VA VET CENTERS through the purchase of coffee and snacks to arranging social activities for veteran patients. The GFY Committee has recently created a Homeless Veteran Program to assist with VA supported homeless veteran stand downs. Funds are also allocated for use at the Sandusky and Georgetown Ohio Veterans Homes and the Ohio Department of Mental Health for those veterans who are inpatient. The dollar amount utilized through the VAVS program depends upon the amount fundraised by the Legionnaires and Districts each year. No doubt, the generosity of Legionnaires has favorably touched the lives of many veterans.

American Legion Post Service Officers are encouraged to participate in the VAVS and GFY program which encourage volunteerism and donations. PSO's should also encourage members to assist the appointed VAVS personnel, considering the average age of a VAVS person is 76 years old. Additional volunteers are always welcome and needed for things such as patient visitations and assistance with social activities. PSO's could therefore communicate regularly with appointed VAVS persons and discuss their needs at District and Post meetings.

Legionnaires are always willing to help one another and share kindness to those in need; however, willing volunteers will never be found if service needs are left unexpressed. By announcing specific needs for services during American Legion post and district gatherings, Legion service officers can help fill voluntary service needs and brighten the lives of medically confined veterans.

Post Service officers can find a listing of appointed VAVS Volunteers from the Gifts For Yanks Coordinator Jermaine Ferguson at Department Headquarters.



TOPIC 2  
AMERICAN LEGION  
MEMBERSHIP

# NOTES

## AMERICAN LEGION MEMBERSHIP

As with most, if not all, not-for-profit veterans' organizations, the existence of The American Legion depends upon membership. Without membership, the organization could not sponsor and administer its many important programs, such as, Americanism, Children and Youth, National Security, and Veterans Affairs and Rehabilitation.

In addition to the Nation, State, and community's loss following a breakdown of Legion programs, veterans would also lose. Elected government officials would no longer feel the need to sponsor or support veterans' legislative issues, and veterans benefit programs would easily give way to demands of the federal Office of Management and Budget and its State government counterparts. Also, eligibility requirements for VA medical care would become even stricter, and hospitalized veterans would no longer receive visits from American Legion rehabilitation volunteers. Further, individual veterans having a disagreement with VA benefit decisions could no longer turn to the American Legion Department Service Officers for assistance and representation with their appeals.

These are only a few of many reasons why every legion member, including PSO's, should encourage all eligible veterans to join or renew their membership with The American Legion. American Legion Post Service Officers or Department Service Officers should never decline assistance or representation to non-members, but Post Service Officers should offer all eligible non-members an opportunity to join.

ARTICLE IV ELIGIBILITY Section 1. An individual is eligible for membership in The American Legion only if the individual

- (1) has served in the Armed Forces of
  - (A) the United States at any time during
    - (i) the period of April 6, 1917, through November 11, 1918; or
    - (ii) any time after December 7, 1941; or
  - (B) a government associated with the United States Government during a period or time referred to in subsection (A) of this section and was a citizen of the United States when the individual entered that service; and
- (2) was honorably discharged or separated from that service or continues to serve honorably during or after that period or time; provided, however, that such service shall have been terminated by honorable discharge or honorable separation, or continued honorably during or after any of said periods; provided, further, that no person shall be entitled to membership who, being in such service during any of said periods, refused on conscientious, political or other grounds to subject themselves to military discipline or unqualified service.

For membership purposes, service in the armed forces includes active duty service in the United States Army, Navy, Air Force, Marines, and Coast Guard. National Guard or Reserve service also qualifies for membership if the guardsman or reservist had at least one day federal service in a period of war.

Essentially, one may state a U. S. citizen is eligible for American Legion membership if he or she received an honorable discharge after serving federal duty in the armed forces during a period of war or continues to serve honorably having served during wartime service.

**TOPIC 3**  
**VETERAN SERVICE**  
**LEGISLATION**

# NOTES

## VETERANS SERVICE LEGISLATION

Laws authorizing various veterans benefit programs often have their beginning at the "grass roots" level. In the American Legion, this means resolutions initiated at American Legion Posts at the recommendation of one or more of its members.

Post Service officers often become aware of injustices within laws and regulations controlling the current veterans benefit system. Sometimes these injustices occur simply through VA's misinterpretation of laws or regulations that could be corrected through the administrative appeals process. The administrative appeals process will prove inefficient though, if legislative action is necessary to change a law before correction of the injustice. This is when American Legion Post service officers and or Department Service Officers should develop resolutions to initiate change of laws, and then process those resolutions through appropriate channels.

Several steps are necessary prior to the American Legion supporting a resolution. Many posts have committees that review various resolutions prior to recommending them to their posts for passage. If the post passes the resolution it may be presented to the district for consideration. Once passed at district level, a resolution may be presented to the department convention through the department headquarters. When a resolution involving state matters is passed at the department convention, it becomes a directive of the American Legion, Department of Ohio. Resolutions involving national issues must also be presented and passed at the national convention before becoming a national directive or policy of The American Legion.

Successful department resolutions have the full support of approximately one hundred thousand American Legion members within the State of Ohio, and successful national resolutions have the support of approximately 2.4 million American Legion members nationwide. Members of The American Legion Auxiliary and Sons of The American Legion, also support American Legion resolutions. With this support, Congress and state legislators seriously consider American Legion recommendations.

Before resolutions are presented to the originating body, the subject matter should be properly researched and the resolution itself well written. No one and no post wants to appear ill advised or misinformed when their resolutions are reviewed at the next level. This can easily happen if the proposed resolution is detrimental to establish veterans benefit programs, already law, or against the policies of The American Legion (see Resolution No. 21, 1960). American Legion service officers are therefore advised to discuss their idea for improving veterans' benefits with The American Legion Department Service Officers (DSO) or the Veteran Benefits Coordinator before the resolution is written. The legislation process is an important function of The American Legion and warrants post service officer participation to present informed proposals for improving veterans benefit programs or simply maintaining those benefit programs now available.

Another resource to stay on top of legislation regarding veterans is the House Committee on Veterans Affairs: <http://veterans.house.gov/>

In addition to offering advice and guidance the DSO could provide research assistance. PSO's may find directions for writing resolutions within section four of The American Legion Officers Guide and Manual of Ceremonies as expressed in The American Legion May 1960 national resolutions numbers 20 and 21, or obtain a copy of The American Legion Resolution and Reports, a guide for writing resolutions, at <https://www.legion.org/publications/161001/resolution-booklet>



**TOPIC 4**  
**POST SERVICE**  
**OFFICERS**  
**TOOLS**

# NOTES

**FREQUENTLY USED VA FORMS  
FOR ASSISTING VETERAN AND WHAT THEY DO**

BENEFIT	FORMS	REMARKS
Power of Attorney	VA Form 21-22	Must be signed by the veteran and an accredited DSO or CVSO
Intent to File	VA Form 21-0966	Hold the date of claim for one year for the vet to obtain supporting documentation
Service Connection	VA Form 21-526EZ	Vet has all required evidence to support the claim
Service Connection	VA Form 21-526	Do not have all the evidence needed to support claim
Service Connection (Increase)	VA Form 21-526EZ	
Service Connection (Reopen)	VA Form 20-0995	If original denial is over year
Individual Unemployability	VA Form 21-526EZ VA Form 21-8940	File 526EZ asking for IU and supply the 8940
PTSD claims	VA Form 21-526EZ VA Form 21-0781	0781 is the stressor statement to support the claim for PTSD
Non-Service-Connected Pension	VA Form 21-527EZ	
Burial Benefits	VA Form 21p-530	Required with form death certificate, funeral receipts
DIC, Death Pension and Accrued Benefits	VA Form 21-534EZ	
Aid & Attendance	VA Form 21-2680 VA Form 21-526EZ	
Dependents	VA Form 21-686C	Used for adding spouse and children also used to have spouse removed form award
Request for Nursing Home	VA Form 21-0779	
Application for child attending further education or high school after 18 <sup>th</sup> birthday	VA Form 21-674	Must be filed before the child turns 18 to stop VA from removing the child from veterans VA award
Address Change Request	VA Form 20-572	Also used to change direct deposit information
Direct Deposit enrollment form	VA Form 24-0296	Used for first election for direct deposit can also do on VA Form 21-526
Communication with the VA	VA Form 21-4138	Used to communicate with the VA
Requesting Military Records	SF-180	To request official Military Records

Supplemental Claim (AMA)	VA Form 20-0995	Used if the vet wishing to submit relevant evidence in support of the denial
Higher Level Review Claim (AMA)	VA Form 20-0996	Vet believe the VA errored and all evidence is of record
Appeal to the Board of Veterans Appeals (AMA)	VA Form 10182	There are 3 lanes under this form Evidence submission no hearing No hearing evidence is of record And finally requesting a hearing where evidence can be submitted un to 90 passed the hearing
Substitution of Claimant upon Death of Claimant	21P-0847	Used to transfer the pending claim of a deceased veteran to the spouse this can be filed at anytime but with in one year to protect the date of claim.

VA Internet Forms access page [https://www.va.gov/vaforms/search\\_action.asp](https://www.va.gov/vaforms/search_action.asp)

There is a VA FORM, DD FORM, SF FORM, for nearly everything one needs to do with the Military, Government, or Department of Veterans Affairs. These are just a sample of the most common ones used. Some benefits become denied due to not submitting the proper form which is why we stress the urgency of communicating with a County Veteran Service Officer (CVSO) or a Department Service Officer (DSO), both accredited with either The American Legion or another Congressionally Chartered Veteran Service Organization.

## **COMMON MISTAKES AND RECOMMENDATIONS FOR POST SERVICE OFFICERS**

1. Never inhibit the filing of a claim if a claimant believes he or she may be entitled to benefits. (Unless you know the claimant wants to file a fraudulent claim.) Direct them to a DSO or CVSO.
2. Remind the veteran that when asking for an increase of benefits there is a risk of being reduced, especially if veteran is receiving 100% disability Individual Unemployability, all issues subject to review.
3. Never advise claimants to under report income considered in calculating non-service-connected pension benefits.
4. Never advise claimants to over report un-reimbursed medical expenses considered in calculating non-service-connected pension benefits.
5. If a veteran or claimant is dissatisfied with a decision rendered by The Department of Veterans affairs, never advise them to file an appeal on their own.
6. Make sure claimants understand they only have sometimes 30, 60, or 180 days of due process rights for most claims.
7. Don't advise claimants they must request a VA hearing to appeal a VA decision.
8. Don't change a claimant's Power of Attorney if there is currently an appeal pending.
9. Make sure the veteran knows to notify the VA and his or her service organization when there is a change of address.
10. Make sure surviving spouses know they must resign a Power of Attorney, now becoming the claimant when filing for benefits on behalf of a deceased veteran.
11. Never inhibit the filing of a claim or assigning of a Power of Attorney because the veteran does not belong to a service organization.
12. Never guarantee a claimant that he or she will receive benefits for which the application is made.
13. Make sure claimants know that their signature on a VA form certifies the report given is true and correct to the best of their knowledge.
14. Make sure claimants understand when they must report changes in income and dependency status.
15. Make sure you are covered by liability insurance prior to transporting veterans.

16. Make sure claimants know how the VA determines effective dates of claim for both submission and payment. The first of the month following the submission for payment.

## NEWLY DISCHARGED VETERANS

Upon being discharged, veterans may or may not have filed a BDD claim, Benefits Delivery at Discharge. If they have then their claim is most likely already pending with a VARO closest to the military base of which they were discharged. If they have not and they are in their first year of discharge they may be eligible to receive benefits granted to them the first day following discharge, if the claim is filed within one year of the discharge date.

It is encouraged to have the veteran take the following information to their DSO or CVSO:

- A. Certified copy of DD Form 214
- B. Service Medical Records
- C. Copy of marriage certificate
- D. Copies of children's birth certificates
- E. Copies of private medical records or signed medical information release forms
- F. Copies of documents showing dissolution of prior marriages of veteran and spouse
- G. Supporting lay or doctors' statements
- H. Copies of documents showing entitlement to military awards or citations

There are also several things you can advise the veteran of that they are entitled to immediately upon discharge and up to 5 years:

1. Upon discharge the veteran is entitled to VA Health Care up to 5 years, including dental. Please be sure to advise to the veteran to register at their local VHA facility.
2. Unemployment benefits may be an option of not able to find work immediately.
3. The veteran may be able to convert the Serviceman's Group Life Insurance (SGLI) to Veterans Group Life Insurance (VGLI).
4. Discuss educational benefits and the possibility of going or returning to college or trade school.
5. Veterans who served in the Iraq War may be eligible to receive a grant from the Ohio Veterans Bonus. [https://veteransbonus.ohio.gov/odvs\\_web/](https://veteransbonus.ohio.gov/odvs_web/)

## **REPLACING YOUR DD FORM 214**

### **(Active Duty Separation Document)**

If you have served on active duty in the armed forces, your DD Form 214 is a very important document. You could be entitled to various veterans' benefits and assistance programs. You will find, though, qualifying for these benefits require proof of your veteran's status. If you are lucky, the government will carefully store and safeguard your DD Form 214 – but don't count on it! Many veterans (even those having years of military service) have been denied benefits because of the loss of their DD Form 214 and their inability to prove their veteran's status.

