

Service Officer Guide



FULFILLING OUR PROMISES
TO THE MEN AND WOMEN WHO SERVED

Message from National Adjutant

Fellow Service Officer:

Throughout our history, DAV's main goal has been to provide the absolute best, most professional claims representation to all injured and ill veterans and their families and survivors. An integral part of that goal is fielding a knowledgeable, well-trained nationwide corps of Department and Chapter Service Officers who can extend our outreach to those who need our services.

That is why we have developed this especially designed Service Officer Guide to provide you with the knowledge you'll need to assist those veterans and dependents who seek our help. With the aid of this guide, you will learn about DAV's mission and programs, and VA benefits and services.

This DAV Service Officer Guide is a concise and valuable source of information concerning benefits available to veterans, their dependents, and survivors. It has been prepared by the National Service Staff for use to assist in establishing entitlement to monetary and other benefits administered by the Department of Veterans Affairs and other Federal agencies. Your cooperation with the National Service Officer helps our organization in fulfilling our responsibility to provide only the best and most professional service available to our members and clients.

Thank you for your dedication to DAV's mission and for all that you do to fulfill our promises to the men and women who have served and their dependents and survivors.



J. MARC BURGESS
National Adjutant

Message from National Service Director

Fellow Service Officer:

The recognition attained by DAV is in part due to your able efforts in providing the best service possible in order to fulfill our promises to the men and women who served. That's the principle that guided the management of the DAV's National Service Department as they prepared this Service Officer Guide for your use.

This call for the best we can provide – this uncompromised demand for excellence – has kept the DAV at the pinnacle of veterans' service for over 90 years. Throughout that long history, our organization's commitment to veterans has never wavered. And the DAV's professional staff pledges to you that its dedication will never diminish in the years ahead.

I know deep devotion to our mission moves in the hearts of the Chapter Service Officers, Department Service Officers and others who will rely on this guide. I thank you for that dedication to the men and women who have served in our armed forces, to their families, their widows, and their orphans. You are an essential part in a great mission. You can take pride in that, just as I take pride in you.

The recognition attained by the organization is in part due to your able efforts. My congratulations extend to all Chapter and Department Service Officers for a job well done.



JIM MARSZALEK
National Service Director

Contents

Chapter 1	Introduction to DAV
Chapter 2	Representation
Chapter 3	Service-Connected Disability Compensation
Chapter 4	Disability Pension
Chapter 5	Death Benefits
Chapter 6	Medical Benefits
Chapter 7	Education Benefits
Chapter 8	Life Insurance Programs
Chapter 9	Home Loans
Chapter 10	Appeals
Chapter 11	Military Affairs
Chapter 12	Miscellaneous
Appendix	Online Resources

DAV Mission Statement

We are dedicated to one single purpose: empowering veterans to lead high-quality lives with respect and dignity. We accomplish this by making sure veterans and their families can access the full range of benefits available to them, fighting for the interests of America's injured heroes on Capitol Hill and educating the public about the great sacrifices and needs of veterans transitioning back to civilian life.

This mission is carried forward by:

- ★ Providing free, professional assistance to veterans and their families in obtaining benefits and services earned through military service and provided by the Department of Veterans Affairs and other agencies of government;
- ★ Providing outreach concerning its program services to the American people generally, and to disabled veterans and their families specifically;
- ★ Representing the interests of disabled veterans, their families, their widowed spouses and their orphans before Congress, the White House and the Judicial Branch, as well as state and local government;
- ★ Extending the DAV's mission of hope into the communities where these veterans and their families live through a network of state-level Departments and local Chapters and
- ★ Providing a structure through which disabled veterans can express their compassion for their fellow veterans through a variety of volunteer programs.

DAV's Purpose

The purpose of DAV is to uphold and maintain the Constitution and the laws of the United States; to realize the true American ideals and aims for which those eligible to membership fought; to advance the interests and work for the betterment of all wounded, gassed, injured and disabled veterans; to cooperate with the United States Department of Veterans Affairs and all other public and private agencies devoted to the cause of improving and advancing the condition, health and interest of all wounded, gassed, injured and disabled veterans; to stimulate a feeling of mutual devotion, helpfulness and comradeship among all wounded, gassed, injured and disabled veterans; to serve our comrades, our communities and our country; and to encourage in all people that spirit of understanding which will guard against future wars.

DAV was chartered by Congress in 1932 to work for the physical, mental, social and economic rehabilitation of wounded and disabled veterans, and to obtain fair and to just compensation, adequate and sympathetic medical care, and suitable gainful employment for those war veterans who had been disabled in the service of their country.

Membership Eligibility

Any man or woman, who was wounded, gassed, injured or disabled in the line of duty during time of war, while in the service of either the military or naval forces of the United States of America, and who has not been dishonorably discharged or separated from such service,

or who may still be in active service in the armed forces of the United States of America is eligible for membership in DAV. Others, who are disabled while serving with any of the armed forces of any nations associated with the United States of America as allies during any of its war periods, who are American citizens and who are honorably discharged, are also eligible. DAV does not have honorary members.

Department and Chapter Service Officers

DAV Department and Chapter Service Officers provide one of the most important links in the organization. They are responsible for providing information about benefits available to veterans, their dependents and survivors.

The primary function of the Service Officer is to advise, instruct and counsel claimants and to provide assistance in the preparation of claims for various benefits to which claimants may be entitled. When an inquiry is taken or after an appropriate form is properly completed, such information is then forwarded to the National Service Office having jurisdiction.

A directory of DAV National Service Offices is located at:

www.dav.org/veterans/find-your-local-office/

DAV Outreach Programs

MOBILE SERVICE OFFICE (MSO) PROGRAM

The deployment of specially equipped MSOs allows NSOs to provide claims representation and advocacy services to veterans right in their respective communities.



Mobile Service Office

By putting our Service Officers on the road, assisting veterans where they live, DAV is increasing their accessibility to benefits. With 10 specially equipped MSOs visiting communities across the country, this outreach effort generates a considerable amount of claims work from those veterans who may not otherwise have the opportunity to seek assistance at our National Service Offices.

DISASTER RELIEF

The DAV Disaster Relief program provides help to eligible service connected veterans and their dependents who are recovering from the immediate effects of natural disasters.

Monetary relief is made available to these individuals to purchase food, clothing and temporary shelter or to obtain relief from injury, illness or personal loss from tornadoes, floods, hurricanes and other natural catastrophes not covered by insurance or other disaster relief agencies.

TRANSITION SERVICE OFFICER (TSO) PROGRAM

This program is designed specifically for military service members who are making the all-important transition back into civilian life. It allows DAV representatives to conduct or participate in pre-discharge transition assistance briefings, review service medical records and confer with Rating Specialists, physicians and other participants in the discharge process.

TSOs provide benefits presentations, review service medical records and assist transitioning service members with filing original claims for benefits at more than 75 military separation sites in the U.S.

DAV TRANSPORTATION PROGRAM

This program was initiated in response to the termination of Department of Veterans Affairs beneficiary travel benefits for veterans using VA medical centers. As a result, many of this nation's sickest, neediest veterans are unable to receive medical care they need.



Television coverage of DAV relief efforts following a devastating tornado.

In response, DAV designed its Transportation Network to operate as a fully integrated service within each VA medical facility using volunteers to provide transportation to veterans needing medical treatment. To accomplish this, a DAV Hospital Service Coordinator (HSC) is located at each of the VA's medical centers.



Information seminar being conducted at a community center.



DAV Transportation Network

INFORMATION SEMINARS

NSOs visit DAV Chapters and a variety of community centers to conduct information seminars for groups of veterans and their dependents. This allows NSOs to visit personally with veterans and their family members at the close of the presentations.

These programs enhance membership and help our efforts in public awareness, as well as ensure the claimants we represent receive every benefit that he and/or she is entitled to as a result of their honorable military service. Chapters who desire to have these information seminars should contact the supervisor of the National Service Office in their state.

Service Officer Purpose

DAV Department Service Officers and Chapter Service Officers provide one of the most important links in the organization. They are responsible for providing timely information about benefits that are available to veterans, their dependents and survivors.

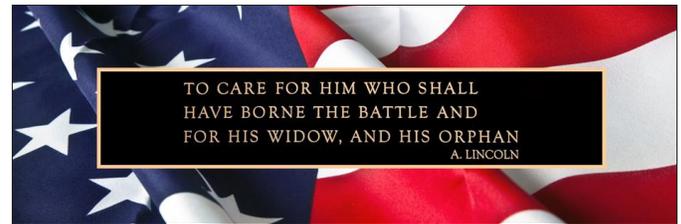
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Department and Chapter Service Officers must be certified annually by successful completion of required training under the supervision of the National Service Program. Contact the National Service Office in your area for additional information about the Certification Training Program.

NOTE:

All requests and applications for veterans' entitlements and benefits must be submitted to the DAV National Service Office, rather than being sent directly to the Department of Veterans Affairs.

THIS IS VERY IMPORTANT!



Power Of Attorney

DAV must have power of attorney (VA Form 21-22) in order to assist a veteran or claimant in connection with a Department of Veterans Affairs claim. Many veterans and/or claimants are not familiar with this procedure; nor do they know that DAV is in a position to assist them.

Our National Service Officers will be glad to review the case of any veteran, upon request, provided a power of attorney in favor of DAV is furnished. The Department of Veterans Affairs will not release a veteran's claims file for review purposes, or otherwise recognize DAV as the veteran's representative, unless we have a power of attorney signed by the claimant.

If the veteran has a guardian, the power of attorney must be signed by the guardian. When a veteran dies, the power of attorney is automatically revoked. Therefore, when you are filing a claim for a widow or dependents, a new power of attorney is needed from the claimant.

When filing a dual claim for both Dependency and Indemnity Compensation or death pension, as well as insurance benefits, it is necessary that two separate power of attorney forms be submitted with the claim; one for the death claim, and one for the insurance claim.

When filing for benefits on behalf of children over 18 years of age, who are eligible to receive benefits in their own right, it is necessary that a power of attorney, signed by the child, be submitted with the application for benefits.

The VA will accept a VA Form 21-22 for the release of information from insurance records where there is a claim for benefits under an insurance contract or a request for the release of information from the insurance records.