If you have lost your DD Form 214, you might be able to find a replacement using one of the following resources:

- The County Recorder's Office in the county that you returned to immediately following your active duty discharge. Your DD Form 214 will be at the County Recorders Office only if you had it recorded there following your service discharge. Once the County Recorder's Office records the DD Form 214, it often becomes a matter of public record. If your DD Form 214 is at the County Recorders Office, you should be able to receive a certified copy on the day of your visit. Some of these offices may provide you with a "Veteran ID" card specific to their county as a result of filing your DD-214 with that particular county.
- The Ohio Department of Veteran Services may be able to access your DD-214 within minutes if you entered and exited service within the State of Ohio. You must contact the Ohio Department of Veteran Services at 614-644-0898 or see your nearest local County Veteran Service Office.
- A Veterans Service Organization may have a copy of the DD Form 214 on file if the veteran was ever a member of the service organization and the organization required the veteran to provide a copy of the DD Form 214 before accepting the membership. Many organizations, such as, The American Legion, keep copies of their members' DD Forms 214 on file at their local posts or chapters. Most posts will issue a copy only to the veteran or to someone the veteran has authorized in writing to receive a copy. Not all service organizations keep copies of DD Forms 214 on file and when they do, it is done at the local post or chapter. If the local post has a copy of the DD Form 214, the post could usually supply a copy as soon as the post commander is contacted. It is not required by IRS to have these on file and due to the security of information on the document it is not encouraged to keep them within the Post. However, the Post must be able to furnish them if notified in writing by the IRS. All members should have a copy of their DD-214's readily available for such matters.
- The Department of Veterans Affairs (VA) does not furnish copies of DD-214's even if they have them. The Veteran Service Organizations are also not allowed to furnish DD-214's to veterans from the VA software programs. It is the DVA policy that all DD-214 requests go through the National Personnel Records Center (NPRC, National Archives: [archives.gov](http://archives.gov)). The VA will forward any Freedom of Information Act Requests (FOIA) they receive to NPRC. Due to the electronic nature of records now being kept and stored, as well as, the efficiency of record keeping, it is in the veterans best interest to start there.



- The National Personnel Records Center (NPRC), 9700 Page Avenue, St. Louis, MO 631325100 may have a copy of the DD Form 214 on file if the veteran has been discharged from active duty for at least three and often six to seven months. Application to the NPRC should be made on a government Standard Form 180. These forms are available at VA Regional Offices, most County Veterans Service Offices, or The American Legion Department of Indiana Service Office (317-2267918). These requests are also protected by the privacy act explained on the Standard Form 180. NPRC may not respond to the request for several months. The National Personnel Records Center will also now accept electronic requests for personnel records including a replacement DD form 214, at: <http://www.archives.gov/veterans/military-service-records/standard-form-180.html>. Electronic request are usually filled much sooner than a mailed request using a SF 180. Actually, a copy of a DD form 214 from the NPRC will be a DD Form 215, but the DD Form 215 is accepted anywhere for benefits purposes the same as a DD Form 214.

The Service Branch for Active or Current Reserve Members may still have a copy of the DD form 214 on file under the following circumstances: (1) when the veteran had more than one period of active duty and is still on active duty; or (2) when the veteran is in the reserves or still has a reserve obligation; or (3) when the veteran has been discharged from active duty for only a short time -- 3 to 7 months -- and the records have not yet been sent to the NPRC.

The specific addresses for requesting a DD Forms 214 from the Service Branches are listed on the Standard Form 180 that should be used for making the request. Standard Forms 180 are available at the VA regional office, most county veterans service offices, and the American Legion Department of Ohio Service Office (216) 522-3504. Or online at <http://www.archives.gov/>.

# NOTES

**TOPIC 5**  
**DEPARTMENT**  
**OF**  
**VETERANS AFFIARS**  
**BENEFITS**

# NOTES

## VA CLAIMS AND REPRESENTATION

Prior to filing for any VA benefit, it is highly recommended the claimant consult with an accredited American Legion service officer. The American Legion has approximately 3,000 accredited service officers to assist you. To locate a service officer, please go to [www.legion.org/serviceofficers](http://www.legion.org/serviceofficers). Submitting all the required information with the proper claim form to VA may reduce processing time by as many as 120 days. American Legion service officers can explain the claim process, help with the proper forms and required documentation for veterans and their dependents at no charge.

Post Service officers will not want to cause veterans to lose benefits or bring harm to their claim. If a claimant already has service connection established for a disability, make sure to advise the claimant that the law does not protect continuation of the "Service connection status" until after the disability has been service connected for at least ten years. Also advise the claimant that the law does not protect disability percentage ratings until after the ratings have been in effect for twenty years or more. Beware, protection of the disability's "Service connection" after ten years does not protect the rating; the rating is protected only after rated continuously for twenty years or more. The decision to reopen a claim is solely the claimant's but make certain the claimant is aware of the risks involved if either service connection or the rating is unprotected by these ten and twenty year rules.

Before The American Legion may assist anyone with a VA claim, the claimant must complete and sign a VA form 21-22. This form is normally referred to as a "Power of Attorney." VA Forms 21-22 do not allow the claimant to give a non-accredited Service Officer permission to receive information concerning the claim

[https://www.va.gov/vaforms/form\\_detail.asp?FormNo=21-22](https://www.va.gov/vaforms/form_detail.asp?FormNo=21-22)

Claimants may now, however, authorize third parties, including, post, district, county veterans service officers, or anyone else direct access to the claimant's VA information by completing, signing and submitting a VA Form 21-0845 to the VA regional office. This form, however, does not appoint the third party as the claimant's representative. Link for VA Form

[https://www.va.gov/vaforms/form\\_detail.asp?FormNo=21-0845](https://www.va.gov/vaforms/form_detail.asp?FormNo=21-0845)

If a claimant signs any form with an "X," it must be witnessed by two people who must also note their address with their signature.

If the claimant is assigning The American Legion to represent him/her with a government insurance matter, a separate VA form 21-22 must be returned for filing with the VA Insurance Center.

The VA form 21-22 (Power of Attorney Form) only needs filed once occasionally the VA will update their forms which may require the signing of the VA form 21-22 the link provided is the most current listed on the VA site. The assignment will then remain in effect until the claimant either informs the VA that The American Legion is no longer authorized as his/her representative or the claimant assigns another service organization or attorney as his/her representative. If, however, the veteran claimant dies and his or her spouse wants to assign The American Legion

as his or her representative in claims for survivors' benefits, the surviving spouse must supply a completed and signed VA form 21-22 of his or her own. In addition to the spouse filing a VA form 21-22 the spouse should also file the 21P-0847 Request for substitution of Claimant upon Death of the Claimant the link to this form is

[https://www.va.gov/vaforms/form\\_detail.asp?FormNo=21P-0847](https://www.va.gov/vaforms/form_detail.asp?FormNo=21P-0847)

Please remember that The American Legion Code of Procedure does NOT allow us to accept POA when a claim is in process pending a rating decision or being administered by the BVA.

## SUPPORTING DOCUMENTATION

When an original claim (526EZ, 526) or a reopened claim (20-0995) is filed, the VA will often want supporting documentation, e.g., marriage license, birth certificates, receipts, medical evidence, etc. Although it's good to provide all this information when the claim is filed, it's not always practical and waiting to obtain the information could cause the claimant to lose months of retroactive benefits.

By law, the effective date of a VA award is usually the day following discharge from active duty if the claim is filed within one year after active duty discharge; otherwise, the effective date of the award is the first day of the following month after the claim is filed. When considering this VA regulation, you can see that waiting a few days to obtain supporting documents before filing the claim could cause a claimant to lose a month or sometimes up to a year or more of retroactive benefits. The general rule is -- file an informal claim, then obtain and file the formal claim and supporting documents. Informal claims are now filed on a VA Standard Form 21-0966 and called Intent to File a Claim. [https://www.va.gov/vaforms/form\\_detail.asp?FormNo=21-0966](https://www.va.gov/vaforms/form_detail.asp?FormNo=21-0966)

When qualified, VA will allow additional benefits in the form of dependency allowance. Claimants should first submit copies of their marriage license and/or children's birth certificates, along with VA FORM 21-686c Status of Dependents. The custodian of records holds such documents. In Ohio, the custodian of records would include the County Recorder Office or the County Clerk's Office.

If a claimant's dependency status changes (divorce, marriage, birth, etc.) after the original claim has been filed, an additional VA form 21-686c needs completed and submitted along with the appropriate documents. Since the new compensation and pension forms (VA Forms 21-526EZ and 21-527EZ) do not have a place to note dependency information, the completed VA Form 21-686c to claim dependency allowance is mandatory to establish dependency when filing a VA Form 21-526EZ or 21527EZ if the dependency allowance information is not already within VA records.

When claimants need the VA to obtain supporting medical evidence, they should use a VA form 214142 and 21-4142a, Authorization to Obtain Medical Evidence, that note the date and place of treatment. This form is asking the VA to obtain those medical treatment records on behalf of the veteran from an outside private physician, non-government entities. It is always quicker to have the veteran obtain this information for him/herself and submit to the VA, keeping copies for self. The VA regional office, however, also requires receipt of a completed and signed VA form 21-4142 before it requests copies of VA Vet Center records. Although the "Veterans Claims Assistance Act" requires VA to assist veterans with obtaining supporting evidence, claimants still have a responsibility to participate in efforts to obtain evidence. Veterans filing fully developed claims should submit with their claim, copies of any private medical treatment records they want VA to consider as evidence. If VA receives a VA Form 21-4142 with a claim, VA will automatically work the claim as a traditional claim even if it had been pending as a fully developed claim.

When a claim for service connection of a disability is filed, the VA is most interested in obtaining medical evidence that could show the development of a chronic disability during or closely following the veteran's active duty service. When a claim is filed for an increased disability rating, the VA has more interest in obtaining medical evidence showing the current severity of the disability.

In non-service-connected pension cases, VA will allow claimants to report un-reimbursed medical expenses for the purpose of reducing countable income for pension purposes and increasing their pension award. This is usually done following the end of a calendar year by using a VA Form 21P-8416. VA will not normally request medical receipts, but they may; therefore, please encourage claimants to save their receipts. If for any reason VA believes a claimant has over reported medical expenses in an effort to obtain additional pension benefits, VA will require that claimant to provide receipts. If that claimant cannot show receipts for the claimed medical expenses, VA will likely require the claimant to provide receipts for his or her claimed medical expenses for the next three years.

Sometimes items sent to VA are lost either in the mail or by the Department of Veterans Affairs itself. Service officers should therefore encourage claimants to copy and save evidence, forms, and other documents being filed with the VA. Non-accredited service officers should not keep any of the veteran's information. Please ensure that when submitting evidence, to help avoid lost documents, the claimant or the service officer should note the veteran's claim number (usually the veteran's social security number) at the top of each page of each document submitted to VA).

Veterans seeking higher compensation ratings for service-connected disabilities need to supply VA a completed VA Form 21-526EZ asking for a higher compensation rating for the specific service-connected medical condition(s). VA would then likely schedule the claimant for a compensation examination to help determine the severity of the service-connected condition for rating purposes.

A person attempting to reopen a previously disallowed claim for service connection will need to provide more than a personal statement of contentions to reopen a claim. In this case, the claimant would need to supply new and material evidence. New and material evidence consists of evidence that the VA has not previously considered that would at least show a possible link between the claimed disability and the veteran's service in the armed forces. It cannot say the same thing or be redundant in nature but must take on a whole new observation or opinion.

Service officers having questions pertaining to the development of supporting evidence should contact the American Legion Department Service Office.



## **DISABILITY COMPENSATION & FULLY DEVELOPED CLAIMS**

Disability compensation is a monthly VA benefit paid to veterans who have been discharged from active duty under other than dishonorable conditions, and who have incurred a chronic disability coincident to such service.

Disability compensation is paid only after VA establishes service connection for the disability. Service connection is granted when a disability is: 1) Directly incurred in service; 2) Aggravated by service; 3) Presumed to have been incurred in service; 4) Caused secondary to a previously established service connected disability; or 5) A service connected disability totally or substantially impairing a bodily organ or extremity and the remaining bodily organ or extremity is also totally or substantially disabled from other than service connected reasons.

VA disability compensation is also payable for disabilities incurred because of VA vocational rehabilitation training, or additional disability coincident with VA medical care or the lack of medical care and attention VA should have reasonably given. This is called a 38 United States Code 1151 claim. A 1151 claim is filed on a VA Form 21-526EZ. The veteran must prove the malpractice or negligence of the VA for this type of claim.

Previously, the original compensation claim -- and only the original compensation (or pension) claim -- would be filed on a VA form 21-526. VA, however, has recently established a new form (VA Form 21-526c) for filing original compensation claims for veterans getting ready for but not yet discharged from active duty service, and a VA Form 21-526EZ for veterans filing fully developed compensation claims. The VA Form 21-526 can still be used, but VA will process compensation claims received on anything other than a VA Form 21-526EZ as traditional claims. Traditional claims are currently taking VA a year or longer to process and decided. We therefore now advise veterans to file all original, new, and/or increase in service connection ratings claims using the VA Form 21-526EZ. If a veteran is filing to reopen a claim that was not appealed within one year of the rating decision being issued a VA Form 20-0995 must be used. If the veteran files the compensation claim using a VA Form 21-526EZ along with copies of all non-federal government evidence (medical records, lay statement, etc.), and no other VA claims or appeals are pending, VA will accept that claim as "Fully Developed" and normally make a decision within less than 6 months. Veterans may also use a newly established VA Form 21-526b when asking for a higher compensation rating for a medical condition that VA has already service connected or when asking for "secondary service connection" of a disability, but claims filed on a VA Form 21-526b will always be considered traditional claims. We therefore advise veterans to use the VA Form 21-526EZ when filing compensation claims instead of a 21-526 or the 21-526b. When completing a VA form 21526EZ, please answer all questions to the best of the claimant's knowledge and try not to leave any question unanswered. If VA must contact the claimant to clarify something on or missing from the 21526EZ VA will take that claim out of the fully developed claims process and process it as a traditional claim resulting in a very long delay for a decision. If available, a certified copy of the veteran's active duty separation document (DD form 214) should also accompany the original disability compensation application.