No fee or compensation of any nature will be charged anyone for services rendered in connection with any claim, under penalty of Law, 38 U.S.C. § 5905.

The power of attorney may be cancelled by the claimant or the service organization by written notice to the VA or by the execution of another power of attorney in favor of a different veterans service organization.

In 2012 the VA Form 21-22 was substantially changed. A copy of the form is on the next page. Significantly, the form now requires additional information from the National Service Officer submitting the form. When Department and Chapter Service Officers assist a claimant in filling out VA Form 21-22, blocks 3B, 3C and 17 should be left blank. They are for the use of the National Service Officer only.

Additionally, there must be no limitations imposed by the claimant, or DAV cannot access the complete record on a claim or appeal. Therefore, block 12 must be checked, and all blocks in section 13 must be left blank.

VA Claims and Forms

Service Officers may obtain VA claim forms online at the link below. VA procedures for filing claims, and the associated forms, have changed on several occasions in the recent past. It is important that Service Officers always obtain the most recent VA form whenever filing for benefits, because in most cases obsolete forms are invalid.

The links below also provide information helpful to Service Officers, including VA rate charts, fact sheets and benefit eligibility. They are provided as a supplement to the information contained in this guide so that the most current information may be accessed to help those who contact us for assistance.

DAV Web Site:

www.dav.org

DAV Facebook Page:

www.facebook.com/the.dav

VA Forms:

www.va.gov/vaforms/

VA Rate Charts:

benefits.va.gov/compensationrates-index.asp

VA Benefit Fact Sheets:

www.benefits.va.gov/benefits/factsheets.asp

Fully Developed Claims

The Fully Developed Claims (FDC) process is the fastest way of getting our clients' claims for compensation or pensions processed. Participation in the FDC process allows for timelier claims, so we strongly feel that utilizing this approach will provide our clients with greater quality of service and thorough representation.

VA Forms 21-526EZ, Fully Developed Claim (Compensation), 21-527EZ, Fully Developed Claim (Pension), and 21-534EZ Fully Developed Claim (DIC, Death Pension and/or Accrued Benefits) are the required application forms to participate in the FDC program, and are what make the program unique. These forms, which describe the evidence necessary to prove certain claims, fulfill the Duty to Notify requirements codified at 38 U.S.C. § 5103.

These three forms are collectively known as the "EZ forms". Veterans and survivors electing to participate in the FDC program must use the appropriate EZ form or electronic equivalent.

THE INFORMAL FDC PROCESS

Upon initial contact in which the VA Form 21-22 (POA) is received, an incomplete application (informal FDC) is filed to maintain the effective date for any possible future claims. Always initiate an informal FDC if development is needed. A formal FDC can be filed once all information is obtained and reviewed by an NSO within 12 months of the VA Regional Office receiving an informal FDC without losing the effective date.

The claimant has one year from the date the Informal FDC is submitted to VA to submit a

Formal FDC. It is imperative that no issues are listed within the memorandum. If the issues are specified within the Informal FDC, it will be considered a formal claim and will result in being adjudicated under the traditional process.

The language criteria that should be used on a DAV Memorandum and/or VAF 21-4138 for an Informal FDC must read in part:

"I intend to apply for compensation/pension benefits under the FDC program. This statement is to preserve my effective date for entitlement to benefits. I am in the process of assembling my claim package for submission. I also understand that I have one year to complete the claim or I will lose the effective date of claim."

Before a VA Form 21-526EZ, 21-527EZ, or 21-534EZ is submitted, all additional evidence and information that would have originally been acquired or requested through a traditional claims process is reviewed in depth by an NSO and then submitted as a complete application. This is important as it may allow for additional claims such as secondary issues to be filed while maintaining the effective date as the date of receipt the informal FDC was received.

Additional evidence and information includes, but is not limited to the following:

- Private treatment reports from non-VA facilities;
- Personal statements;
- Lay statements;
- Additional VA Forms;
- Medical opinions;
- Disability Benefits Questionnaires (DBQs).

Ensure that all clients understand the importance of attending all VA examinations and not submitting additional claims, as this

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- Private treatment reports from non-VA facilities;
- Personal statements;
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- Medical opinions;
- Disability Benefits Questionnaires (DBQs).

Ensure that all clients understand the importance of attending all VA examinations and not submitting additional claims, as this

will exclude them from the FDC process. Furthermore, ensure they understand that an FDC has to be completed in its entirety upon submission and they cannot provide additional information subsequent to formalizing the FDC as this will exclude the client from the FDC process.

FDC EVIDENCE EXAMPLES

Depending on the issue and the type of claim being filed, the following is a list of some examples of evidence to use to inform our clients of what is needed in order to establish a Fully Developed Claim:

- VA Form 21-526EZ, 21-527EZ, or 21-534EZ (Compensation, Pension, and Death Benefits)
- Disability Benefits Questionnaires if applicable. DBQs are valuable for claims processing because they provide medical information that is directly relevant to determining a disability rating. Submitting a DBQ with an FDC ensures that VA rating specialists have precisely the information they need to evaluate the claim.
- Identify VAMC treatment records on the EZ Form to include time frame. At times, the veteran may need to gather the VAMC records, as some cannot be retrieved electronically by the VA. An example of this would be treatment reports from local Vet Centers.
- All private treatment reports from non-VA facilities. If all private treatment reports are not submitted and VA is notified, the claim will be excluded from the FDC process.
- Any nexus statements or medical opinions.

When filing a formal fully developed claim, be advised:

- If another claim is currently pending and/or,
- if an appeal is pending, and the claim file is located at the Board of Veterans' Appeals;

Either of these reasons may exclude the claim from the FDC process.

- All National Guard and Reserve records that the VA would have to request from a unit.
- Ensure all additional VA Forms and additional documentation is included such as VA Form 21-686c, Marriage Certificate, Birth Certificates, VA Form 21-8940, etc.

NSO OFFICE COORDINATION

FDC claims are being decided by VA within shorter time frames than claims being adjudicated under the traditional system. This is primarily because the EZ forms contain mandatory information that VA usually has to mail to the claimant separately when a claim is received, and because a fully developed claim means VA does not have to acquire evidence other than VA medical records and VA examinations when needed.

It is extremely important that claimants be educated about FDC claims so that they do not take actions which will remove a submitted formal FDC claim from that process and place it into the traditional claims process.

- Claimants should only provide information to DAV, and not to VA.
- Claimants should not provide evidence to DAV in piecemeal fashion. They should obtain all evidence and then include it in a completed EZ form.
- Once the formal FDC claim is submitted, it is recommended that no additional evidence be submitted because this will automatically place the claim into the traditional process.
- Once the formal FDC claim is submitted, no other claim should be submitted because this will automatically place the first claim into the traditional process.

When in doubt, it is better to ask than to assume!

Contact the nearest DAV National Service Office if there are any questions about a Fully Developed Claim!

It is the duty of DSOs and CSOs to maintain close communication with the DAV National Service Office to ensure that the FDC process is utilized to greatest advantage, and that a properly developed claim is submitted for VA adjudication and rating actions.



Service-Connected Disability Compensation

ENTITLEMENT

In order to obtain compensation benefits, it must be ascertained the disability was incurred coincident with active military service in the Armed Forces; or if preexisting such service, was aggravated by military service. In some cases, where the military records do not prove the incurrence of a disability during service, service connection can still be granted if that particular disability meets the requirements as set forth in this guide dealing with presumption.

The proper form with which to make application is VA Form 21-526EZ. The Department of Veterans Affairs secures service records from the respective military service department to substantiate whether or not the disability has been recorded for the purpose of establishing service connection. Following this action the veteran will generally be examined by the VA to ascertain the present residual disability. If the application is filed more than one year following separation, in most cases, the VA may require

evidence supporting continuity of the disability from date of discharge. Prior to the grant of service connection, it must also be shown that the disability is not due to misconduct, and the veteran was discharged under conditions other than dishonorable.

Service connection can be granted for a disability at a rate less than 10%. At this rating, the veteran is not entitled to compensation. Compensation is the monthly payment made by the VA when it is shown that the service connected disability exists to a degree of 10% or more.

EVIDENCE

Evidence proving a service-connected disability can be a major problem. After the veteran has been discharged a few years, the situation becomes more difficult. That is why it is very important to file a claim as soon after discharge as possible.

If we are handling a veteran's claim, it is requested that **all evidence be submitted to the DAV National Service Office** for review and submission to the Department of Veterans Affairs. In any event, it is appropriate that the claimant's record be reviewed by a National Service Officer prior to reopening a claim that was previously denied.

1) *Medical Evidence*

When you are dealing with any chronic disease listed in this guide, service-connection may be granted upon the submission of a statement from a physician clearly describing complete symptomatology and clinical findings supporting a diagnosis which reflects disabling residuals. It is essential, particularly in cases filed many

years following discharge, that the doctor cites the date of onset and degree of disability in his statement supporting claims for service-connected disability benefits.

In some cases, service-connection will be granted because it is apparent that the physician clearly remembers the details. Other cases will be denied because the doctor is not positive with reference to either the dates or degree of disability. Doctor's statements should show the date of examination or treatment, and should furnish symptoms and findings as well as diagnosis.

Actual copies of the physician's dated clinical records supporting this statement are beneficial. Doctors statements should be dated, certified or notarized, signed and on office letterhead.

A physician can also provide evidence about the current status of a disability by completing the appropriate Disability Benefits Questionnaire (DBQ) for the veteran. DBQ's contain the exact information needed by a VA rating specialist to determine the current severity of a disability, and therefore may be used without the need to schedule the veteran for a VA examination.

2) Lay Evidence

Chronic Diseases: Service-connection for chronic diseases may be supported even without medical evidence. In such cases, lay persons making affidavits must be very positive with reference to dates, type of disability, etc. A lay affidavit is of little or no value for the purpose of establishing service-connection for a chronic disease, such as kidney trouble, tuberculosis, heart disease, etc.; in other words, where the particular disease is not apparent to a lay person. Lay affidavits are of considerable value

for veterans suffering with multiple sclerosis, arthritis or any disability apparent to the average person. For instance, with arthritis, it may be clearly noted that the veteran has a stiff knee, wrist or elbow. In multiple sclerosis, it might be observed that the veteran dragged his or her leg or that had a slurred speech or other symptoms peculiar to this disease.

Statements may be submitted in lieu of affidavits, provided it bears the following notation above the signature of the person who is making the statement:

"I hereby certify that the above statement is true to the best of my knowledge and belief."

It is much easier to secure this kind of statement than to have someone take the time to go before a notary public, and it is just as effective. The VA also has a convenient form for making certified statements of this nature, VA Form 21-4138 (Statement in Support of Claim).

A lay statement should disclose the approximate dates the person observed the veteran and the conditions under which the disability came to their attention. They should state in their own words exactly what was observed. Statements from employers are good, provided the employer will state exactly what was wrong with the veteran during the first year after military discharge.

Non-Chronic Diseases: When you are endeavoring to secure service-connection for disabilities other than chronic diseases listed in this guide, it is necessary that the statement be executed by persons with whom the veteran served. They should state where and when he and/or she observed the injury or disability. Usually, it is best to state they served in the same outfit.

If you are dealing with an injury, the person making the affidavit or statement should describe the injury in detail. If the person making the statement did not witness the actual injury, he and/or she should state when the disability came to their attention, and exactly how it affected the veteran. If the veteran continued with the military unit but was unable to perform all regular duties, a complete description of the facts should be provided.

All statements from persons with whom the veteran served should be written by the person making the statement, describing the situation exactly as if furnishing the information verbally. The person making the statement should also provide a complete address and service number.

Where a veteran is endeavoring to establish service-connection for a disability on the basis of statements from persons with whom they served, he and/or she should try to furnish at least two good descriptive statements. It should be borne in mind, however, that it is not the quantity of the statements but quality which is important.

Presumptive Conditions

Service-connection can be granted on the basis of presumption for chronic, tropical or prisoner-of-war related diseases; incurred during wartime and service on or after January 1, 1947.

Service-connection may be granted for the following chronic diseases, even though there may be no record of treatment in service, provided there is acceptable medical or lay evidence indicating that the condition had manifested

itself to a degree of at least 10% within one (1) year (unless otherwise noted) from date of discharge. If the application is received after one (1) year from release of active duty, evidence indicating continuity of symptoms and the present level of disability may be required.

CHRONIC DISEASES

- Anemia, primary
- Arteriosclerosis
- Arthritis
- Atrophy, progressive muscular
- Brain hemorrhage
- Brain thrombosis
- Bronchiectasis
- Calculi of the kidney, bladder, or gallbladder.

Cardiovascular-renal disease, including hypertension. (This term applies to combination involvement of the type of arteriosclerosis, nephritis, and organic heart disease, and since hypertension is an early symptom long preceding the development of those diseases in their more obvious forms, a disabling hypertension within the one-year period will be given the same benefit of service connection as any of the chronic diseases listed.)

- Cirrhosis of the liver
- Coccidioidomycosis
- Diabetes mellitus
- Encephalitis lethargica residuals
- Endocarditis (This term covers all forms of valvular heart disease.)
- Endocrinopathies
- Epilepsies
- Hansen's disease*
- Hodgkin's disease

- Leukemia
- Lupus erythematosus, systemic
- Myasthenia gravis
- Myelitis
- Myocarditis
- Nephritis
- Other organic diseases of the nervous system
- Osteitis deformans (Paget's disease)
- Osteomalacia
- Palsy, bulbar
- Paralysis agitans
- Psychoses
- Purpura idiopathic, hemorrhagic
- Raynaud's disease
- Sarcoidosis
- Scleroderma
- Sclerosis, amyotrophic lateral
- Sclerosis, multiple **
- Syringomyelia
- Thromboangiitis obliterans (Buerger's disease)
- Tuberculosis, active *
- Tumors, malignant, or of the brain or spinal cord or peripheral nerves.

Ulcers, peptic (gastric or duodenal) (A proper diagnosis of gastric or duodenal ulcer (peptic ulcer) is to be considered established if it represents a medically sound interpretation of sufficient clinical findings warranting such diagnosis and provides an adequate basis for a differential diagnosis from other conditions with like symptomatology; in short, where the preponderance of evidence indicates gastric or duodenal ulcer (peptic ulcer). Whenever possible, of course, laboratory findings should be used in corroboration of the clinical data.

* 3-year presumption

**7-year presumption

TROPICAL DISEASES

- Amebiasis
- Blackwater Fever
- Cholera
- Dracontiasis
- Dysentery
- Filariasis
- Leishmaniasis, including Kala-azar
- Loiasis
- Malaria
- Onchocerciasis
- Oroya fever
- Pinta
- Plague
- Schistosomiasis
- Yaws
- Yellow Fever

Resultant disorders or diseases originating because of therapy administered in connection with such diseases or as a preventative thereof.

Mental Disorders

In order to secure service-connection for a psychotic disorder where there is no record of treatment during military service, it must be shown that the disability manifested itself to a degree of 10% or more within one year following separation from service.

However, for the purpose of establishing service-connection for entitlement to hospitalization or medical treatment only, the presumption relating to psychosis is extended, for any veteran of World War II, the Korean

Conflict, Vietnam era or the Persian Gulf War who developed an active psychosis within two years after discharge or release from the active military, naval or air service, and before July 26, 1949, in the case of a veteran of World War II, or February 1, 1957, in the case of a veteran of the Korean Conflict, or before the expiration of two years following termination of the Vietnam-era in the case of a Vietnam-era veteran before the end of a two year period beginning on the last day of the Persian Gulf War, in the case of Persian Gulf Era veterans, date not yet established, shall be deemed to have incurred such disability in the active military, naval or air service.

There is no presumptive period for those mental disorders which are diagnosed as a neurosis. These conditions must be shown to have been incurred in or aggravated during active military service.

Post-traumatic stress disorders can manifest themselves in several ways, including intense feelings of loneliness, alienation or depression, alcohol or drug abuse, legal, marital or employment problems, high levels of unexplained anxiety, inability to maintain intimate relationships, distrust of the VA and other government institutions, and more.

It is not necessary for the veteran to have been diagnosed or treated for this condition while in the service. Two conditions must be met to qualify for treatment or compensation; (1) an exact diagnosis by a VA physician; and (2) a history of a life threatening situation which can include, but is not limited to, prisoner of war experiences during service in the armed forces. This experience must be consistent with the nature and circumstances of service and considered

by a VA medical examiner to be the precipitating cause of a traumatic stress disorder.

Former Prisoners-Of-War

Certain specified diseases related to dietary deficiencies, forced labor or inhumane treatment will be presumed to be service-connected for veterans who were prisoners of war for not less than 30 days by the Imperial Japanese government or the German government during World War II; North Korea during the Korean Conflict; governments of North Vietnam or the Viet Cong during the Vietnam era or the war with Iraq. The Veterans' Benefits and Services Act of 1988 provided the basis in redefinition of POW status. This permits the VA to decide POW status for an extended class of veterans.

The term "former prisoner-of-war" now means a person who, while serving in the active military, naval or air service, was forcibly detained or interned in the line of duty by an enemy or foreign government: the agents of either, or a hostile force.

The term "hostile force" means any entity other than an enemy or foreign government or the agents of either whose actions are taken to further or enhance anti-American military, political or economic objectives or views, or to attempt to embarrass the United States.

The diseases listed below must have become manifest to a degree of 10% or more at any time after service.

- Psychosis
- Any of the anxiety states
- Dysthymic disorder (or depressive neurosis)

- Organic residuals of frostbite, if it is determined that the veteran was interned in climatic conditions consistent with the occurrence of frostbite
- Post-traumatic osteoarthritis
- Atherosclerotic heart disease or hypertensive vascular disease (including hypertensive heart disease) and their complications (including myocardial infarction, congestive heart failure, arrhythmia)
- Stroke and its complications
- On or after October 10, 2008, Osteoporosis, if the Secretary determines that the veteran has post-traumatic stress disorder (PTSD)

If the veteran is a former prisoner of war and was interned or detained for not less than 30 days, the following diseases shall be service connected if manifest to a degree of ten percent or more at any time after discharge or release from active military service.

- Avitaminosis
- Beriberi (including beriberi heart disease)
- Chronic dysentery
- Helminthiasis
- Malnutrition (including optic atrophy associated with malnutrition)
- Pellagra
- Any other nutritional deficiency
- Irritable bowel syndrome
- Peptic ulcer disease
- Peripheral neuropathy, except where directly related to infectious causes
- Cirrhosis of the liver
- On or after September 28, 2009, Osteoporosis

Secondary and Aggravated Conditions

Disability which is proximately due to or the result of a service-connected disease or injury shall be service connected. When service-connection is thus established for a secondary condition, the secondary condition shall be considered a part of the original condition. When a non-service-connected condition is aggravated by a service-connected disability, the degree of aggravation will be service connected.

Ischemic heart disease or other cardiovascular disease developing in a veteran who has a service-connected amputation of one lower extremity at or above the knee or service-connected amputations of both lower extremities at or above the ankles, shall be held to be the proximate result of the service connected amputation or amputations.

Some veterans with traumatic brain injury (TBI) who are diagnosed with any of five other ailments may be eligible to receive additional compensation. Some veterans living with TBI who also have Parkinson's disease, certain types of dementia, depression, unprovoked seizures or certain diseases of the hypothalamus and pituitary glands may be eligible to have the conditions service-connected as secondary conditions.

In a veteran who has a service-connected TBI, the following five categories of conditions shall be held to be the proximate result of the service-connected TBI, in the absence of clear evidence to the contrary:

- Parkinsonism, including Parkinson's disease, following moderate or severe TBI;
- Unprovoked seizures following moderate or severe TBI;
- Dementias of the following types: presenile dementia of the Alzheimer type, frontotemporal dementia, and dementia with Lewy bodies, if manifest within 15 years following moderate or severe TBI;
- Depression if manifest within three years of moderate or severe TBI, or within 12 months of mild TBI;
- Diseases of hormone deficiency that result from hypothalamo-pituitary changes if manifest within 12 months of moderate or severe TBI.