Veterans should not normally concern themselves with obtaining service medical records for their VA claims. The Department of Veterans Affairs will request all available service medical records from the appropriate branch of service immediately upon receipt of the veteran's original claim for disability compensation benefits. Claimants should, however, submit all original service medical records they have in their possession after making copies for themselves. Also, veterans should not obtain copies of medical records already in the VA file and resubmit them to the Department of Veterans Affairs: this will only thicken the veteran's VA claim file and adds to the confusion.

The amount of VA disability compensation paid is based upon the current severity of the service-connected disability or disabilities. As the disabilities become worse, the veteran should apply for a higher compensation rating. Caution is necessary, however, if the veteran's rating is not yet "Protected from reduction." (See the section in this Manual entitled VA Claims and Representation).

The severity of the disability is evaluated in increments of 10 ranging from 0% to 100% disabling. Some conditions have a max rating such as Tinnitus which carries a max rating of 10%. When there are two or more service-connected disabilities, the veteran is paid based upon the "Combined" disability rating. The combined disability rating is calculated by using VA's Combined Rating Table and not by adding together the separate disability ratings.

Very severely disabled veterans may also receive special monthly compensation (SMC) benefits that could pay greater monthly compensation awards than the 100% rating offers. Examples of SMC cases include service-connected disabilities causing loss or loss of use of one or more extremities, blindness, or total deafness. Additional information pertaining to special monthly compensation benefits may be found within the 38 Code of Federal Regulations Section 3.350 and 38 United States Code Chapter 11 Section 14 (referred to as Section 1114).

<http://www.gpo.gov/fdsys/pkg/USCODE-2011title38/pdf/USCODE-2011-title38-partII-chap11-subchapII-sec1114.pdf>

Please ensure veterans understand and sign their compensation application prior to sending the application to the American Legion Department of Ohio's Department Service Office. We never want to encourage the veteran to send the application directly to the VA and always want the claims forwarded to our AL office in Cleveland to ensure it is properly filled out in order to safeguard and secure all the benefits they may be entitled to.

## **NON-SERVICE-CONNECTED PENSION**

VA offers a non-service connected pension to wartime era veterans who have served 90 days or more active duty in the armed forces, were discharge under other than dishonorable conditions, and who have a disability or a combination of disabilities that "permanently" preclude them from engaging in a gainful employment activity. VA will now concede that the veteran meets the permanent and total disability requirement if the veteran is a patient in a nursing home, has been determined totally disabled by the Social Security Administration, or is at least 65 years of age.

This non-service-connected pension benefit guarantees the veteran an annual income that is usually increased each year with a cost-of-living adjustment (COLA). Most all of the claimant's other income and income from other household members reduces the non-service-connected pension benefit dollar-for-dollar. The total amount of the veteran's un-reimbursed family medical expenses over 5% of the basic pension benefit is used to reduce the amount of income from other sources counted against the non-service-connected pension benefit. All expenses the claimant must pay toward the cost of nursing home care (over the 5% deduction) may subtract from the countable income for VA pension purposes. VA will also allow the costs of assisted living facility expenses or home care expenses as reducing the claimant's countable income for VA pension purposes if VA can find the claimant meets the disability requirements for entitlement to VA Special Monthly Pension (SMP) Housebound or SMP Aid and Attendance benefits and the claimant is receiving custodial care, but the same is not true for claimants entitled to only the basic VA pension. For pension purposes VA accepts custodial care as providing assistance with at least two activities of daily living defined as bathing or showering, dressing, eating, getting in or out of bed or a chair, and using the toilet. Once the pension is calculated, VA normally pays the benefit in twelve monthly installments.

Non-service-connected pension is adjusted upwardly when the number of the veteran's dependents increase and downwardly when the veteran loses dependents. A dependent includes a spouse, child, or stepchild. The child or stepchild must be under age 18 or under age 23 and attending school. The stepchild must have acquired that status before the age of 18 while living as a member of the veteran's household.

Copies of the veteran's marriage certificate and the children's birth certificates should also be submitted if not already within the VA claim file. The veteran should also supply documents proving the termination of all prior marriages of both the veteran and his or her current spouse. VA will normally waive the document copy requirement if the claimant can give the exact dates and places of all marriages, and divorces or deaths of previous spouses.

Shortly before a dependent child's 18th birthday, the veteran should complete and return a VA form 21674 if the child will remain in school after becoming 18 years of age. This will allow the claimant to keep the child as a dependent for VA purposes until the child either stops attending school or reaches the age of 23.

The Veteran should use a VA Form 21-527EZ when filing a non-service-connected pension claim. Veterans applying before their 65th birthday should also obtain and submit with the

application, copies of any recent non-VA medical records that could help VA understand the current severity of the veteran's medical impairments.

Higher non-service-connected pension allowances are also paid when veterans are either housebound or in need of aid and attendance from another person because of disability. The disability requirement for special monthly pension (SMP) aid and attendance benefits is assumed if the veteran is a patient in a nursing home, but residency in assisted living facilities do not automatically meet the SMP disability requirement. To apply when the veteran is a nursing home patient, a letter from the nursing home noting when the veteran became their patient and stating the cost of nursing home care should also accompany the veteran's application (VA Form 21-527EZ) for pension benefits. The nursing home letter should also note if Medicaid is paying the veteran's nursing home expenses, and, if so, when Medicaid started paying those expenses. The nursing home may also supply this information using a VA Form 21-0779.

If the veteran is not a nursing home patient but otherwise thought eligible for SMP, the veteran may apply for the additional allowance by having a doctor complete a VA form 21-2680. The VA form 212680 should also accompany the application for non-service-connected pension benefits (VAF 21527EZ).

Periodically, you will find a veteran receiving a pension benefit from one of the prior VA programs in which the monthly rate has been "Frozen" at the rate payable when the veteran decided to remain on the old pension program instead of switching to VA's new "Improved pension" program. The veteran would have done this because the old pension program paid more than what he or she would have received by participating in the improved pension program. Veterans may choose to switch to the improved pension program at any time, but once veterans opt to switch and cash the first improved pension benefit check they cannot later return to the old pension program. Because of the complexity of these cases, service officers should consult with an American Legion Department Service Officer before advising a veteran to switch pension programs.

A veteran might meet the eligibility requirements for both a non-service-connected pension and VA disability compensation; however, regulations restrict concurrent payment of both benefits. Veterans are entitled to only the higher of these two VA benefits. Unlike the restrictions associated with switching between non-service-connected pension programs, the veteran may opt to return to VA compensation at any time if doing so would pay more than remaining on a non-service-connected pension. The VA should automatically return the veteran's compensation benefit if it would pay more than the non-service-connected pension entitlement.

Some veterans believe if they choose to receive the non-service-connected pension, they will lose other entitlements associated with receiving disability compensation benefits. Their beliefs are unfounded. Veterans continue to receive all entitlements associated with their service-connected status even though they may choose to receive a non-service-connected pension that sometimes could pay a higher monthly benefit.

## DEATH INDEMNITY COMPENSATION (DIC)

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 resulted from a service-related injury or disease.

### Eligibility (Surviving Spouse):

To qualify for DIC, a surviving spouse must meet the requirements below. The surviving spouse was:

- Married to a Service member who died on active duty, active duty for training, or inactive duty training, **OR**
- Validly married the Veteran before January 1, 1957, **OR**
- Married the Veteran within 15 years of discharge from the period of military service in which the disease or injury that caused the Veteran's death began or was aggravated, **OR**
- Was married to the Veteran for at least one year, **OR**
- Had a child with the Veteran, **AND**
- Cohabited with the Veteran continuously until the Veteran's death or, if separated, was not at fault for the separation, **AND**
- Is not currently remarried

Note: A surviving spouse who remarries on or after December 16, 2003, and on or after attaining age 57, is entitled to continue to receive DIC.

### Eligibility (Surviving Child):

- Not included on the surviving spouse's DIC, **AND**
- Unmarried, **AND**
- Under age 18, or between the ages of 18 and 23 and attending school. Evidence Required: Listed below are the evidence requirements for this benefit:
- The Service member died while on active duty, active duty for training, or inactive duty training, **OR**
- The Veteran died from an injury or disease deemed to be related to military service, **OR**
- The Veteran died from a non-service-related injury or disease, but was receiving, **OR** was entitled to receive, VA Compensation for service-connected disability that was rated as totally disabling
- For at least 10 years immediately before death, **OR**
- Since the Veteran's release from active duty and for at least five years immediately preceding death, **OR**
- For at least one year before death if the Veteran was a former prisoner of war who died after September 30, 1999

In order to apply for this, benefit a VA FORM 21-534 <http://www.vba.va.gov/pubs/forms/VBA-21-534ARE.pdf> is required. One must prove marriage to the veteran for the duration of 10 years, or show they resided in the same location previous to marrying if married for less than 10 years. The obtainment of this benefit the first time one applies is very meticulous and is not recommended to be completed by a PSO and encouraged to contact an accredited representative.

## SURVIVORS (WIDOWS) PENSION

The Survivors Pension benefit, which may also be referred to as Death Pension, is a tax-free monetary benefit payable to a low-income, un-remarried surviving spouse and/or unmarried child, or children, of a deceased Veteran with wartime service.

Eligibility (Surviving Spouse): The deceased Veteran must have met the following service requirements:

- 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.
- If he or she entered active duty after September 7, 1980, generally he or she must have served at least 24 months or the full period for which called or ordered to active duty with at least one day during a war time period.
- Was discharged from service under other than dishonorable conditions. Survivors Pension is also based on your yearly family income which must be less than the amount set by Congress to qualify. While an un-remarried spouse is eligible at any age, a child of a deceased wartime Veteran must be:
  - Under 18, **OR**
  - Under age 23 if attending a VA-approved school, **OR**
  - Permanently incapable of self-support due to a disability before age 18

There are many ways to reduce a surviving spouse's income, especially if he/she is ill. Unreimbursed medical expenses (anything not reimbursed by an insurance company or government entity) qualifies as such (dental, over the counter, mileage to and from doctor visits, medication, absorbent materials, etc.). The annual yearly family income must be less than the amount set by Congress to qualify for the Survivors Pension benefit. This is the poverty rate threshold established by government and can be found <https://www.census.gov/hhes/www/poverty/data/threshld/>.

This benefit too is very meticulous and requires an extensive amount of medical evidence and VA FORMS, for example:

21-22 Appointment of Veteran Service Organization (new to claimant)

21-534 Application for Survivors Pension

21-2680 Application for Aid & Attendance or Housebound Criteria

21p-8416 Medical Expense Report

Attendant Affidavit (if receiving assistance from a paid provider) Marriage Certificate (divorce decrees from both veteran and surviving spouse if previously married)

DD-214 Death Certificate

21-530 Application for Burial Benefits

It is always encouraged the PSO reach out to the accredited service officer to ensure understanding of the details of this type of claim. We ask that you guide the surviving spouses and widows to the nearest CVSO or DSO with The American Legion because she may be eligible for assistance from the county if the death is recent. It is always a benefit to be able to

help the surviving spouses because they are not always familiar with the acronyms and process within the government and military systems.

### **American Legion Emblem Inscription on Grave Markers**

Authorization is necessary from The American Legion National Adjutant before placing an American Legion emblem on a Legionnaire's grave marker. Family members interested in having the Legion emblem placed on the deceased Legionnaire's grave marker may initiate the request by contacting the Post Adjutant at the deceased member's last post. After obtaining the necessary information, the Post Adjutant forwards it to the Department Adjutant who then forwards an official authorization request to the National Adjutant. Further details concerning this subject are available at The American Legion Department Headquarters or Service Office.

### **Nationwide Gravesite Locator**

The burial locations of veterans and their family members in VA National Cemeteries, state veterans cemeteries, various other military and Department of Interior cemeteries may now be accessed through the Nationwide Gravesite Locator. Gravesites in private cemeteries marked with a government furnished headstone or marker since 1997 may also be located. Go to: <http://gravelocator.cem.va.gov>.

### **Military Funeral Honors**

Effective from January 1, 2000, law requires the Department of Defense (DOD) to provide military funeral honors to eligible veterans upon request of the veteran's family. This service is arranged with DOD by responsible funeral directors through a toll free telephone number. The basic military honor consists of the folding and presentation of the flag and playing of taps. A funeral honors detail consists of two or more uniformed members of the armed forces, with at least one member from the service in which the deceased veteran served. DOD had provided registered funeral homes a military funeral honors kit and information on how to contact the appropriate military organization to perform the honors ceremony. DOD recorded and distributed a "Military Honors" video to highlight an appropriate honors ceremony. DOD has also recorded a video on how Veterans Service Organizations and military representatives can provide joint honors ceremonies. DOD also should soon publish regulations concerning reimbursement to Veterans Service Organizations in joint honor ceremonies.