Eligibility for these expanded TBI benefits will depend upon the severity of the TBI and the time between the injury causing the TBI and the onset of the second illness. However, veterans can still file a claim to establish direct service-connection for these ailments even if he and/or she do not meet the time and severity standards in the new regulation.

Disease Associated with Exposure to Certain Herbicide Agents

If a veteran was exposed to an herbicide agent during active military, naval or air service, the following diseases shall be service-connected even though there is no record of such disease during service.

The diseases listed shall have become manifested to a degree of 10% or more at any time after service, except for chloracne or other acneform diseases consistent with chloracne

and porphyria cutanea tarda which shall have become manifested to a degree of 10% or more within a year after the last date of which the veteran was exposed to an herbicide agent during active military, naval or air service.

- AL amyloidosis
- Chloracne or other acneform disease consistent with chloracne
- Type 2 diabetes (also known as Type II diabetes mellitus or adult-onset diabetes)
- Hodgkin's disease
- Ischemic heart disease (including, but not limited to, acute, subacute, and old myocardial infarction; atherosclerotic cardiovascular disease including coronary artery disease (including coronary spasm) and coronary bypass surgery; and stable, unstable and Prinzmetal's angina)
- All chronic B-cell leukemias (including, but not limited to, hairy-cell leukemia and chronic lymphocytic leukemia)
- Multiple myeloma
- Non-Hodgkin's lymphoma
- Parkinson's disease
- Early-onset peripheral neuropathy
- Porphyria cutanea tarda
- Prostate cancer
- Respiratory cancers (cancer of the lung, bronchus, larynx, or trachea)
- Soft-tissue sarcoma (other than osteosarcoma, chondrosarcoma, Kaposi's sarcoma, or mesothelioma).

Note 1: The term "soft-tissue sarcoma" includes the following:

- Adult fibrosarcoma
- Dermatofibrosarcoma protuberans
- Malignant fibrous histiocytoma

- Liposarcoma
- Leiomyosarcoma
- Epithelioid leiomyosarcoma (malignant leiomyoblastoma)
- Rhabdomyosarcoma
- Ectomesenchymoma
- Angiosarcoma (hemangiosarcoma and lymphangiosarcoma)
- Proliferating (systemic) angioendotheliomatosis
- Malignant glomus tumor
- Malignant hemangiopericytoma
- Synovial sarcoma (malignant synovioma)
- Malignant giant cell tumor of tendon sheath
- Malignant schwannoma, including malignant schwannoma with rhabdomyoblastic differentiation malignant Triton tumor), glandular and epithelioid malignant schwannomas
- Malignant mesenchymoma
- Malignant granular cell tumor
- Alveolar soft part sarcoma
- Epithelioid sarcoma
- Clear cell sarcoma of tendons and aponeuroses
- Extraskeletal Ewing's sarcoma
- Congenital and infantile fibrosarcoma
- Malignant ganglioneuroma

Note 2: The term ischemic heart disease does not include hypertension or peripheral manifestations of arteriosclerosis such as peripheral vascular disease or stroke, or any other condition that does not qualify within the generally accepted medical definition of ischemic heart disease.

Diseases associated with exposure to herbicide agents are subject to periodic review by the Institute of Medicine, and may result in additional presumptive conditions being added by VA. The most up-to-date information can be found at the following link:

www.publichealth.va.gov/exposures/agentorange/diseases.asp

Claims Based on Exposure to Ionizing Radiation

The term “radiation-exposed veteran” means a veteran who, while serving on active duty participated in a radiation-risk activity. There are many radiation risk activities and associated diseases listed in the VA regulations. All such cases encountered, should be referred to the nearest National Service Office for proper development due to the complexity of the law and the seriousness of the diseases associated with exposure to ionizing radiation.

Following is a list of diseases associated with exposure to ionizing radiation:

- Leukemia (other than chronic lymphocytic leukemia)
- Cancer of the thyroid
- Cancer of the breast
- Cancer of the pharynx
- Cancer of the esophagus
- Cancer of the stomach
- Cancer of the small intestine
- Cancer of the pancreas
- Multiple myeloma
- Lymphomas (except Hodgkin's disease)
- Cancer of the bile ducts
- Cancer of the gall bladder

- Primary liver cancer (except if cirrhosis or hepatitis B is indicated)
- Cancer of the salivary gland
- Cancer of the urinary tract
- Bronchiolo-alveolar carcinoma
- Cancer of the bone
- Cancer of the brain
- Cancer of the colon
- Cancer of the lung
- Cancer of the ovary

Note: The term “urinary tract” means the kidneys, renal pelves, ureters, urinary bladder, and urethra.

Claims Based on Exposure to Mustard Gas

Exposure to the specified vesicant agents during active military service under the circumstances described below together with the subsequent development of any of the indicated conditions is sufficient to establish service connection for that condition:

- Full-body exposure to nitrogen or sulfur mustard during active military service together with the subsequent development of chronic conjunctivitis, keratitis, corneal opacities, scar formation, or the following cancers: Nasopharyngeal; laryngeal; lung (except mesothelioma); or squamous cell carcinoma of the skin
- Full-body exposure to nitrogen or sulfur mustard or Lewisite during active military service together with the subsequent development of a chronic form of laryngitis, bronchitis, emphysema, asthma or chronic obstructive pulmonary disease

- Full-body exposure to nitrogen mustard during active military service together with the subsequent development of acute nonlymphocytic leukemia

All such cases encountered should be referred to the nearest National Service Office for proper development due to the complexity and seriousness of the disability involved.

Compensation for Certain Disabilities Occurring in Persian Gulf Veterans

VA will pay compensation for disability due to undiagnosed illness and medically unexplained chronic multi-symptom illnesses to a Persian Gulf veteran who exhibits objective indications of a qualifying chronic disability, provided that such disability:

- Became manifest either during active military, naval, or air service in the Southwest Asia theater of operations, or to a degree of 10% or more not later than December 31, 2016 *; and
- By history, physical examination, and laboratory tests cannot be attributed to any known clinical diagnosis.

* This date has been periodically revised by Congress.

UNDIAGNOSED ILLNESS

A qualifying chronic disability means a chronic disability resulting from any of the following (or any combination of the following):

- An undiagnosed illness;
- A medically unexplained chronic multi-symptom illness that is defined by a cluster of signs or symptoms, such as:

- Chronic fatigue syndrome;
- Fibromyalgia;
- Functional gastrointestinal disorders (excluding structural gastrointestinal diseases).

Functional gastrointestinal disorders are a group of conditions characterized by chronic or recurrent symptoms that are unexplained by any structural, endoscopic, laboratory, or other objective signs of injury or disease and may be related to any part of the gastrointestinal tract. Specific functional gastrointestinal disorders include, but are not limited to, irritable bowel syndrome, functional dyspepsia, functional vomiting, functional constipation, functional bloating, functional abdominal pain syndrome, and functional dysphagia.

These disorders are commonly characterized by symptoms including abdominal pain, substernal burning or pain, nausea, vomiting, altered bowel habits (including diarrhea, constipation), indigestion, bloating, postprandial fullness and painful or difficult swallowing.

Diagnosis of specific functional gastrointestinal disorders is made in accordance with established medical principles, which generally require symptom onset at least six months prior to diagnosis and the presence of symptoms sufficient to diagnose the specific disorder at least three months prior to diagnosis.

The term medically unexplained chronic multisymptom illness means a diagnosed illness without conclusive pathophysiology or etiology, that is characterized by overlapping symptoms and signs and has features such as fatigue, pain, disability out of proportion to physical findings and inconsistent demonstration

of laboratory abnormalities. Chronic multi-symptom illnesses of partially understood etiology and pathophysiology, such as diabetes and multiple sclerosis, will not be considered medically unexplained.

“Objective indications of chronic disability” include both “signs,” in the medical sense of objective evidence perceptible to an examining physician, and other, non-medical indicators that are capable of independent verification.

Disabilities that have existed for six months or more and disabilities that exhibit intermittent episodes of improvement and worsening over a six-month period will be considered chronic. The six-month period of chronicity will be measured from the earliest date on which the pertinent evidence establishes that the signs or symptoms of the disability first became manifest.

SIGNS OR SYMPTOMS

Signs or symptoms which may be manifestations of undiagnosed illness or medically unexplained chronic multi-symptom illness include, but are not limited to:

- Fatigue
- Signs or symptoms involving skin
- Headache
- Muscle pain
- Joint pain
- Neurological signs or symptoms
- Neuropsychological signs or symptoms
- Signs or symptoms involving the respiratory system (upper or lower)
- Sleep disturbances
- Gastrointestinal signs or symptoms
- Cardiovascular signs or symptoms

- Abnormal weight loss
- Menstrual disorders

PRESUMPTIVE SERVICE-CONNECTION FOR INFECTIOUS DISEASES

A disease listed in this section will be service connected if it becomes manifest in a veteran with a qualifying period of service.

- Brucellosis
- Campylobacter jejuni
- Coxiella burnetii (Q fever)
- Malaria
- Mycobacterium tuberculosis
- Nontyphoid Salmonella
- Shigella
- Visceral leishmaniasis
- West Nile virus

With three exceptions, the disease must have become manifest to a degree of 10% or more within one year from the date of separation from a qualifying period of service.

Malaria must have become manifest to a degree of 10% or more within one year from the date of separation from a qualifying period of service or at a time when standard or accepted treatises indicate that the incubation period commenced during a qualifying period of service. There is no time limit for visceral leishmaniasis or tuberculosis to have become manifest to a degree of 10% or more.

LONG-TERM HEALTH EFFECTS

A report of the Institute of Medicine of the National Academy of Sciences has identified numerous long-term health effects that potentially are associated with the infectious diseases listed above. If a veteran who has or

had an infectious disease also has a condition identified as potentially related to that infectious disease, VA must determine, based on the evidence in each case, if the other condition was caused by the infectious disease for purposes of paying disability compensation. This does not preclude a finding that other manifestations of disability or secondary conditions were caused by an infectious disease.

For additional online information visit:

benefits.va.gov/compensation/claims-postservice-gulfwar.asp

Special Monthly Compensation

In addition to the established rates of compensation for service-connected disabilities, some veterans may be entitled to additional monthly payments for loss or loss of use of limbs or certain body organs. These additional monthly payments are called Special Monthly Compensation (SMC) and increase in monetary amounts based upon the severity of the veteran's service-connected disabilities.