Questions or comments concerning the DOD military funeral honors program may be sent to the address listed below. A military funeral honors web site is located at <https://www.dmdc.osd.mil/mfh/> Department of Defense Directorate for Public Inquiry and Analysis Room 3A750, The Pentagon Washington, DC 20301-1400

American Legion Service Officers having questions concerning any burial benefits should also not hesitate to contact the American Legion Department Service Office for assistance to include the Military Funeral Honors detail at the Post/District levels.

## **HEALTH CARE BENEFITS**

### **Services**

A uniform Package of Benefits emphasizes preventive and primary care, and a full range of outpatient and inpatient services that include: immunizations, screening tests, health education and training classes, diagnosis and treatment, surgery (including outpatient), mental health and substance-abuse treatment, home health care, respite, hospice and palliative care, urgent and limited emergency-care services in VA facilities, pharmaceuticals, and nursing home care . An enrolled veteran may be eligible for some services that are not part of the uniform benefits package that include: limited nursing home care, limited domiciliary care, limited non-VA hospitalization or health-care services for veterans with special eligibility, limited dental care, readjustment counseling, adult day-health care, homeless programs, and sexual trauma counseling . Veterans must qualify for these services on a case-by case-basis (restrictions apply to each).

### **VA Healthcare General Eligibility**

Veterans are generally eligible for benefits if they are discharged from active duty unless character of discharge is other than honorable, and bad conduct discharges will be determined by VA. When in doubt of eligibility, veterans are encouraged to apply and let the VA make the determination.

### **Enrollment**

To enroll in the VA health-care system, or apply for benefits not covered by enrollment, such as domiciliary, nursing home or dental, veterans need to complete VA Form 10-10EZ and provide a copy of their DD214. Veterans also need to provide household financial information as well as private insurance upon enrollment. American Legion service officers or VA representatives can help.

To apply, contact your nearest VA medical center or call 877-222-8387.



## **HOSPITAL AND OUTPATIENT CARE**

### **ENROLLMENT PRIORITY GROUPS**

You may be eligible for more than one VA Enrollment Priority Group. Once evaluated, VA will enroll you in the highest priority for which you are eligible:

#### **Priority Group 1:**

- Veterans with combined service-connected disability ratings of 50% or greater.
- Veterans who are deemed unemployable by VA.

#### **Priority Group 2:**

- Veterans with combined service-connected disability ratings at 30% or 40%.

#### **Priority Group 3:**

- Veterans with special classification under Title 38, U. S.C., 1151, “benefits for individuals disabled by treatment or vocational rehabilitation.”
- Veterans with combined service-connected disability ratings at 10% or 20%.
- Veterans with a discharge for a disability incurred or aggravated while in the line of duty. • Medal of Honor recipients.
- Purple Heart Medal recipients.
- Veterans who are former prisoners of war.

#### **Priority Group 4:**

- Veterans receiving increased compensation or pension based on need for regular aid and attendance, or by reason of being permanently housebound.

#### **Priority Group 5:**

- Nonservice-connected veterans and noncompensable service-connected veterans rated 0%, whose annual income and/or net worth are not greater than VA financial thresholds.
- Veterans with VA pension benefits.
- Veterans eligible for Medicaid.

### **Priority Group 6:**

- Service-connected veterans with a compensable 0% disability rating.
- Veterans exposed to ionizing radiation during the occupation of Hiroshima and Nagasaki, or atmospheric testing.
- Project 112/SHAD participants.
- Veterans who served in the Republic of Vietnam between Jan. 9, 1962, and May 7, 1975.
- Veterans who served in the Southwest Asia Theater between Aug. 2, 1990, and Nov. 11, 1998.
- Veterans discharged from active duty on or after January 2003, for five years after discharge.
- Veterans who served on active duty at Camp Lejeune for not fewer than 30 days beginning Jan. 1, 1957 and ending Dec. 31, 1987.

### **Priority Group 7:**

- Veterans with incomes below the geographic means test (GMT) income thresholds and who agree to pay the applicable co-payment.

### **Priority Group 8:**

- Veterans with gross annual household incomes above VA national income index and income index for their resident location and agree to pay co-pay. Veterans' eligibility for enrollment: Non-compensable service connected disability(ies) and:
  - Sub-priority a: Enrolled as of Jan. 16, 2003, and who have remained enrolled since that date and/or placed in this sub-priority due to changed eligibility.
  - Sub-priority b: Enrolled on or after June 15, 2009, whose income exceeds the current VA National Income Thresholds or VA National Geographic Income Thresholds by 10% or less. Veterans eligible for enrollment: Nonservice-connected and:
    - Sub-priority c: Enrolled as of Jan. 16, 2003, and who remained enrolled since that date and/or placed in this sub-priority due to changed eligibility status.
    - Sub-priority d: Enrolled on or after June 15, 2009, whose income exceeds the current VA National Income Thresholds or VA National Geographic Income Thresholds by 10% or less. Veterans not eligible for enrollment: Veterans not meeting the criteria above:
      - Sub-priority e: Noncompensable 0% service connected.
      - Sub-priority g: Nonservice-connected.

## **Five-Year Combat Eligibility**

Under “OEF/OIF/OND Combat Veteran” authority, VA offers free health-care services for any condition related to service in Iraq/Afghanistan for five years after the date of discharge or release from active duty. For information, call: Health Benefits Service Center at 877-222-VETS (8387), or visit: [www.va.gov/healthbenefits/](http://www.va.gov/healthbenefits/) or contact an OEF/OIF/OND Coordinator

## **Veterans Crisis Line**

Since 2007, the Veterans Crisis Line (formerly National Veterans Suicide Prevention Hotline) has made more than 18,000 life-saving rescues and has answered more than 500,000 calls. In 2009, VA added an online chat hotline that has helped more than 28,000 veterans. Staff members provide help to all veterans; they are usually veterans themselves. The staff is highly trained and understand the challenges faced by veterans and their families. For more information, call 800-273-8255 and press 1, text 838255, or join live chat at [veteranscrisisline.net/Default.aspx](http://veteranscrisisline.net/Default.aspx) VA

## **Caregiver Support**

VA offers several services that can help the caregiver: • Caregiver Support Line: Provides help with access to services and connects the caregiver with a Caregiver Support Coordinator.

- Caregiver Support Coordinator: A licensed professional who will support the caregiver by providing resources, information, and services.
- Adult Day Health Care (ADHC) Centers: Centers where veterans can interact with each other and participate in a variety of activities These centers are staffed with professional caregivers.
- Home-Based Primary Care: This program delivers staffed professionals to the caregiver’s home. This is beneficial to veterans who have medical issues that make travel difficult.
- Skilled Home Care: This service provides highly trained medical professionals to provide health care for homebound veterans.
- Homemaker and Home Health Aide Program: This program was designed to help veterans in their homes with activities such as feeding and bathing, allowing caregivers to address personal needs.
- Home Telehealth: This program was designed to enable veterans to receive health care through telephones and computers.
- Respite Care: Caregivers need personal time; respite care allows for relaxation and renewal. A caregiver can receive up to 30 days of respite care per year.

## **Home Hospice Care**

This offers support for veterans and caregivers who are coping with a terminal illness.

For more information on the above services, call: 855-260-3274, or visit: [www.caregiver.va.gov/index.asp](http://www.caregiver.va.gov/index.asp)

## **WOMEN VETERANS HEALTH CARE**

Women Veterans Health Care Women veterans are eligible for the same benefits as male veterans. VA medical facilities provide women veterans with complete physical exams, general reproductive health care, gender specific health services, routine medical care, and referrals outside of VA facilities. These benefits include:

- Comprehensive primary care by a proficient provider
- Safety, privacy, and sensitivity for gender-specific procedures
- Latest healthcare technology and equipment
- High-quality care equivalent to that given to male veterans

For more information, call: 1-202-461-1070, or visit: [www.womenshealth.va.gov](http://www.womenshealth.va.gov)

## HOMELESS VETERANS

VA is acting against homelessness among veterans and is working to eliminate it by 2015. VA offers the following new programs, resources and benefits:

### **Preventive Services**

- Supportive Services for Veteran Family Program (SSVF) - The SSVF program provides support services for veterans and their families with low incomes. The service also helps veterans move into permanent housing.
- Veterans Justice Outreach Program - This initiative seeks to avoid the unnecessary criminalization and extended incarceration of veterans who suffer from mental disabilities. The program tries to ensure that eligible veterans involved in litigation have timely access to Veterans Health Administration (VHA) mental-health and substance-abuse services when clinically indicated, and other VA services and benefits as appropriate.
- National Call Center for Veterans Program - This program offers free 24/7 access to trained counselors who assist homeless veterans and their families. The National Call Center Hotline is 1-877-4AID VET (877-424-3838).

### **Housing Support Services**

- Includes information and resources for permanent, transitional, and temporary housing. This program also helps with case management and treatment services. Treatment Services
- Health Care for Homeless Veterans: The outreach program identifies veterans who are eligible for VA services and helps them obtain their benefits.
- Veteran Stand Downs: Events that provide food, shelter, health screenings, and clothing for veterans.
- Homeless Veterans Dental Program: This program increases the accessibility to quality dental care for homeless veterans.
- Domiciliary Care for Homeless Veterans: Provides residential rehabilitation and treatment services for veterans with multiple medical conditions, mental illness, and other medical conditions.
- Drop-in Centers: These centers allow for a daytime sanctuary, where homeless veterans can conduct proper hygiene, clean their clothes, and participate in rehabilitation activities.

### **Employment and Job Training**

- Compensated Work Therapy: Homeless veterans earn pay while learning job skills and regaining self-esteem.

## **Benefits/Services**

- **Homeless Veterans Benefit Assistance:** Provides dedicated outreach, counseling, and other assistance for veterans applying for VA benefits.
- **Property Sales for Homeless Veterans:** This program allows the properties obtained through VA to be made available for sale at a discounted price. The discount available for homeless provider organizations varies from 20 to 50 percent.
- **Excess Property for Homeless Veterans:** This program allows for the distribution of federal excess personal property, such as hats, footwear, socks, sleeping bags and other items. For more information, call: 877-222-8387, or visit: [www.va.gov/homeless](http://www.va.gov/homeless).

**TOPIC 6**  
**DEPARTMENT**  
**OF**  
**VETERANS AFFAIRS**  
**APPEALS PROCESS**

# NOTES



## APPEALING MEDICAL DECISIONS

Veterans being denied medical care or medical benefits for which they believe they are eligible, should immediately contact the Patient Advocate representative at the VA Medical Center. If the VA Patient Advocate fails to resolve the problem, the veteran should then contact The American Legion Department Service Office. Please keep in mind this doesn't mean we are able to get the veteran treatment, or a medical bill paid. Simply, if the veteran does not understand what the Patient Advocate is describing to him/her or believes to be unfair, with a 21-22 (Appointment of a Veteran Service Organization as Representation) we can then intervene to better help understand the situation or clarify the issues to the Patient Advocate representative at the VHA facility. There is also a directive of VHA Clinical Appeals at the following link:  
[http://www.va.gov/vhapublications/ViewPublication.asp?pub\\_ID=1494](http://www.va.gov/vhapublications/ViewPublication.asp?pub_ID=1494)

The American Legion cannot dictate the type of medical care a VA physician should provide, such as, medication used, dosage of medication prescribed, which medical procedures are necessary, etc.; however, The American Legion can assist veterans with obtaining all medical care benefits for which they are statutorily entitled.

The American Legion can also assist the patient in asking for a clinical review of medical treatment determinations subject to review by other VA medical professionals including the Chief Medical Director at the VA Veterans Integrated Service Network (VISN) Office. Most VA Medical Centers now have a Disability Benefits Questionnaire Clinic (DBQ) and the veteran does not have to file a claim to get re-evaluated for his/her service connected condition but can, with the assistance of the service officer, make an appointment with the DBQ clinic to determine whether or not their symptoms have worsened which could result in the filing of a claim for increase, or clarification of a secondary condition.

Veterans Healthcare Choice Cards: The Access, Choice and Accountability Act of 2014 signed into law by the president on August 7, 2014 establishes a special \$10 billion Veterans Choice Fund. Over the next three years, VA is to use the fund as needed to buy care from non-VA care providers for veterans if they face long waits for VA care – defined initially as more than 30 days – or if they reside more than 40 miles from VA care. The hurdles to gain easy access to non-VA care, however, go beyond how far veterans reside from a VA clinic or how long their wait for care. Veterans must have also enrolled in VA health care by Aug. 1, 2014 or, if they enroll later, they must have served on active duty in a theater of combat operations within five years of enrolling. VA is mandated to issue these cards to enrolled veterans within 90 days of enactment of the law. Learn more about how the Veterans Choice Card will work at:  
[www.legion.org/legislative/qa](http://www.legion.org/legislative/qa) or [http://www.va.gov/opa/choiceact/factsheets\\_and\\_details.asp](http://www.va.gov/opa/choiceact/factsheets_and_details.asp).

Recently this benefit was amended to help those veterans who live within the “crows fly” of 40 miles but in all actuality, the distance by vehicle is more than 40 miles. Please stay tuned for this amendment.

**VA BENEFITS APPEALS LEGACY**  
**RATING DECISIONS AND SOC**  
**PRIOR TO FEBRAURY 19, 2019**

When a VA Regional Office or VA Medical Center makes a benefits decision, that decision is referred to as a decision from the Rating Decisions. Most Rating Decisions except medical treatment plan determinations are subject to appeal at the claimant's initiative. Because of the complexity of VA statutes, regulations, and operating policies, Rating Decisions are not always correct. Claimants who have received unfavorable Rating Decisions and who believe they are rightfully entitled to the benefits they are seeking should, therefore, appeal.

All VA claimants should assign an accredited veterans service organization, such as, The American Legion, to represent them before the Department of Veterans Affairs (VA). This is especially true if an appeal is contemplated. The American Legion Department Service Office would not only provide advice on how to initiate an appeal and develop supporting evidence but will also provide representation and guidance at appeal hearings and formulate formal appeal statements on the claimant's behalf. This often proves very beneficial to the appellant. American Legion Department Service Officers work in the veterans benefits business full time, continuously study VA law and regulations, usually have years of experience, and regularly attend training seminars and classes offered through the American Legion National Headquarters and training from Bergmann & Moore, LLC who represent veterans at the Court of Appeals for Veterans Claims and have a partnership with the American Legion. Indeed, attempting to appeal a VA decision without the services of an accredited veterans' service organization representative would be much like attempting to win an appeal in court without an attorney.

After obtaining representation, the first step in initiating the VA administrative appeal process is to file a Notice of Disagreement this is true if the Rating Decision has been decided prior to February 19, 2019. A Notice of Disagreement must now be filed on the proper VA Form 21-0958 [https://www.va.gov/vaforms/form\\_detail.asp?FormNo=21-0958](https://www.va.gov/vaforms/form_detail.asp?FormNo=21-0958) This form is specific for noting the issues that the claimant wants to appeal. The VA will no longer accept appeals requests on any other form. Service officers, accredited and non-accredited, should get used to using and advising veterans to use the VA Form 21-0958 for filing Notices of Disagreement.

Veterans should also be advised to seek the help of a professional county or American Legion Department Service Officer for completion of the new VA Notice of Disagreement Form – VAF 21-0958 -- since making what seems to be small errors could cause further problems with the appeal. For instance, the VA Form 21-0958 asks if the appellant wants a call back from a “representative at your local VA regional office.” What VA means by this is that one of VA’s representatives will call the veteran – not the veteran’s chosen service organization’s accredited representative. This may cause the veteran to unknowingly give VA information that might harm or slow the appeal. Claimant’s wanting to talk with someone about their appeal should never talk directly with a VA person without the advice or assistance of their chosen Veterans Service Organization accredited representative.

The Notice of Disagreement should also inform VA if the appellant would like a Decision Review Officer (DRO) review. This is a process between VA's official decision notification letter and the VA Statement of the Case (SOC). A DRO review is usually recommended because it allows VA to review the case and revise the decision if necessary, before sending the claimant a Statement of the Case. Notice of Disagreement must be filed within one year after the date of VA's official letter of notification or the claimant forfeits his or her right to appeal.

Once the Agency of Original Jurisdiction (AOJ) receives the Notice of Disagreement, the VA will review the case again through a de novo process and assist with the development of additional evidence if thought necessary. If the VA confirms their previous denial of benefits, VA will send the claimant a Statement of the Case (SOC). The SOC should give a detailed explanation of VA's decision including facts and evidence considered, applicable laws and regulations, and a discussion as to why relevant facts and evidence combined with regulation and law resulted in denial of the benefits sought.

With the Statement of the Case, the claimant will receive a Substantive Appeal form, VA form 9. If the claimant wants to continue the appeal after reading the SOC, he or she must complete, sign, and return the VA form 9 within 60 days after the date not when the veteran received the SOC. On the VA form 9, the appellant should list the issues he or she wants to appeal to the Board of Veterans Appeals (BVA). Appellants should also note in their own words (or with the assistance of their representative) on the VA form 9, why they believe entitlement to the benefits sought is warranted. We recommend and suggest this process also be done by an accredited service officer. The VA Form 9 is only now used for SOC's issued prior to February 19, 2019.

The VA form 9 will also ask if the appellant wants a personal hearing before a member of the Board of Veterans Appeals (BVA). Since it sometimes requires several months to schedule BVA hearings and more than a year to obtain a BVA decisions, the American Legion Department Service Office advises appellants to request a hearing at the local VA Regional Office before the Hearing Officer in lieu of a personal hearing before a member of the BVA. A Hearing Officer hearing can normally be scheduled within a few weeks, and a Hearing Officer decision is usually rendered much sooner than a decision following a BVA hearing. If the Hearing Officer's decision is not favorable, the claimant will still have an opportunity to have the appeal reviewed by the BVA in Washington, DC. Claimants may also now ask for a BVA videoconference hearing. BVA videoconference hearings can usually be scheduled sooner than either a BVA traveling board hearing or a BVA hearing in Washington DC. We still, though, do not normally recommend a BVA videoconference hearing since it removes the review of the local hearing officer and a decision is usually not made for many months after the BVA videoconference hearing. A personal appearance before either the BVA or the Hearing Officer is not required for the appeal to continue but is a right for which the claimant may request. The claimant's assigned accredited representative will assist at the VA hearing if one is requested. The filing of VA Form 9 puts the VA regional office on notice that the appellant wants a Board of Veterans Affairs decision if the appeal is not resolved in the appellant's favor at the regional office or by the Agency of Original Jurisdiction (AOJ). If the issues are not resolved in the claimant's favor at the Agency of Original Jurisdiction, the accredited representative will review

the evidence of record once again and provide a formally written appeal statement on the claimant's behalf prior to the case being sent to the BVA in Washington, DC. Once the case is received in Washington, DC, an American Legion National Appeals Officer will present the case to the Board.

The Board of Veterans Appeals can remand the case for further development, affirm the AOJ's denial, or grant the issue or issues on appeal. For a short time, the BVA could develop cases to find additional evidence. A precedent court decision no longer permits BVA to develop cases. BVA is an appellant body that cannot make original decisions. BVA may, however, remand the case for further development to a special office in Washington DC instead of having the case returned to the AOJ for further development. The DC claims development office (Appeals Management Center) would then collect the additional evidence and either grant the case or issue a Supplemental Statement of the Case explaining why that office failed to grant the issue or issues on appeal. The denied issue would then be returned to the BVA for its review and final VA decision. BVA's decision is the final VA decision.

If the case is denied at the BVA, a claimant has only 120 days to file a Notice of Appeal with the United States Appeals Court for Veterans Claims. The American Legion does not normally provide representation before the Court, and the Court does not accept all cases unless they are persuaded that the BVA possibly made an error that might have changed the outcome of the case. Appellants are therefore advised to obtain the services of an attorney if they wish to appeal to the United States Appeals Court for Veterans Claims. The Veterans Consortium Pro Bono Program is a great resource for claims having to go to the Court of Appeals for Veterans Claims (CAVC) <http://www.vetsprobono.org/veterans-family-members/useful-links/>.

In lieu of an appeal to the United States Appeals Court for Veterans Claims, claimants may reopen previously denied claims by submitting new and material evidence to the Agency of Original Jurisdiction. Evidence is considered new if not previously considered by the VA, and material if it presents a reasonable possibility of a valid claim.

Claimants should always work through the Service Office of their assigned accredited service organization when dealing with the VA, especially when an appeal is being initiated or processed. This would be the American Legion Department Service Office if the American Legion were the veteran's "Power of Attorney" for VA purposes. The VA limits claimants to only one Power of Attorney, but claimants may also assign a County or Post Service Officer to assist them with the development of their case and communicate with the claimant's Power of Attorney.

Link to How Do I appeal Pamphlet: <http://www.uscourts.cavc.gov/appeal.php>

**VA BENEFITS APPEALS (AMA)  
RATING DECISIONS AND SOC  
PRIOR TO FEBRAURY 19, 2019  
(APPEALS MODERNIZATION ACT OF 2017)**

The Appeals Modernization Act (AMA) went into effect on February 19, 2019, requiring veterans that received a Rating Decision or Statement of the Case after that date to file under AMA.

AMA was designed to modernizes the current claims and appeals process. Provides the veteran with the option of three lanes in which to appeal. Requires improved notifications from the VA, which now list all favorable finding is denying a claim. Provide easier claims resolutions and ensures the veteran receives the earliest effective date possible. Under AMA the veteran has 3 lane options to choose when appealing their case to the VA. It is advised that the veteran contact their Accredited Veteran Service Organization to assist in reviewing the case and selecting the best lane for that veteran's appeal. The three lanes in which the veteran can choose are Supplemental Lane, Higher Level Review and Straight to the BVA. If the veteran elects to go directly to the BVA the veteran may than choose three lanes in which the appeal can go.

**Supplemental Lane:** This lane is best for veterans that have new evidence that was not of record when the denial was issued. The veteran can file the VA Form 20-0995, with the new and relevant evidence to the VA to support the grant of sought benefit.

**Higher-Level Review:** This lane is used when the veteran believes that the VA failed to properly decide the claim based solely on the veterans claim file as it is. The veteran is unable to send any additional evidence to support the claim. The Higher-Level review is considered a de novo review by a senior claim's adjudicator. The senior rep may overturn the denial based on a difference of opinion or if a clear and mistakable error has been identified. The reviewer may also send the appeal back to the AOJ if a duty to assist error had been found. During this option the veteran can select to have an informal conference with the VA representative reviewing the appeal. It is strongly advised to have the name and phone number of the accredited Service organization listed as the point of contact to call. If the veteran is with The American Legion this would be the Department Service Officers located at the Cleveland VA Regional Office as they are the only allowed parties to represent veterans how have elected the American Legion as their service organization. CVSO's accredited with the American Legion can assist the veteran in filing the Higher-Level of Review but cannot be the point of contact for the VA.

**Board of Veterans Appeals Lane:** This lane is used when the veteran wants a BVA Law Judge to decide the appeal. Under the Board Lane the veteran has three lanes in which to choose.

**Direct Review:** No hearing is scheduled, and no new evidence is sent to the Board, this is for veterans that fell the Regional Office failed to properly adjudicate the claim based one the record.

**Evidence Submission:** No Hearing is scheduled; the veteran can submit relevant evidence directly to the Board for the Judge to consider in the deciding of the Appeal.

**Hearing:** This option is for veterans that want to have a hearing with a BVA Law Judge. These hearings are conducted at the VA Regional Office and the veteran is represented by the DSO's located at the Cleveland VA Regional Office. New evidence may be submitted at the time of the hearing and or up to 90 days after the hearing.

## WAIVERS AND COMPROMISES

The Department of Veterans Affairs (VA) will sometimes pay more VA benefits than claimants are entitled. This happens most often in income base benefit programs such as VA non-service connected disability pension and survivors benefits. VA overpayments are usually the result of claimants misreporting or not reporting countable income for VA benefit purposes.

Overpayments and VA debts can though, also occur in other VA benefit programs for different reasons, such as, a VA guaranteed home loan default. When a VA overpayment or debt is charged, the VA will expect and request payment. If good cause is shown, beneficiaries may request and receive waiver of such debts and overpayments.

Debts and overpayments may also result from VA errors, and it is important to distinguish what caused those debts or overpayments before waiver requests are made. If it's determined that a VA debt or overpayment was the result of a VA administrative error, the debt or overpayment will be erased as if it never occurred. The same is not true in case of a waiver. The debt need not be repaid if a VA waiver is granted, but taxes may still be owed on the amount waived and other VA benefit programs may be affected. For instance, a waiver of a VA education assistance overpayment will reduce future VA education assistance benefits, and a waiver of a home loan debt will prevent future entitlement to a VA guaranteed home loan until the debt is repaid in full. Also, a waiver of a VA debt does not prevent record of loan defaults from appearing on credit reports. Claimants should therefore file a Notice of Disagreement with the creation of the debt in addition to a waiver request if they believe a VA administrative error may have caused the debt. A VA form 21-4138 or any other stationary may be used for filing a Notice of Disagreement. If a claimant believes a VA debt was created unjustly, the claimant only has one year to file after receipt of the VA's official letter of debt notification.

The VA will consider granting a waiver upon request only if the claimant did not intentionally misrepresent himself or herself or try to defraud the government. Fault on the beneficiary's part no longer bars VA consideration of a waiver, but the degree of fault is for consideration as well the claimant's ability to pay. A request for a waiver may be made on a VA FORM 5655 Financial Status Report <http://www.va.gov/vaforms/va/pdf/VA5655.pdf>. The claimant should make it absolutely clear that he or she is requesting a waiver, Compromise, or Payment Plan to include explanation of income and whether or not he or she had little or no fault in the debt's creation, and note that payment would create a "Severe financial hardship." To show evidence of financial hardship, a completed and signed VA Form 5655 (Financial Status Report) should also accompany the waiver request.

Beneficiaries have only 180 days to file waiver requests following official notification of the VA pension, compensation, or education overpayments. Also, only 180 days is allowed to file a request for waiver of VA Medical Center debts, such as, waiver of \$8.00 (or \$9:00) co-payment charges. Unlike other waiver requests, up to one year after official notification is allowed for filing requests for waiver of VA home loan debts.

VA may also accept a compromise offer if successful collection of the entire debt is thought improbable. A compromise offer should consist of a written statement from the claimant

indicating how a partial lump sum payment could be made now if the balance of the debt is forgiven. The claimant should also note the amount of the compromise offer, and why payment of the full debt would most likely prove impossible. A VA Form 5655 should also be supplied with the written compromise request. A refused compromise offer is not appealable, but VA will consider subsequent compromise offers made in good faith.

Service Officers having questions concerning VA waivers or compromises are encouraged to contact the American Legion Department Service Office.