The categories of SMC are designated by the letters "K" through "T", which refer to the corresponding lettered paragraphs in 38 U.S.C. § 1114 which specifies the monthly compensation rates.

SMC K

The most common SMC awards are in the "K" category. SMC K is payable for service-connected loss or loss of use of one arm, one leg, one eye have only light perception, or both buttocks. The award is also payable for total

deafness in both ears due to absence of air and bone conduction, anatomical loss or loss of use of one or more creative organs, complete organic aphonia (inability to communicate by speech), or, in the case of a woman veteran, anatomical loss of 25 percent or more of tissue from a single breast or both breasts in combination, or radiation treatment of breast tissue.

HIGHER RATES OF SMC

Special monthly compensation rates are provided where there is disability resulting in the loss or loss of use of two or more limbs, blindness, and with the complication of service-connected deafness. If you come in contact with a veteran who has loss, or loss of use, of two limbs or blindness and deafness, we suggest you refer the case to your National Service Office for review.

With the loss or loss of use of three extremities, the veteran's disability evaluation will be elevated to the next higher rate without regard to whether that rate is statutory or intermediate rate. This higher rate will vary depending upon the basic entitlement rate.

Veterans who are receiving the maximum compensation for the severest types of disability, involving loss, or loss of use, of two or more limbs, may be entitled to additional special compensation. This additional payment is called aid and attendance allowance. (Example: Loss of use of lower extremities, plus complete loss of control of bladder and bowels.)

It is important to note that these service-connected severely disabled veterans are entitled to receive medications, invalid lifts, prosthetic devices or any type of therapeutic or

rehabilitative device necessary for their medical care and rehabilitation.

SMC T

In 2010 a new SMC "T" was added to section 1114. This additional monthly rate of compensation is payable if a veteran, as the result of service-connected disability, is in need of regular aid and attendance for the residuals of traumatic brain injury, is not eligible for compensation SMC(r)(2), and in the absence of such regular aid and attendance would require hospitalization, nursing home care or other residential institutional care. In this case, the veteran is paid a monthly aid and attendance allowance equal to the rate of SMC(r)(2).

Special Benefits for the Seriously Disabled

AUTOMOBILE ALLOWANCE AND ADAPTIVE EQUIPMENT

Veterans and servicemembers may be eligible for a one-time payment toward the purchase of an automobile or other conveyance if they have certain service-connected disabilities. The grant is paid directly to the seller of the automobile, and the servicemember or veteran may only receive the automobile grant once in their lifetime.

Qualifying individuals may also be eligible for adaptive equipment, which includes, but is not limited to, power steering, power brakes, power windows, power seats and any special equipment necessary to assist the eligible person into and out of the vehicle.

VA may provide financial assistance in purchasing adaptive equipment more than

once. This benefit is payable to either the seller or the veteran or servicemember.

Eligibility requirements to receive the one-time automobile:

- Must be either a servicemember still on active duty or an honorably discharged veteran, and;
- Must have one of the following disabilities that are either rated as service-connected or treated as if service-connected under the provisions of 38 C.F.R. § 1151:
- Loss, or permanent loss of use, of one or both feet, or
- Loss, or permanent loss of use, of one or both hands, or
- Permanent impairment of vision in both eyes resulting in vision of 20/200 or less in the better eye with glasses, or vision that is better than 20/200 if there is a severe defect in peripheral vision, or
- Severe burn injury with deep partial thickness or full thickness burns resulting in scar formation that cause contractures and limit motion of one or more extremities or the trunk and preclude effective operation of an automobile.

Eligibility requirements to receive adaptive equipment:

- Must be either a servicemember still on active duty or an honorably discharged veteran, and;
- Meet the disability requirements for the automobile grant, or
- Have ankylosis of one or both knees or hips that are either rated as service-connected or treated as if service-connected under the provisions of 38 C.F.R. § 1151.

SPECIALLY ADAPTED HOUSING

Seriously disabled veterans of any period of service, who cannot get about without the aid of wheelchairs, braces, crutches, canes or the like, may be entitled to a grant from VA for a home especially adapted to their needs. These veterans must be entitled to compensation for permanent and total service-connected disability for the loss, or loss of use, of both legs. Also entitled are those veterans whose permanent and total disabilities include blindness in both eyes, having only light perception, plus loss or loss of use of one lower extremity.

Important:

The veteran or servicemember must have prior VA approval before purchasing an automobile or adaptive equipment.

In addition to the above, entitlement may also be established on the basis of the loss or loss of use of one lower extremity, together with the residuals of organic disease or injury, or the loss or loss of use of one upper extremity, which so affect the functions of balance or propulsion as to preclude locomotion without the aid of braces, crutches, canes or wheelchair, so long as the disabilities are service-connected and permanent and total in nature.

Congress has changed the Specially Adapted Housing (SAH) program to provide for automatic annual increases in the maximum

grant amounts available to grant recipients. Mortgage Protection Life Insurance on specially adapted homes is available without a medical examination.

The changes result in a 6.3% increase for 2010 in the assistance available to eligible individuals. For Fiscal Year 2010, the aggregate amount of assistance available for the Paraplegic Housing grant increases from \$60,000 to \$63,780, and the aggregate amount of assistance available for the Adaptive Housing grant increases from \$12,000 to \$12,756. Mortgage Protection Life Insurance on specially adapted homes is available without a medical examination.

Normally, veterans obtain VA guaranteed loans to purchase homes in connection with specially adapted housing grants. If veterans are unable to find guaranteed loan financing, however, VA may make direct loans to supplement the grant.

Additional online information about Special Adaptive Housing and Home Adaptation Grants can be found at:

www.benefits.va.gov/homeloans/adaptedhousing.asp

CLOTHING ALLOWANCE

Any veteran who is entitled to receive compensation for a service-connected compensable disability for which they wear or use one or more prosthetic or orthopedic appliance, including a wheelchair, which the VA determines tends to wear out or tear clothing, may be entitled to an annual clothing allowance. Clothing allowance can also be paid to veterans who have a skin condition requiring use of medication which causes irreparable damages to outer garments.

Note:

For information about state and/or local property tax exemptions that may be available, contact the DAV National Service Office in your state.

Veterans who are seriously disabled by service-connected disabilities and require more than one prosthetic or orthopedic appliance, (including, but not limited to, a wheelchair), medication for more than one skin condition, or an appliance and a medication, which together tend to wear or tear clothing at an increased rate of damage may be eligible for two clothing allowances.

Clothing allowances are paid once per year, effective August 1 of each year.

Claims for Increased Evaluation

REOPENED CLAIMS

Any claim may be re-opened by submitting a doctor's statement listing definite symptoms and findings which indicate the service-connected disability has increased in severity. Caution should always be exercised however, to assure that the claim has been properly evaluated and that those benefits being paid are not placed in jeopardy.

In some instances, veterans send in statements requesting reexamination, which results in a decrease in their compensation rather than an increase. When the case is reopened for an increase in compensation, the VA has the

complete authority to determine if the original service-connection is proper. If they determine it is not, they may discontinue all payments.

If we are handling a veteran's case, we prefer to have the medical statement for reopening the claim sent directly to the DAV National Service Office, rather than to the VA. This gives us an opportunity to review the veteran's file, and if it does not appear advisable to submit the statement, or we feel the statement is inadequate for its intended purpose, we can request further medical evidence from the veteran. Once the doctor's statement has been forwarded directly to the VA, however, it cannot be removed from the veteran's records.

HOSPITALIZATION

A temporary 100% rating will be assigned when it is established that a service-connected disability has required hospitalization in a VA or approved hospital for a period in excess of 21 days or hospital observation at VA expense for a service-connected disability for a period in excess of 21 days. The 100% rating is to be effective from the first day of hospitalization continuing through the end of the month in which the hospitalization ends.

This temporary total rating may be extended for 30, 60 or 90 days following a regular discharge or release to non-bed care from the hospital, if the convalescence prevents employment after hospitalization. Extended periods of 30, 60 or 90 days beyond the initial three months may be made in exceptional cases.

The provisions of the 100% rating for hospitalization for service-connected disability apply both to hospitalization in a VA hospital

and to hospitalization in a private hospital when the private hospitalization has been authorized by the VA.

A veteran entering the hospital for a service-connected condition might not be entitled to the 100% rating if a non-service-connected disability for which a veteran is treated during hospitalization causes the hospitalization to extend beyond 21 days. By the same token, a veteran may enter the hospital for treatment of a non-service-connected condition and after entering the hospital, treatment or observation provided the service-connected condition requires a period in excess of 21 days.

CONVALESCENCE

A temporary 100% rating will be assigned from the date of hospital admission when treatment for a service-connected disability involves major surgery without regard to length of hospitalization. This rating will be continued for 30, 60 or 90 days following discharge from the hospital.

The temporary 100% rating can be further extended in multiples of 30 days for a total of 180 days should incapacity continue to preclude post-hospital employment. In exceptional cases, extended periods of one or more months up to six months, then totaling twelve months, may be granted.

A temporary 100% rating can also be assigned in cases of therapeutic immobilization of one or more major joints or application of a body cast whether accomplished on an inpatient or outpatient basis. A convalescent rating is also in order when a discharged patient is confined to their house or must use a wheelchair or crutches (regular weight-bearing prohibited).

INDIVIDUAL UNEMPLOYABILITY

Total disability ratings for compensation may be assigned, under certain criteria, when the disabled person is, in the judgment of the Rating Board, unable to secure or follow a substantially gainful occupation as a result of service-connected disabilities.

The basic eligibility requirement for this benefit is, in the case of only one service-connected condition it must be rated 60% or more; in the case of two or more service connected disabilities there shall be at least one rated 40% or more and sufficient additional disability combining to 70% or more. The application form for this benefit is VA Form 21-8940.

Compensation from Disability Resulting from Treatment or Vocational Rehabilitation

Where any veteran shall have suffered an injury or an aggravation of any injury, as the result of VA hospitalization, medical or surgical treatment or in the pursuit of a course of vocational rehabilitation under any of the laws administered by the VA, or as a result of having submitted to an examination under such law, and not the result of the veteran's own misconduct, and the injury results in additional disability or the death of the veteran due to malpractice or malfeasance, disability or Death Compensation or Dependency and Indemnity Compensation shall be awarded as if such disability or death were service-connected.

There are many factors involving the application of the laws concerning compensation awarded under these conditions, and such cases should be referred to the National Service Office for

consultation. This is especially significant regarding claims which may be based on medical malpractice or malfeasance, as Federal Tort Claims Act laws may also apply to these cases.

Protected Ratings**SERVICE CONNECTION**

Current law prohibits the severance of a service-connected disability which has been in effect for 10 or more years. This covers all service-connections other than those involving fraud or lack of basic eligibility with reference to character of discharge.

DISABILITY EVALUATION

Current law extends protection to a disability evaluation which has been continuously rated at or above any evaluation for 20 years or more, except in cases involving fraud. The protection is also extended to statutory awards which have been in effect for 20 or more years.

The basic protection is to prevent a reduction below a level of compensation or statutory award that has been received for 20 or more consecutive years. This will not prevent an individual from reopening his claim for increased benefits at any time when the evidence will substantiate an increase in the disability.

Effective Dates

Increases in compensation or pension based on marriage, the birth or adoption of a child shall be the date of such event if proof is received within

one year from the event by the VA. However, payment is effective the first day of the month following the effective date.

Reduction in compensation on the basis of death of a veteran's dependent, or a child marrying, if otherwise entitled, will be effective at the end of the month in which the change occurs.

Generally speaking, a claim for increase will become effective from the date of the claim, providing the evidence submitted in support of the claim reflects increased severity as of the day the claim is filed. Even if evidence is not submitted with the claim, one year is provided to submit evidence to complete the claim. In the case of disability compensation claims, compensation can be paid effective the date at which it is factually ascertainable that an increase in disability has occurred if a claim is received within one year from such date otherwise, date receipt of claim.

Benefits payable because of any new law will be payable from the effective date of the law. However, if application is made more than one year after the effective date of the law, benefits may be made retroactive only for one year.

Unless specifically provided otherwise in the regulations, the effective date of an award based on an original claim, a claim re-opened after final adjudication, or a claim for increase, of compensation, pension, or dependency and indemnity compensation, shall be fixed in accordance with the facts found, but shall not be earlier than the date of receipt of the application.

The effective date of an award of disability compensation to a veteran shall be the day following the date of discharge or release from military service if application is received within one year from such date of discharge or release.

The effective date of an award of increased compensation shall be the earliest date as of which it is ascertainable that an increase in disability had occurred, if the application is received within one year from such date.

Incarcerated Veterans

Any veteran entitled to compensation and who is incarcerated in a federal, state or local penal institution for a period in excess of 60 days for conviction of a felony shall not be paid compensation at the normal rate beginning on the 61st day of incarceration and ending on the day the incarceration ends.

If the veteran is rated at 20% or more, he or she will be paid only the 10% rate. If the veteran is rated at 10%, he or she will be paid one half the normal compensation rate.

All or part of the compensation not paid to an incarcerated veteran may be apportioned to the veteran's spouse, child or children and dependent parents on the basis of individual need. In determining individual need consideration is given to such factors as the apportionee claimant's income and living expenses, the amount of compensation available to be apportioned, the needs and living expenses of other apportionee claimants as well as any special needs, if any, of all apportionee claimants.

Compensation Rates

Compensation rates are periodically provided a cost of living adjustment (COLA) by Congress. Historically, the COLA adjustments have usually occurred effective December 1, to reflect issuance of the higher payments commencing January 1.

Current and historical rate tables for compensation, as well as other VA benefit program rates may be reviewed at:

www.benefits.va.gov/compensation/rates-index.asp

Nonservice-Connected Disability Pension

IMPROVED PENSION

The information provided in this guide is for the pension program veterans may currently apply for, which is known as “Improved Pension,” in effect since 1979. There are no more living veterans with wartime military service prior to World War II, so entitlement and eligibility requirements for earlier wartime periods are not included.

Be advised there are some veterans who still receive pension benefits under older programs such as “Old Law” and “Section 306.” Almost without exception, it will be to the veteran’s advantage to continue to receive benefits under the older pension program as long as he or she remains eligible to do so.

If a veteran elects to switch from an older pension program to Improved Pension, the change is not reversible, even if the new pension program results in a lower benefit. Therefore extreme caution must be taken, and such cases should be referred to the National Service Office for further review before any application is formally submitted to the VA.

ENTITLEMENT

Military service requirements are met for a non-service-connected pension if the veteran served:

- For 90 days or more during World War II, the Korean Conflict, the Vietnam era, or the Persian Gulf War; or

- Served less than 90 days during the above war periods and was discharged or released from service for a service-connected disability; or
- For a period of 90 consecutive days or more, part of which must have been during a period of war; or
- For an aggregate of 90 days or more in two or more separate periods of service during more than one period of war.

Generally, veterans who entered active duty on or after September 8, 1980, or officers who entered active duty on or after October 16, 1981, may have to meet a longer minimum period of active duty (24 months; see 38 C.F.R. § 3.12a for inclusions and exclusions).

The veteran must also be considered permanently and totally disabled and not exceed statutory income and net worth limitations.

WARTIME SERVICE

- World War II: December 7, 1941 – December 31, 1946.
- Korean Conflict: June 27, 1950 – January 31, 1955.
- Vietnam Era: August 5, 1964 (Feb. 28, 1961, for veterans who served “in country” before August 5, 1964) – May 7, 1975.
- Gulf War: August 2, 1990, through to a date to be set by law or Presidential Proclamation.

PERMANENT AND TOTAL DISABILITY

Accepting a non-service-connected pension as a benefit greater than service-connected

compensation does not jeopardize the veteran's service-connected status. It also follows that he or she does not give up the right to receive outpatient treatment and medication for a service-connected disability while receiving a non-service-connected pension.

It is impossible to state in advance whether or not a claim will be allowed under the Improved Pension law. This determination may be made only by the VA rating boards. If the veteran has wartime service, is unable to secure gainful employment and you feel that he/she may meet the required degree of disability, we suggest that a claim be filed.

A pension application can be submitted as a Fully Developed Claim (FDC) if the proper evidence is obtained to substantiate that the veteran is permanently and totally disabled, and that income and net worth do not exceed the amounts established under law. The VA Form to file a pension FDC claim is 21-527EZ.

EFFECTIVE DATES

The effective date of an award of disability pension will be the date of application or, the date the veteran becomes permanently and totally disabled, if the application is received within one year from the date of permanent and total disability, whichever is to the veteran's advantage.

20 YEAR PROTECTION

There is a protection afforded to a veteran who has been in receipt of pension for 20 years or more. Pension benefits which have been in effect for 20 years or more shall not be reduced, except in the case of fraud or excessive income.

HOUSEBOUND PENSION RATE

A veteran may qualify for a higher rate of pension if found to be permanently housebound. To qualify for housebound benefits, the veteran must have a permanent and total (rated 100%) disability as well as other disabilities independently evaluated at 60% or more, or be so severely disabled as to be housebound in fact.

AID AND ATTENDANCE RATE

A veteran who suffers severe disability may be entitled to additional benefits when there is demonstrated the need for the regular aid and attendance of another person. Such need exists when the veteran is unable to feed themselves, dress or undress themselves, or keep themselves ordinarily clean and presentable.

Eligibility may also be shown when the veteran is unable to attend to the wants of nature; or has an incapacity, physical or mental which requires care or assistance on a regular basis to protect the veteran from hazards or dangers incident to his or her daily environment. A veteran, who because of disability is permanently bedridden, will also meet the requirement for the aid and attendance benefit.

Veterans who are patients in a nursing home on account of a physical or mental incapacity will be considered in need of regular aid and attendance. Generally, however, the higher rate of pension for those in need of regular aid and attendance will be discontinued when hospitalization or nursing home care is at VA expense.

In general, a veteran meets the basic eligibility requirements for the aid and assistance level of pension if the veteran:

- Requires the aid of another person in order to perform activities of daily living, such as bathing, feeding, dressing, toileting, adjusting prosthetic devices, or be protected from the hazards of the daily environment; or,
- Is bedridden, in that disabilities require that the veteran remain in bed apart from any prescribed course of convalescence or treatment; or,
- Is a patient in a nursing home due to mental or physical incapacity; or,
- Has corrected visual acuity of 5/200 or less, in both eyes, or concentric contraction of the visual field to 5 degrees or less.

REDUCTION OF PENSION

Where any veteran, having neither spouse nor child, is being furnished domiciliary care or nursing home care by the Department of Veterans Affairs, no pension in excess of \$90 per month shall be paid to or for the veteran for any period after the end of the third full calendar month following the month of admission.

Pension benefits cannot be paid to a veteran who is confined to prison beyond 60 days as the result of a conviction for a felony or a misdemeanor. The pension in effect is suspended as of the 61st day of confinement, and is restored when the imprisonment ends, provided that the veteran is still entitled to receive the pension at that time. If the veteran has dependents, the VA may apportion all or part of that pension benefit to the dependents during the time the veteran is incarcerated.

Other than the payment of pension to dependents during hospitalization or imprisonment, there is generally no apportionment based on estrangement, unless an apportionment is filed for dependent children.

In unusual cases, where it can be demonstrated that such an apportionment would not place undue hardship on the veteran, but would cause undue hardship on the dependents if the apportionment were not made, the VA can effect a special apportionment of the veteran's pension.

CHANGES IN INCOME

It is necessary that the veteran keep the VA advised of any change in dependents or income, for not only is this a factor in continued entitlement to pension, it is also a factor in the amount of pension payable.

PENSION RATE CALCULATION

VA calculates annual pension by first determining for a veteran's particular circumstances the Maximum Annual Pension Rate (MAPR), an amount set by Congress. The MAPR changes periodically via cost of living increases.

In general, VA determines the veteran's countable income, by subtracting from the total income received in a particular 12-month period, the amount of those exclusions provided by law. VA then subtracts the countable income from the MAPR. The difference is the annual pension entitlement. VA divides this amount by 12 and rounds down to the nearest dollar, arriving at the approximate amount of monthly pension payment.