## THE COMBINED RATING SCHEDULE AND RATE CHARTS

Veterans often have more than one service connected disability. If VA would simply "add" together each disability rating, some veterans would receive a total disability rating equaling more than 100%. For instance, a veteran's disability rating would total 120% if he or she has individual ratings of 60%, 30%, and 30%. Because VA believes no one can be more the 100 percent disabled (except in special monthly compensation cases), VA does not find the "combined rating" by adding together each individual compensation rating. Instead, VA uses its Combined Rating Table.

You will find a copy of the Combined Rating Table on the following pages. It uses the 100% able bodied person concept. Meaning that if a person has no disabilities, he or she is 100% able-bodied. If though that person has a 60% disability, he or she is only 40% able-bodied ( $100 - 60 = 40$ ). If that person then has another separate disability rating (say 30 percent), that 30 percent would no longer be combined from a 100% able-bodied person but only a 40% able-bodied person (30% of 40 equal 12%). The combined rating at that time would be 72% ( $60 + 12 = 72$ ). Then say the same person has another separate disability rating at 30%. VA would then calculate 30% of a 28% able-bodied person ( $100\% \text{ able-bodied} - 72 \text{ equal } 28$ ). 30 percent of 28 would then equal 8.4%. Then the VA would subtract 8.4% from the 28 to find that the person is now only 19.6% able bodied, rounded to 20% able-bodied (VA rounds to the nearest number divisible by 10). Finally, in this example, VA subtracts the 20% remaining able-bodied person from the beginning 100% able-bodied person to show a final combined rating of 80%. The easiest way to calculate the combined rating is to use the VA Combined Rating Table. To use the table, you start with intersecting the highest disability rating and then work your way down to the lowest disability rating.

Using the Combined Rating Table can become very complicated due to other rules such as bilateral factor and the amputation rule. You may therefore want to contact the American Legion Service Office if the veteran's combined rating that you calculate does not equal the same combined rating VA calculated. Also, more information about the Combined Rating Table and bilateral factors may be found in part 4 of 38 Code of Federal Regulations, paragraph 25 and 26.

The dollar amount of the veteran's monthly compensation benefit can be found by comparing the rating or combined rating with the compensation rate chart. If a veteran has a disability rating of 30% more, he or she will be entitled to dependency allowance. The amount of his or her compensation benefits can therefore be found by intersecting the row showing the dependency status (V = veteran, S = spouse, C = child, P = dependent parent) with the column showing the veteran's disability rating or combined disability rating. Also, additional dependency allowances are usually paid to veterans with a child over 18 but under 23 still attending school, or when the veteran has a spouse meeting the requirements for Aid and Attendance.

VA non-service connected pension rates may be found by using the pension rate chart. The rate paid will be based upon the type of pension the person is entitled (improve, section 306, old law, or a type of survivor's pension). The number of dependence is also a factor in calculating non

service connected pension rates. Unlike compensation rates, non-service connected pension rates are reduced by the claimant's income received from other sources.

You may access the VA Combined Rating Table on the following pages and at:

<http://dvs.ohio.gov/main/library/varo/resources/VA-Math.pdf>

You may access VA compensation rate charts at:

<https://www.benefits.va.gov/compensation/rates-index.asp>

Both, compensation rates and pension rates normally change on December 1st of each year due to cost of-living adjustments (COLAs). Since VA pays benefits a month behind, COLA increases are not actually paid until the first benefit payment made in January.

## COMBINED RATINGS TABLE

	10	20	30	40	50	60	70	80	90
19	27	35	43	51	60	68	76	84	92
20	28	36	44	52	60	68	76	84	92
21	29	37	45	53	61	68	76	84	92
22	30	38	45	53	61	69	77	84	92
23	31	38	46	54	62	69	77	85	92
24	32	39	47	54	62	70	77	85	92
25	33	40	48	55	63	70	78	85	93
26	33	41	48	56	63	70	78	85	93
27	34	42	49	56	64	71	78	85	93
28	35	42	50	57	64	71	78	86	93
29	36	43	50	57	65	72	79	86	93
30	37	44	51	58	65	72	79	86	93
31	38	45	52	59	66	72	79	86	93
32	39	46	52	59	66	73	80	86	93
33	40	46	53	60	67	73	80	87	93
34	41	47	54	60	67	74	80	87	93
35	42	48	55	61	68	74	81	87	94
36	42	49	55	62	68	74	81	87	94
37	43	50	56	62	69	75	81	87	94
38	44	50	57	63	69	75	81	88	94
39	45	51	57	63	70	76	82	88	94
40	46	52	58	64	70	76	82	88	94
41	47	53	59	65	71	76	82	88	94
42	48	54	59	65	71	77	83	88	94
43	49	54	60	66	72	77	83	89	94
44	50	55	61	66	72	78	83	89	94
45	51	56	62	67	73	78	84	89	95
46	51	57	62	68	73	78	84	89	95
47	52	58	63	68	74	79	84	89	95
48	53	58	64	69	74	79	84	90	95
49	54	59	64	69	75	80	85	90	95
50	55	60	65	70	75	80	85	90	95
51	56	61	66	71	76	80	85	90	95
52	57	62	66	71	76	81	86	90	95
53	58	62	67	72	77	81	86	91	95
54	59	63	68	72	77	82	86	91	95
55	60	64	69	73	78	82	87	91	96
56	60	65	69	74	78	82	87	91	96

## COMBINED RATINGS TABLE

	10	20	30	40	50	60	70	80	90
57	61	66	70	74	79	83	87	91	96
58	62	66	71	75	79	83	87	92	96
59	63	67	71	75	80	84	88	92	96
60	64	68	72	76	80	84	88	92	96
61	65	69	73	77	81	84	88	92	96
62	66	70	73	77	81	85	89	92	96
63	67	70	74	78	82	85	89	93	96
64	68	71	75	78	82	86	89	93	96
65	69	72	76	79	83	86	90	93	97
66	69	73	76	80	83	86	90	93	97
67	70	74	77	80	84	87	90	93	97
68	71	74	78	81	84	87	90	94	97
69	72	75	78	81	85	88	91	94	97
70	73	76	79	82	85	88	91	94	97
71	74	77	80	83	86	88	91	94	97
72	75	78	80	83	86	89	92	94	97
73	76	78	81	84	87	89	92	95	97
74	77	79	82	84	87	90	92	95	97
75	78	80	83	85	88	90	93	95	98
76	78	81	83	86	88	90	93	95	98
77	79	82	84	86	89	91	93	95	98
78	80	82	85	87	89	91	93	96	98
79	81	83	85	87	90	92	94	96	98
80	82	84	86	88	90	92	94	96	98
81	83	85	87	89	91	92	94	96	98
82	84	86	87	89	91	93	95	96	98
83	85	86	88	90	92	93	95	97	98
84	86	87	89	90	92	94	95	97	98
85	87	88	90	91	93	94	96	97	99
86	87	89	90	92	93	94	96	97	99
87	88	90	91	92	94	95	96	97	99
88	89	90	92	93	94	95	96	98	99
89	90	91	92	93	95	96	87	38	99
90	91	92	93	94	95	96	97	98	99
91	92	93	94	95	96	96	97	98	99
92	93	94	94	95	96	97	98	98	99
93	94	94	95	96	97	97	98	99	99
94	95	95	96	96	97	98	98	99	99

**TOPIC 7**  
**PRESUMPTIVE**  
**SERVICE**  
**CONNECTIONS**

# NOTES

## **PRESUMPTIVE SERVICE CONNECTION**

### **What is “Presumptive” Service Connection?**

VA presumes that certain disabilities were caused by military service. This is because of the unique circumstances of a specific Veteran’s military service. If a presumed condition is diagnosed in a Veteran in a certain group, they can be awarded disability compensation.

### **What are “Presumptive” Conditions?**

If you are diagnosed with a chronic disease within one year of active duty release, you should apply for disability compensation. Examples of chronic disease include arthritis, diabetes or hypertension. Or, if you served continuously for at least 90 days and are diagnosed with amyotrophic lateral sclerosis (ALS) after discharge, you can establish service connection for the disease.

### **Veterans in the following groups may qualify for “presumptive” disability benefits:**

- Former prisoners of war who:
  - o Have a condition that is at least 10 percent disabling
- Vietnam Veterans who were:
  - o Exposed to Agent Orange
  - o Served in the Republic of Vietnam between Jan. 9, 1962, and May 7, 1975
- Atomic Veterans exposed to ionizing radiation and who experienced one of the following:
  - o Participated in atmospheric nuclear testing
  - o Occupied or were prisoners of war in Hiroshima or Nagasaki
  - o Served before Feb. 1, 1992, at a diffusion plant in Paducah, Kentucky, Portsmouth, Ohio or Oak Ridge, Tennessee
  - o Served before Jan. 1, 1974, at Amchitka Island, Alaska
- Gulf War Veterans who:
  - o Served in the Southwest Asia Theater of Operations
  - o Have a condition that is at least 10 percent disabling by Dec. 31, 2021

## AGENT ORANGE

**Agent Orange:** U.S. Military used Agent Orange to clear vegetation and trees during the Vietnam War. Veterans that served in Vietnam (boots on the ground) or near the Korean Demilitarized Zone (DMZ) during the Vietnam Era. These veterans have been presumed to have been exposed to the chemical referred to as Agent Orange.

### **This must be true:**

- You have an illness we believe is caused by Agent Orange (called a presumptive disease)

### **And at least one of these must also be true. You:**

- Came into contact with Agent Orange while serving in the military, **or**
- Served in or near the DMZ for any length of time between September 1, 1967, and August 31, 1971, **or**
- Served in the Republic of Vietnam for any length of time between January 9, 1962, and May 7, 1975. This may include serving aboard a vessel on the inland waterways, or on a vessel operating not more than 12 nautical miles seaward from the demarcation line of the waters of Vietnam and Cambodia (as detailed in Public Law 116-23, the Blue Water Navy Vietnam Veterans Act of 2019).

### **Cancers we believe are caused by contact with Agent Orange**

- **Chronic B-cell leukemia:** A type of cancer that affects your white blood cells (cells in your body's immune system that help to fight off illnesses and infections)
- **Hodgkin's disease:** A type of cancer that causes your lymph nodes, liver, and spleen to get bigger and your red blood cells to decrease (called anemia)
- **Multiple myeloma:** A type of cancer that affects your plasma cells (white blood cells made in your bone marrow that help to fight infection)
- **Non-Hodgkin's lymphoma:** A group of cancers that affect the lymph glands and other lymphatic tissue (a part of your immune system that helps to fight infection and illness)
- **Prostate cancer:** Cancer of the prostate (the gland in men that helps to make semen)
- **Respiratory cancers (including lung cancer):** Cancers of the organs involved in breathing (including the lungs, larynx, trachea, and bronchus)
- **Soft tissue sarcomas (other than osteosarcoma, chondrosarcoma, Kaposi's sarcoma, or mesothelioma):** Different types of cancers in body tissues such as muscle, fat, blood and lymph vessels, and connective tissues

### **Other illnesses we believe are caused by contact with Agent Orange**

- **AL amyloidosis:** A rare illness that happens when an abnormal protein (called amyloid) builds up in your body's tissues, nerves, or organs (like your heart, kidneys, or liver) and causes damage over time
- **Chloracne (or other types of acneiform disease like it):** A skin condition that happens soon after contact with chemicals and looks like acne often seen in teenagers. Under our



rating regulations, it must be at least 10% disabling within 1 year of contact with herbicides.

- **Diabetes mellitus type 2:** An illness that happens when your body is unable to properly use insulin (a hormone that turns blood glucose, or sugar, into energy), leading to high blood sugar levels
- **Ischemic heart disease:** A type of heart disease that happens when your heart doesn't get enough blood (and the oxygen the blood carries). It often causes chest pain or discomfort.
- **Parkinson's disease:** An illness of the nervous system (the network of nerves and fibers that send messages between your brain and spinal cord and other areas of your body) that affects your muscles and movement—and gets worse over time
- **Peripheral neuropathy, early onset:** An illness of the nervous system that causes numbness, tingling, and weakness. Under our rating regulations, it must be at least 10% disabling within 1 year of contact with herbicides.
- **Porphyria cutanea tarda:** A rare illness that can make your liver stop working the way it should and can cause your skin to thin and blister when you're out in the sun. Under VA's rating regulations, it must be at least 10% disabling within 1 year of contact with herbicides.

New Presumptive Conditions added to Presumptive Agent Orange Exposure all the same rules listed above apply.

- **Parkinsonism:** Any condition that causes a combination of abnormal movements. These include slow movements, trouble speaking, stiff muscles, or tremors.
- **Hypothyroidism:** A condition that causes the thyroid gland to not produce enough of certain important hormones
- **Bladder Cancer:** A type of cancer that affects the bladder where urine is stored before it leaves the body

## **BLUE WATER NAVY**

### **VIETNAM VETERANS ACT OF 2019**

**Blue Water Navy Vietnam Veterans Act of 2019:** Beginning Jan. 1, 2020, Veterans who served as far as 12 nautical miles from the shore of Vietnam, or who had service in the Korean Demilitarized Zone, are presumed to have been exposed to herbicides, such as Agent Orange, and may be entitled to service connection for any of the 14 conditions related to herbicide exposure.