VA deducts certain expenses paid by the veteran such as unreimbursed medical expenses, from the annual household income, which decreases the countable income and increases the monthly pension payment.

A complete list of these exclusions is provided in 38 C.F.R. § 3.272. The regulations are available at the Government Printing Offices electronic CFR website: www.ecfr.gov/

As you might guess, calculation of pension rates and continuing eligibility based on itemizing deductible exclusions from a veteran's income can sometimes be a complicated matter.

Contact your DAV National Service Office if you have questions or need assistance.

AVOIDING PENSION SCAMS

The U.S. Senate Special Committee on Aging found that some organizations are misrepresenting themselves while assisting veterans in applying for VA pensions.

In a June 2012 hearing, the Committee addressed concerns that some organizations are marketing financial products and services that enable claimants whose assets exceed the VA pension program's financial eligibility thresholds to qualify for VA pension benefits.

The Committee also learned these organizations may charge substantial fees for products and services that may not always be in a claimant's best long-term interests.

The U.S. Government Accountability Office (GAO) has published the report, *Veterans' Pension Benefits: Improvements Needed to Ensure Only Qualified Veterans and Survivors Receive Benefits*, GAO-12-540.

GAO found that there are over 200 organizations that market financial and estate-planning services to help pension claimants with excess assets meet financial eligibility requirements for pension benefits. These organizations consist primarily of financial planners and attorneys who offer products such as annuities and trusts.

Some products and services provided, such as annuities, may not be suitable for elderly veterans because they may not have access to all their funds for their care within their expected lifetime without facing high withdrawal fees. These products and services may also result in ineligibility for Medicaid for a period of time.

Some organizations charged fees, ranging from a few hundred dollars for benefits counseling to \$10,000 for establishment of a trust.

Some individuals charge a pre-filing "consultation" fee to inform a veteran or survivor about VA benefits that may be available to them. In certain states, a license to practice law may be required to provide and charge a fee for such "consultations," which may be considered giving legal advice. Such "consultation" fees are unlawful if they are charged after a veteran or survivor becomes a VA claimant by expressing

to the attorney or agent intent to file a claim for VA benefits.

A “consultation” fee may not be tied to the outcome of a claim filed with VA if the attorney or agent provides any claims assistance – that is, an attorney or agent cannot agree to refund the fee if, after the attorney or agent assists with a VA claim, VA ultimately denies the claim. Such a fee would amount to an unlawful contingency fee or advance payment for assistance with an application for VA benefits.

Reminder:

As a VA-recognized veterans service organization, all DAV service officers, including accredited representatives, are not permitted to receive fees for their services in connection with any VA claim.

NOTES



Death Benefits

TYPES OF MONTHLY BENEFITS

There are basically two types of monthly death benefits payable to eligible dependents or survivors by the Department of Veterans Affairs. These are service-connected and non-service-connected monthly benefits. Both benefits are applied for by using VA Form 21-534EZ. Any entitlement to accrued benefits will also be reviewed using this form.

Non-service-connected death benefits are referred to as a death pension.

Service-connected death benefits are payable in two types:

- Death Compensation
- Dependency and Indemnity Compensation (DIC)

DEATH COMPENSATION

Death Compensation is a death benefit awarded to the surviving spouse, eligible child or children, and dependent parent or parents of a veteran who died prior to January 1, 1957, as the result

of injury or disease incurred in or aggravated by active military, naval or air service, in the line of duty.

You may find some cases where the surviving spouse, child or parent is still receiving Death Compensation. Each payee was given the opportunity to elect to receive benefits under the current law. Usually the payments are greater for the surviving spouse and children under DIC, but this is not always true for the parents.

Care must be exercised prior to making the change, as once an election has been made (first check negotiated), it may not be rescinded.

DEPENDENCY AND INDEMNITY COMPENSATION

DIC is a monthly benefit awarded to the surviving spouse, children or parents of any veteran who died on or after January 1, 1957, provided the veteran:

- Was discharged or released under conditions other than dishonorable from the period of active military, naval or air service in which the disability responsible for the veteran's death was incurred or aggravated; or
- Died while in the active military, naval, or air service.

RATES PAYABLE

DIC rates vary, depending upon when the veteran's death occurred. Rates payable to a surviving spouse for deaths occurring prior to January 1, 1993 are based on the military pay grade of the person upon whose death the entitlement is established.

For deaths on or after January 1, 1993, monthly DIC payments are the same for all claimants regardless of the veteran's pay grade during military service. If a veteran was rated totally disabled as a result of service-connected disabilities for at least eight continuous years preceding death, the surviving spouse is entitled to an additional monthly amount of DIC if they were married to the veteran for those same eight years. Current and historical DIC rate charts for surviving spouses, children and dependent parents are available at:

www.benefits.va.gov/compensation/rates-index.asp

MARRIAGE

DIC will generally be awarded to the surviving spouse of a veteran who died on or after January 1, 1957, if the spouse was married to the veteran at least one year or for any period of time if a child was born of the marriage, or was born to them before the marriage.

DIC entitlement is authorized to the survivors of veterans who suffered total service-connected disability for a continuous ten or more years before death, or five or more years continuously since discharge, if separated from the service for less than ten years. The surviving spouse must have been married to the veteran for at least one year immediately preceding the veteran's death. All 100% ratings including schedular, extra-schedular and those based on individual unemployability, will qualify a survivor for DIC entitlement, if all other criteria are met.

FORMER PRISONERS OF WAR

DIC is payable under 38 U.S.C. 1318 to survivors of veterans whose service-connected conditions were rated totally disabling for ten years or more immediately preceding the veteran's death. The law also authorizes payment of DIC to the survivors of former Prisoners of War who died after September 30, 1999, and who were rated totally disabled continuously for a period of not less than one year immediately preceding death for a service-connected disability.

RATES FOR DEPENDENT PARENTS

DIC for dependent parents is paid on a sliding scale based on their net countable income. In determining parents' income under DIC, there are numerous exclusions and deductible expenses that are taken into consideration in order to calculate the potential monthly amount payable. It is recommended that Department and Chapter Service Officers should refer dependent parents who need assistance with DIC payment calculation documentation to the DAV National Service Office of jurisdiction.

DEATH PENSION

Generally Death Pension claims should be filed within 45 days of the veteran's death if the claimant does not expect to receive any large lump sum payment.

Death Pension claims should be filed more than 45 days after the veteran's death if the claimant expects to receive any large lump sum payment such as life insurance.

Death pension is a monthly benefit awarded to a surviving spouse and to eligible children of veterans with honorable wartime service, and whose death was unrelated to service.

The monthly amount is regulated by income and will generally be awarded to a surviving spouse whose income is not excessive, and who was married to the veteran:

- One year or more prior to the veteran's death; or
- For any period of time if a child was born of the marriage, or was born to them before the marriage.

The military service requirements of the veteran for surviving dependents to receive death pension are the same wartime requirements non-service-connected pension benefits as noted in Chapter IV of this manual.

Surviving spouses, children, and dependent parents of peace-time veterans are NOT entitled to for non-service-connected death pension. If the veteran's death was the result of service-connected disability, these dependents would be entitled to DIC.

IMPROVED DEATH PENSION

The major provisions of the current pension law are explained in Chapter IV of this manual. Essentially, the program assures that VA death pension benefits will never be reduced solely as a result of cost-of-living increases in Social Security payments.

Therefore, increased death pension payments will be identical percentage rates and will become effective on the same date as Social Security increases rather than at the end of the year. This permits concurrent cost-of-living

increases in both pension and Social Security. Further explanation and information regarding income exclusions can be found in Chapter IV of this manual.

Reductions or discontinuances of VA pension by reason of change in a pensioner's income other than Social Security will occur on the last day of the month in which the increase became effective rather than at the end of the year. The program also provides for payments of pension less often than monthly payments if they are less than four percent of the basic rate for a veteran or widow alone.

Be advised there are some surviving spouses and children who still receive pension benefits under older programs such as "Old Law" and "Section 306." Almost without exception, it will be to their advantage to continue to receive benefits under the older death pension program as long as they remain eligible to do so.

If a dependent elects to switch from an older pension program to Improved Death Pension, the change is not reversible, even if the new pension program results in a lower benefit. Therefore extreme caution must be taken, and such cases should be referred to the National Service Office for further review before any application is formally submitted to the VA.

ACCRUED BENEFITS

Except as provided by law, periodic monetary benefits authorized by the Department of Veterans Affairs, to which a payee was entitled at the time of death, under existing ratings or decisions, or those based on evidence in the file at the date of death, and due and unpaid for a period not to exceed two (2) years prior to

the last date of entitlement and for the month before death will, upon the death of the veteran, be paid to as follows:

- Spouse
- Dependent child(ren)
- Dependent parents

In all other cases, only so much of the accrued benefit may be paid as may be necessary to reimburse the person who bore the expense of last sickness or burial. Application for accrued benefits must be filed within one year following death.

BURIAL BENEFITS

IMPORTANT FACT:

A claim for DIC is also a claim for death pension and accrued benefits. VA must review all of these programs for possible entitlement when it receives a timely application.

Benefits include burial allowance and/or plot and interment allowance. Eligibility for these benefits exists if the veteran:

Was entitled to compensation or pension at time of death, to include those who would have received compensation if retired pay had been waived;

Was discharged from military service because of disability;

Was institutionalized by VA at the time of death, such as properly admitted to a VA hospital, or nursing home including a community nursing home or domiciliary care at VA expense.

Basic burial allowance may be paid for reimbursement of the cost of the burial and funeral expenses in those cases where the veteran died of causes not related to military service. If a veteran dies due to a service-connected disability, a greater burial allowance plus transportation expenses may be paid in lieu of other burial expenses.

In addition to the basic burial allowance for non-service-connected deaths, a plot or interment allowance may be paid when a veteran is not buried in a National Cemetery or other cemetery under the jurisdiction of the United States.