#### **Cancers we believe are caused by contact with Agent Orange**

- **Chronic B-cell leukemia:** A type of cancer that affects your white blood cells (cells in your body's immune system that help to fight off illnesses and infections)
- **Hodgkin's disease:** A type of cancer that causes your lymph nodes, liver, and spleen to get bigger and your red blood cells to decrease (called anemia)
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- **Hypothyroidism:** A condition that causes the thyroid gland to not produce enough of certain important hormones
- **Bladder Cancer:** A type of cancer that affects the bladder where urine is stored before it leaves the body

## CAMP LEJEUNE CONTAMINATED WATER

**Camp Lejeune Contaminated Water (CLCW):** Veterans that served at Marine Corps Base Camp Lejeune, Marine Corps Air Station New River located in Jacksonville, North Carolina may have been exposed to contaminated drinking water on base and the surrounding post and military housing facilities. Studies have shown that this exposure can lead to certain disease later in life.

You may be able to get disability benefits if you meet all of the requirements listed below.

**Both of these must be true. You:**

- Served at Camp Lejeune or MCAS New River for at least 30 cumulative days from August 1953 through December 1987, **and**
- Didn't receive a dishonorable discharge when you separated from the military

**And you must have a diagnosis of one or more of these presumptive conditions:**

- Adult leukemia
- Aplastic anemia and other myelodysplastic syndromes
- Bladder cancer
- Kidney cancer
- Liver cancer
- Multiple myeloma
- Non-Hodgkin's lymphoma
- Parkinson's disease

**\*\*Veterans and their family members that served in Camp Lejeune or MCAS New River for at least 30 cumulative days from August 1953 through December 1987. can get health care benefits. We may pay you back for your out-of-pocket health care costs that were related to any of these 15 conditions:**

- Bladder cancer
- Breast cancer
- Esophageal cancer
- Female infertility
- Hepatic steatosis
- Kidney cancer
- Leukemia
- Lung cancer
- Miscarriage
- Multiple myeloma
- Myelodysplastic syndromes
- Neurobehavioral effects
- Non-Hodgkin's lymphoma
- Renal toxicity
- Scleroderma

**\*\*The effective date of these claims is March 14, 2017 regardless of whether the veteran filed before that date. 38 C.F.R. 3.307 <https://www.federalregister.gov/documents/2017/01/13/2017-00499/diseases-associated-with-exposure-to-contaminants-in-the-water-supply-at-camp-lejeune>**

## GULF WAR SYNDROME

**Gulf War Veterans' Illnesses:** Certain illnesses are associated with Gulf War service in the Southwest Asia theater of military operations from August 2, 1990 to present. Medically unexplained illnesses (also commonly referred to as Gulf War illness or Chronic Multi-symptom illness) are a significant concern for some Veterans who served during the Gulf War.

- Iraq
- Kuwait
- Saudi Arabia
- The Neutral zone between Iraq and Saudi Arabia
- Bahrain
- Qatar
- The United Arab Emirates (U.A.E.)
- Oman
- Gul of Aden
- Gulf of Oman
- Waters of the Persian Gulf, the Arabian Sea, and the Red Sea
- The Airspace above these locations

Gulf War presumptive illnesses

**Chronic Fatigue Syndrome:** A condition of long-term and severe fatigue that is not relieved by rest and is not directly caused by other conditions.

**Fibromyalgia:** A condition characterized by widespread muscle pain. Other symptoms may include insomnia, morning stiffness, headache, and memory problems.

**Functional Gastrointestinal Disorders:** A group of conditions marked by chronic or recurrent symptoms related to any part of the gastrointestinal tract. Functional condition refers to an abnormal function of an organ, without a structural alteration in the tissues. Examples include irritable bowel syndrome, functional dyspepsia, and functional abdominal pain syndrome.

**Undiagnosed Illnesses:** With symptoms that may include but are not limited to: abnormal weight loss, fatigue, cardiovascular disease, muscle and joint pain, headache, menstrual disorders, neurological and psychological problems, skin conditions, respiratory disorders, and sleep disturbances.

Chronic multi-symptom illness

Chronic multi-symptom illness (CMI) describes the presence of symptoms in two or more body systems that last or recur regularly for more than six months. This term was first used in 1998 in the article describing the symptoms of Gulf War Veterans and its use and meaning has evolved

over the years. According to the Institute of Medicine, CMI was a general term that applies to a diverse mix of conditions. Some examples of CMI include:

- Chronic Fatigue Syndrome
- Fibromyalgia
- Gulf War Illness
- Irritable Bowel Syndrome

If you suffer from CMI, consider reaching out to VA to get help. VA is actively strengthening its support of Veterans with CMI through enhanced recognition, education, and monitoring of their needs. Through an improved system of care and a well-prepared workforce, Veterans with CMI will find the clinical care and additional benefits they need to optimize their health and quality of life.

### **Gulf War Veterans' Medically Unexplained Illnesses**

A prominent condition affecting Gulf War Veterans is a cluster of medically unexplained chronic symptoms that can include fatigue, headaches, joint pain, indigestion, insomnia, dizziness, respiratory disorders, and memory problems.

VA refers to these illnesses as "chronic multisymptom illness" and "undiagnosed illnesses." We prefer not to use the term "Gulf War Syndrome" when referring to medically unexplained symptoms reported by Gulf War Veterans. Why? Because symptoms vary widely.

**Gulf War Veterans who meet the criteria below do not need to prove a connection between their military service and illnesses in order to receive VA disability compensation.**

VA presumes certain chronic, unexplained symptoms existing for 6 months or more are related to Gulf War service without regard to cause. These "presumptive" illnesses must have appeared during active duty in the Southwest Asia theater of military operations or by **December 31, 2021, and be at least 10 percent disabling. These illnesses include:**

- **Myalgic Encephalomyelitis/Chronic Fatigue Syndrome (ME/CFS)**, a condition of long-term and severe fatigue that is not relieved by rest and is not directly caused by other conditions.
- **Fibromyalgia**, a condition characterized by widespread muscle pain. Other symptoms may include insomnia, morning stiffness, headache, and memory problems.

- **Functional gastrointestinal disorders**, a group of conditions marked by chronic or recurrent symptoms related to any part of the gastrointestinal tract. Functional condition refers to an abnormal function of an organ, without a structural alteration in the tissues. Examples include irritable bowel syndrome (IBS), functional dyspepsia, and functional abdominal pain syndrome.
- **Undiagnosed illnesses** with symptoms that may include but are not limited to: abnormal weight loss, fatigue, cardiovascular disease, muscle and joint pain, headache, menstrual disorders, neurological and psychological problems, skin conditions, respiratory disorders, and sleep disturbances.

# NOTES



**TOPIC 8**  
**BURIAL**  
**BENEFITS**

# NOTES

## **BURIAL BENEFITS**

Effective July 7, 2014: VA is changing its monetary burial benefits regulations to simplify the program and pay eligible survivors more quickly and efficiently. These regulations will authorize VA to pay, without a written application, most eligible surviving spouses' basic monetary burial benefits at the maximum amount authorized in law through automated systems rather than reimbursing them for actual costs incurred.

- Under the current regulations, VA pays for burial and funeral expenses on a reimbursement basis, which requires survivors to submit receipts for relatively small one-time payments that VA generally pays at the maximum amount permitted by law.
- The new burial regulations will permit VA to pay, at a flat rate, burial and plot or interment allowances thereby enabling VA to automate payment of burial benefits to most eligible surviving spouses and more efficiently process other burial benefit claims.
- The burial allowance for a non-service-connected death is \$300, and \$2,000 for a death connected to military service.

### **Service-related Death**

VA will pay up to \$2,000 toward burial expenses for deaths on or after September 11, 2001, or up to \$1,500 for deaths prior to September 11, 2001. If the Veteran is buried in a VA national cemetery, some or all of the cost of transporting the deceased may be reimbursed.

### **Non-service-related Death**

VA will pay up to \$796 toward burial and funeral expenses for deaths on or after October 1, 2019 (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 a \$796 plot-interment allowance (if not buried in a national cemetery). For deaths on or after December 1, 2001, but before October 1, 2011, VA will pay up to \$300 toward burial and funeral expenses and a \$300 plot-interment allowance. For deaths on or after April 1, 1988 but before October 1, 2011, VA will pay \$300 toward burial and funeral expenses (for Veterans hospitalized by VA at the time of death).

An annual increase in burial and plot allowances for deaths occurring after October 1, 2011 began in fiscal year 2013 based on the Consumer Price Index for the preceding 12-month period.

## Eligibility Requirements

- You paid for a Veteran's burial or funeral, **AND**
- You have not been reimbursed by another government agency or some other source, such as the deceased Veteran's employer, **AND**
- The Veteran was discharged under conditions other than dishonorable, **AND**
  - The Veteran died because of a service-related disability, **OR**
  - The Veteran was receiving VA pension or compensation at the time of death, **OR**
  - The Veteran was entitled to receive VA pension or compensation, but decided not to reduce his/her military retirement or disability pay, **OR**
  - The Veteran died while hospitalized by VA, or while receiving care under VA contract at a non-VA facility, **OR**
  - 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, **OR**
  - The Veteran had an original or reopened claim pending at the time of death and has been found entitled to compensation or pension from a date prior to the date of death, **OR**
  - The Veteran died on or after October 9, 1996, while a patient at a VA-approved state nursing home.

**NOTE:** VA does not pay burial benefits if the deceased:

- Died during active military service, **OR**
- Was a member of Congress who died while holding office, **OR**
- Was a Federal prisoner

Evidence Requirements:

- Acceptable proof of death as specified in 38 CFR 3.211., **AND**
- Receipted bills that show that you made payment in whole or part, **OR**
- A statement of account, preferably on the printed billhead of the funeral director or cemetery owner. The statement of account must show:
  - The name of the deceased Veteran for whom the services and merchandise were furnished, **AND**
  - The nature and cost of the services and merchandise, **AND**
  - All credits, **AND**
  - The amount of the unpaid balance, if any

How to Apply

- You can apply online at Vets.gov, **OR**
- To submit a paper application, download and complete VA Form 21P-530, Application for Burial Allowance and mail it to the Pension Management Center that serves your state, **OR**
- Work with an accredited representative, **OR**
- You may also go to your local regional benefit office and turn in your application for processing.

## **TRANSFERRING TO POST EVERLASTING**

### **Veterans Burial Benefits and DIC**

Nobody wants to think about the inevitable, but we also need to make sure that are loved ones are taken care of and are properly informed and prepared when the time comes.

#### **Need to know:**

1. Location of veterans DD-214 and VA award letter.
2. The Veterans POA (Service Organization that represents the veterans claim or appeal with the VA).
3. Veterans Branch of Service to include Service Dates / Deployments  
\*This can be difficult for some veterans to express but a simple letter detailing events can meant the difference in DIC or Death Pension. The letter can be left unopened until the death of the veteran, surviving spouse just needs to know the location of the letter.
4. Is the veteran service connected or have a claim filed with the VA for service connection?
5. American Legion Department of Ohio, Cleveland Veterans Affairs Regional Office contact information 216-522-3504.

#### **What to do when the veteran passes.**

1. Notify the VA of the veteran's death by submitting a copy of the death certificate to the veterans POA.
2. File out 21-22 for the surviving spouse this form elects a Service Organization to represent the surviving spouse or claimant on behalf of the deceased veteran.
3. If the veteran has an existing claim or appeal with the VA, a 21P-0847 should be filed within one year of the veteran's death to allow the surviving spouse to continue the claim or appeal as if the veteran.  
\*\*There is a 1-year deadline to file to protect the effective date of the veteran's original claim or appeal.
4. The 21P-0847 can be filed after the 1-year, however the effective date of the request will be the date filed and not the date the veteran originally filed the claim or appeal.

#### **What other forms need to be filed with the VA?**

1. 21-534EZ Application for DIC, Death Pension and/or Accrued Benefits.
2. 21P-530 Application for Burial Benefits (this is automatic once the VA is notified of the veteran's death). If the veteran is not married or the spouse preceded the veteran in death. The VA will pay the burial benefits to whomever files first. (most funeral homes will assist in the filing of burial benefits)
3. Obtain the veterans Burial Flag with VA Form 27-2008. (most funeral homes will assist in obtaining the Burial Flags).
4. Apply for Presidential Memorial Certificate with VA Form 40-0247. (most funeral homes will assist in obtaining PMC).

## Difference Between Dependent Indemnity Compensation and Death Pension

**Dependency and Indemnity Compensation (DIC)** is a tax free monetary benefit paid to eligible survivors of military Servicemembers who died in the line of duty or eligible survivors of Veterans whose death resulted from a service-related injury or disease.

**The Survivors Pension benefit**, which may also be referred to as Death Pension, is a tax-free monetary benefit payable to a low-income, un-remarried surviving spouse and/or unmarried child(ren) of a deceased Veteran with wartime service.

Addition information can be obtained by calling The American Legion Department of Ohio's, Department Service Officers at 216-522-3504 or by visiting the VA website via google search VA DIC or Death Pension.

**TOPIC 9**  
**OTHER TYPES**  
**OF**  
**CLAIMS**

# NOTES



## PRE-DISCHARGE CLAIMS

If you have an illness or injury that you believe was caused—or made worse—by your active-duty service, you can file a claim for disability benefits 180 to 90 days before you leave the military. This may help speed up the claim decision process so you can get your benefits sooner. Find out how to file a claim through the Benefits Delivery at Discharge (BDD) program—and what to do if you have less than 90 days left on active duty.

You can use the BDD program if you meet all of the requirements listed below.

### All of these must be true:

- You're a service member on full-time active duty (including a member of the National Guard, Reserves, or Coast Guard), **and**
- You have a known separation date, **and**
- Your separation date is in the next 180 to 90 days

What if I have less than 90 days left on active duty?

**\*\*You can't file a BDD claim or add more medical conditions to your initial claim. But you can still begin the process of filing your claim before discharge.**

You can't use the BDD program if your claim requires special handling—even if you're on full-time active duty, with more than 90 days left of service.

### You can't use the BDD program if any of these are true. You:

- Need case management for a serious injury or illness, **or**
- Have suffered the loss of a body part, **or**
- Are terminally ill, **or**
- Are waiting to be discharged while being treated at a VA hospital or other military treatment facility, **or**
- Need to have a VA exam done in a foreign country (except if the exam can be requested by the overseas BDD office in either Landstuhl, Germany, or Yongsan, Korea), **or**
- Are pregnant, **or**
- Are waiting for us to determine your Character of Discharge, **or**
- Can't go to a VA exam during the 45-day period after you submit your claim, **or**
- Didn't submit copies of your treatment records for your current period of service, **or**
- Added a medical condition to your original claim when you had less than 90 days left on active duty (**Note:** We'll process the added conditions after your discharge.)

## **SPECIAL MONTHLY COMPENSATION (SMC)**

VA can pay more compensation to a Veteran who lost, or lost the use of, specific organs or body parts due to military service.

What is considered loss or loss of use? Loss, or loss of use, means amputation or no effective remaining function of an extremity or organ. VA considers the following disabilities for Special Monthly Compensation (SMC):

- Loss, or loss of use, of a hand or foot
- Immobility of a joint
- Paralysis
- Loss of sight of an eye (only seeing light)
- Loss, or loss of use, of a reproductive organ
- Complete loss, or loss of use, of both buttocks
- Deafness of both ears (no air and bone conduction)
- Inability to communicate by speech (complete organic aphonia)
- Loss of a percentage of tissue from a single breast, or both breasts, from mastectomy or radiation treatment

### **What if I have a combination of these disabilities?**

The VA will pay higher rates, in specific monetary increments, if you have more than one of these disabilities. For example, if you have loss, or loss of use, of your feet, legs, hands and arms, you will receive more compensation based on your specific combination of disabilities. There are also higher payments for various combinations of severe deafness with blindness in both eyes. You can receive more SMC if you are service-connected for paraplegia, with complete loss of bowel and bladder control. If you have other service-connected disabilities that, when combined with any of the above, meet certain criteria, you may also receive a higher amount of SMC.

### **Can VA Pay SMC for being bedridden, housebound, or in need of the aid and attendance of another person?**

If a Veteran is service-connected at the 100 percent rate, and meets one of the following criteria, additional SMC payment can be considered: • Housebound • Bedridden • Requires the aid and attendance of another person The amount of SMC varies depending on the level of disability.

# MILITARY SEXUAL TRAUMA (MST)

Some Veterans may have experienced sexual trauma while serving in the military. We understand these experiences can affect mental and physical health. These effects can continue for many years. You can apply for disability compensation for current difficulties. These conditions must be related to your service. This includes those related to MST. We have MST coordinators at all local regional benefit offices. They can help you through your claim. Visit <https://www.benefits.va.gov/benefits/mstcoordinators.asp> to locate one near you.

## **MST Definition:**

As indicated in Title 38 C.F.R. § 3.304(f)(5), MST is characterized as an in-service personal assault. MST may include:

- Psychological trauma resulting from a physical assault of a sexual nature
- Battery of a sexual nature
- Sexual harassment which occurred while the Veteran was serving on:
  - o Active duty
  - o Active duty for training
  - o Inactive duty training

## **Disability Compensation for MST**

Disability compensation is not given for MST. However, you can receive it for conditions that result from MST.

## **Posttraumatic Stress Disorder (PTSD) as a Result of MST**

It is possible to have PTSD and other mental health disorders after MST. Any trauma can result in these disorders. PTSD is the most common mental health diagnosis related to MST.

Disability Claim Evidence The following can support your MST claim:

- Department of Defense sexual assault or harassment reporting forms
- Investigative reports completed during military service

We know not all sexual trauma events are reported. PTSD claims related to MST require less evidence. We now look for “markers.” These may be signs, events or circumstances. These provide some clue the traumatic event happened. Some examples of markers are:

- Records from official sources
  - o Law enforcement
  - o Rape crisis centers
  - o Mental health counseling centers
  - o Hospitals
  - o Physicians
- Pregnancy tests

- Tests for sexually transmitted diseases
- Statements from others
  - o Family members
  - o Roommates
  - o Clergy members
  - o Fellow Service members
  - o Counselors
- Requests for transfer to another military duty assignment
- Decrease in work performance
- Substance abuse
- Episodes of the following without clear cause:
  - o Depression
  - o Panic attacks
  - o Anxiety
- Unexplained behavior (economic or social)
- Relationship issues, like divorce
- Sexual dysfunction

Call 800-827-1000 to speak with an MST coordinator.

- You can also email your local MST coordinator. Find email addresses at <http://www.benefits.va.gov/benefits/mstcoordinators.asp>.
- To learn more about MST-related treatment, visit <http://www.mentalhealth.va.gov/msthome.asp>.

## **INDIVIDUAL UNEMPLOYABILITY (TDIU)**

### **What is Individual Unemployability?**

Individual Unemployability (IU) is a unique part of VA's disability compensation program. It allows VA to pay certain Veterans compensation at the 100 percent rate, even though VA has not rated their service-connected disabilities at that level.

### **Who Is Eligible for Individual Unemployability?**

- You must be a Veteran.
- You must be unable to hold a job as a result of service-connected disabilities. This means maintaining substantially gainful employment. (VA considers odd jobs as marginal employment. They do not affect your eligibility for IU.)
- You must have either:
  - One disability that is rated at 60 percent or more
  - Multiple disabilities, with one disability rated at 40 percent or higher, and a total rating of 70 percent or more.

### **What Are the Evidence Requirements?**

- You must have evidence of at least one service-connected disability that meets the above scheduler requirements.
- You must prove the service-connected disability or disabilities alone prevent getting or keeping substantially gainful employment. This can be due to inability to perform either mental or physical tasks.

There are certain circumstances where this benefit may be granted with a lower disability rating than required. Evidence must show that applying the normal requirements is unreasonable. Examples that may be considered include major interference with employment and frequent hospitalizations. These are considered on a case by case bases.

- Submit VA Form 21-8940, "Veterans Application for Increased Compensation Based on Unemployability." Print a copy of this form at <https://www.vba.va.gov/pubs/forms/VBA-21-8940-ARE.pdf>

## TYPES OF SERVICE CONNECTION

When filing for service connection you are in since asking the VA for a specific disease, injury, or disability that resulted during or due to service. There are five main methods that are used to establish service connection: direct service connection, service connection through aggravation, presumptive service connection, secondary service connection, and service connection for injuries caused by VA health care.

Three things to remember for all service connection

1. Event in service
2. Current diagnosis
3. Medical link connecting the two

### **Direct Service Connection:**

This is the most common service connection. The veteran must show that he or she currently suffers from a disability that began in service. The veteran can also seek direct service connection by showing that he or she suffers from a chronic condition that began in service or that the veteran showed symptoms of, or was diagnosed with, a condition during service which developed into a current disability. The veteran would need a medical opinion from a doctor that states that it is at least as likely as not that the current disability is linked to service.

### **Aggravation:**

A veteran can be service connected for a preexisting condition that was noted when the veteran entered the service if the veteran can show that the condition worsened beyond its normal progression because of service.

### **Presumptive Service Connection:**

Service connection for presumptive is due to exposures that the VA has recognized to be associated with specific diseases. The veteran would have to show proof of service in the allotted time frame and or theater of operations i.e. Vietnam, Camp Lejeune, Gulf War.

### **Secondary Service Connection:**

Secondary service connection is when an already service-connected condition, causes another disability to occur. This is common with back issues and joints. If a veteran suffers from a back injury and due to the adjusted gait, it causes the knee condition the knee can be service connected as if service caused it. A medical opinion would be needed to support this claim.

### **Service Connection through VA health care:**

This type of service connection is when there has been an injury or aggravation to an injury caused by the VA hospitalization, VA medical surgery or treatment, a VA Exam, or VA Vocational Rehab. These are often referred to as 1151 claims.

# APPENDIX

# NOTES



## WEB SITE RESOURCES

Assistance for homeless Veterans <https://www.benefits.va.gov/persona/veteranhomeless.asp>.

Military Sexual Trauma: <http://www.benefits.va.gov/benefits/mstcoordinators.asp>.

<http://www.mentalhealth.va.gov/msthome.asp>.

VA Forms [https://www.va.gov/vaforms/search\\_action.asp](https://www.va.gov/vaforms/search_action.asp)

Veterans Affairs Fact Sheets: <https://benefits.va.gov/BENEFITS/factsheets.asp#BM2>

VA Disability Questionnaires [https://www.benefits.va.gov/compensation/dbq\\_disabilityexams.asp](https://www.benefits.va.gov/compensation/dbq_disabilityexams.asp)

Ohio.gov Veterans Services: <https://ohio.gov/wps/portal/gov/site/government/state->

[agencies/department-of-veterans-services](https://ohio.gov/wps/portal/gov/site/government/state-agencies/department-of-veterans-services)

Ohio Department of Veterans Services: <http://dvs.ohio.gov/main/benefits.html>

Ohio Means Jobs: <https://jobseeker.ohiomeansjobs.monster.com/>

Department of Ohio <https://www.ohiolegion.com/>

American Legion National <https://www.legion.org/>

Bergmann & Moore <https://www.vetlawyers.com/>

Center for Minority veterans <https://www.va.gov/centerforminorityveterans/>

Center for Women veterans <https://www.va.gov/womenvet/>

<https://www.benefits.va.gov/PERSONA/veteran-women.asp>

[https://www.cleveland.va.gov/services/Womens\\_Health.asp](https://www.cleveland.va.gov/services/Womens_Health.asp)

Compensation Rate Tables [https://www.benefits.va.gov/COMPENSATION/resources\\_comp01.asp](https://www.benefits.va.gov/COMPENSATION/resources_comp01.asp)

Disability Examination Worksheets Index, Comp

[https://www.benefits.va.gov/COMPENSATION/dbq\\_ListByDBQFormName.asp](https://www.benefits.va.gov/COMPENSATION/dbq_ListByDBQFormName.asp)

Emergency, Non-emergency, and Fee Basis Care <https://www.va.gov/communitycare/>

Environmental Agents <https://www.publichealth.va.gov/exposures/>

EVALUATION PROTOCOL FOR GULF WAR AND IRAQI FREEDOM VETERANS WITH POTENTIAL EXPOSURE TO DEPLETED URANIUM (DU) <http://montanadma.org/sites/default/files/ViewPublication.pdf>

[https://www.publichealth.va.gov/exposures/depleted\\_uranium/](https://www.publichealth.va.gov/exposures/depleted_uranium/)

Gulf War Veterans <https://www.publichealth.va.gov/exposures/gulfwar/medically-unexplained-illness.asp>

Homeless veterans <https://www.va.gov/homeless/>

Mental Health VA <https://www.mentalhealth.va.gov/>

VHA <https://www.va.gov/health/>

Agent Orange <https://www.va.gov/disability/eligibility/hazardous-materials-exposure/agent-orange/>

38 United States Code Available for review at local public or law libraries. For sale by the U. S. Government Printing Office. <https://www.nvlsp.org/>

## OTHER RESOURCES

**The American Legion Department of Ohio Veterans Affairs and Rehabilitation Office**  
**1240 E. 9<sup>th</sup> Street, Room 923**  
**Cleveland, OH. 44199**  
**Phone: 216-522-3504**  
**Fax: 216-357-5668**

Department Service Officers at this location  
William Genochio, VBA Coordinator, Office Supervisor, [genochio@ohiolegion.com](mailto:genochio@ohiolegion.com)

Will Brown, DSO, [brown@ohiolegion.com](mailto:brown@ohiolegion.com)

Michelle Jones, DSO, [jones@ohiolegion.com](mailto:jones@ohiolegion.com)

Eric Hall, DSO, [hall@ohiolegion.com](mailto:hall@ohiolegion.com)

**The American Legion Cincinnati VAMC: 3200 Vine Street, Room B148a, Cincinnati Ohio 45220**

Beth Garino: Phone: (513) 475-6440; FAX: (513) 475-6557 [bgarino@ohiolegion.com](mailto:bgarino@ohiolegion.com)

**The American Legion Dayton VAMC: 4100 W. Third Street, Room 1D-145e, Dayton, Ohio 45428**

Gary Felver: Phone: 937-268-6511 extension 2967, [gfelver@ohiolegion.com](mailto:gfelver@ohiolegion.com)

**The American Legion Cleveland VAMC: 10701 East Blvd, Room 1B-417, Cleveland Ohio 44106** Phone: (216) 791-3800 x64155 (Michelle Jones Mondays, Eric Hall Tuesdays, Will Brown Thursdays).

The American Legion Department of Ohio State Headquarters  
60 Big Run Rd  
Delaware, OH. 43015  
(P) 740-362-7478  
(F) 740-362-1429

The American Legion National Headquarters  
700 North Pennsylvania Street  
Indianapolis, IN  
(P) 317-630-1200

The Department of Veterans Affairs  
VA, Regional Office  
1240 E. 9<sup>th</sup> Street  
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