If death occurs while a veteran is traveling under proper authorization and at VA expense, or during hospitalization treatment or care, the cost of transporting the remains to the place of burial may be authorized. VA may pay the cost of transporting the remains to the national cemetery nearest the veteran's last place of residence in which burial space is available, providing the veteran was entitled to service-connected disability compensation or died of a service-connected disability.

Application for VA burial benefits should be submitted on VA Form 21-530. Claims for reimbursement or direct payment of burial and funeral expenses, transportation of the body, and plot or interment allowance, must be received by VA within two years after the permanent burial or cremation of the body. Where the burial allowance was not payable at the death of the veteran because of the nature

of the discharge from service, but after death the discharge is corrected by competent authority so as to reflect a discharge under conditions other than dishonorable, a claim may be filed within two years from the date of correction.

When contributions or payments on the burial expenses have been made by a state, any agency of the United States or the employer of the deceased veteran, only the difference between the entire burial expenses and the amount paid by any of these agencies or organizations, not to exceed \$300, will be authorized.

Contributions or payments by any other public or private organizations such as a lodge, union, fraternal or beneficial organization, society, burial association or insurance company, will bar payment of the burial allowance if such allowance would revert to the funds of such organization or would discharge such organization's obligation without payment. The same holds true for the plot or interment allowance.

ALLOWANCE RATES:

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.

For current allowance rates visit:

www.cem.va.gov/

BURIAL FLAGS

The government will furnish a flag to drape the casket of each deceased veteran who:

- Was a veteran of any war, or of service after January 31, 1955;
- Served prior to June 27, 1950 for at least one enlistment;
- Had been discharged or released from active military, naval or air service for a disability incurred or aggravated in line of duty;
- Who died on active duty after May 27, 1941;
- Was discharged under conditions other than dishonorable.

These flags may be secured from the VA or a local post office. They are given to the next of kin after burial. Reimbursement will not be made for flags privately purchased by relatives, friends or other persons, nor will flags be issued to undertakers, organizations or individuals to replace flags loaned or donated by them. VA Form 60-2008 is used to apply for the flag.

A flag is also available to eligible survivors of servicemembers who died in service, but whose remains were lost at sea or, for some other reason, not recovered.

HEADSTONES AND MARKERS

Upon request the VA will furnish government headstones or markers at the expense of the United States for the unmarked grave of:

- Any individual buried in a post or National Cemetery;
- Any individual eligible for burial in a national cemetery who is not buried there.

- Any soldier of the Union and Confederate Armies of the Civil War;
- To commemorate any veteran who died while on active duty, and whose remains have not been recovered or were buried at sea;
- Any individual whose remains were donated to science; or,
- Whose remains were cremated and the ashes scattered without interment.

VA Form 40-1330 should be used in requesting a headstone or marker. The application may be submitted by any interested party and should be accompanied by a copy of the veteran's DD 214 or other separation document.

A replacement marker or headstone will be provided without charge if an error in the inscription is made by the contractor. If the error is a true representation of the information found on the application, the cost of replacement must be paid by the applicant.

Reimbursement up to \$137 (2009 rate) may be provided by VA for the purchase of non-governmental headstones or markers. Beginning in 2001 the nongovernmental headstone or marker reimbursement amount has received an annual adjustment in rate.

The VA cannot issue a headstone or marker for a spouse or dependent buried in a private cemetery.

NATIONAL CEMETERIES

Any veteran discharged under conditions other than dishonorable is entitled to burial in any open National Cemetery. Burial in any open national cemetery is also available to the following persons:

- Any reservist or ROTC cadet whose death occurs under honorable conditions, while undergoing treatment at the expense of the U.S. Government for injuries or disease contracted while acting within the scope of their authorized duties
- Any U.S. citizen who served in the Armed Forces of an allied government and such service terminated honorably
- Any member of the armed services who died on active duty
- Effective 1/19/88, all American Merchant Seamen who were on active ocean-going service during the period 12/7/41 through 8/15/45
- Members of the Women's Army Auxiliary Corps serving 90 days or more before 10/1/43, and discharged for service-connected disability
- The wife, surviving spouse, minor child, and in certain instances, the unmarried adult child of the above-mentioned persons
- Such other persons as may be designated by the Secretary of the Department of Veterans Affairs

If burial is desired in a national cemetery, arrangements should be made through the deceased veteran's undertaker, who, in turn, will make the necessary arrangements by wiring the superintendent of the nearest national cemetery, where the burial is to be made. The surviving spouse must assume the cost of having the veteran's body transported to the national Cemetery (except as indicated in this Chapter under "Burial Benefits").

No gravesite may be assigned to living veterans for burial in Arlington National Cemetery or any other national cemetery in advance of

immediate requirements. Applications may only be made at the time of death of the veteran or that of an eligible dependent.

Effective April 15, 1977, former members of the armed forces, whose last period of service terminated honorably and who were separated for physical disabilities (at least 30% under VA standards in effect at time of determination) prior to October 1, 1949, are eligible for burial in Arlington National Cemetery. Also eligible are veterans awarded the Silver Star, Distinguished Service Medal, Distinguished Service Cross, Navy Cross, Air Force Cross, Purple Heart or the Congressional Medal of Honor.

A 1997 law bars certain persons convicted of federal or state capital crimes, who are sentenced to death or life without parole from being buried or memorialized in one of the VA national cemeteries or in Arlington National Cemetery.

Arlington National Cemetery is under the jurisdiction of the U.S. Army. Eligibility for burials is more limited than at other national cemeteries. For information on Arlington burials, write to Superintendent, Arlington National Cemetery, Arlington, VA 22211; call 703-695-3250; or, visit:

www.arlingtoncemetery.mil/

CEMETERY LOCATIONS:

For a listing of Department of Veterans Affairs National Cemeteries and State Veterans Cemeteries, refer to:

www.cem.va.gov/cems/listcem.asp

PRESIDENTIAL MEMORIAL CERTIFICATES

The Presidential Memorial Certificate is a parchment certificate with a calligraphic inscription expressing the nation's grateful recognition of the veteran's service. The veteran's name is inscribed and the certificate bears the signature of the President and the Presidential Seal in gold foil.

This program was initiated in March 1962 by President John F. Kennedy and has been continued by all subsequent Presidents. Statutory authority for the program is Section 112, Title 38, of the United States Code. Eligible recipients include the next of kin and loved ones of honorably-discharged deceased veterans. More than one certificate may be provided.

Application to receive the certificate may be submitted on VA Form 40-0247.

GRATUITY PAY

To be eligible for gratuity pay, death must have occurred while on active duty, active duty for training, inactive duty training, or within 120 days after discharge from active duty or active duty for training, provided the cause of death was service-connected. In the case of active duty training, the gratuity is payable only if injury causing death was sustained during the training period.

On May 25, 2007, a new death gratuity beneficiary policy became effective that allows service members to designate up to 50 percent of their death gratuity to a person of the service member's choice. The balance of the death gratuity is paid to the servicemember's living survivors. The gratuity is paid automatically by the Department of Defense as soon as possible by the command to which the deceased was attached.

NOTES



Medical Benefits

The VA's nationwide health care system has expanded greatly over the past decade, with new locations being added to the system. The number of treatment sites now stands at more than 1,400, which makes providing a directory in this publication impractical. Additionally, VA has developed numerous Internet sites and telephone hotlines especially for veterans to access important information and services. At the end of this chapter we have provided a directory of important links and numbers for your use in providing up-to-date information to veterans and their families.

To ensure health care benefits are readily available to all enrolled veterans, VA determines eligibility for the comprehensive medical benefits package through a patient enrollment system, which is based on Priority Groups 1 through 8. Eligibility for VA health benefits is based on each veteran's unique eligibility factors.

Most veterans must be enrolled to receive VA health care. While some veterans are not

required to enroll due to their special eligibility status, all veterans, including those who have special eligibility, are encouraged to apply for enrollment. Enrollment in the VA health care system provides veterans with the assurance that their health care services will be available when and where they are needed during that enrollment period.

BASIC ELIGIBILITY

Veterans, who served in the active military, naval or air service and are separated under any condition other than dishonorable, may qualify for health care benefits. Also, current and former members of the Reserves or National Guard who were called to active duty (other than for training only) by a federal order and completed the full period for which they were called or ordered to active duty may be eligible for VA health care.

MINIMUM DUTY REQUIREMENTS

Most veterans who enlisted after September 7, 1980, or entered active duty after October 16, 1981, must have served 24 continuous months or the full period for which they were called to active duty to be eligible. This minimum duty requirement may not apply to veterans who were discharged for a disability incurred or aggravated in the line of duty, were discharged for a hardship, received an "early out," or those who served prior to September 7, 1980. Since there are a number of other exceptions to the minimum duty requirements, veterans are encouraged to apply so that VA may determine their enrollment eligibility.

ENROLLMENT PROCESS

Veterans may apply for VA health care benefits several ways:

- By completing an online application at: www.1010ez.med.va.gov/
- By completing an application in person at any VA medical facility
- By calling VA toll-free at 1-877-222-VETS (8387) to complete the application over the phone

If a veteran is eligible for more than one enrollment Priority Group, VA will always place him or her in the highest eligible Priority Group.

PRIORITY GROUPS

Based on eligibility status, veterans are assigned a Priority Group ranging from 1-8 with 1 being the highest priority for enrollment. Under the Medical Benefits Package, the same services are generally available to all enrolled veterans.

PRIORITY GROUP 1

- Veterans with service-connected disabilities rated 50% or more.
- Veterans assigned a total disability rating for compensation based on individual unemployability.

PRIORITY GROUP 2

- Veterans with service-connected disabilities rated 30% or 40%.

PRIORITY GROUP 3

- Former Prisoners of War.
- Veterans awarded the Purple Heart Medal.

- Veterans awarded the Medal of Honor.
- Veterans whose discharge was for a disability incurred or aggravated in the line of duty.
- Veterans with service-connected disabilities rated 10% or 20%.
- Veterans awarded special eligibility classification under 38 U.S.C. § 1151.

PRIORITY GROUP 4

- Veterans who are receiving increased VA compensation or pension based on the need for Aid and Attendance or by reason of being rated as permanently Housebound.
- Veterans who are determined to be “catastrophically disabled” (see page 3).

PRIORITY GROUP 5

- Nonservice-connected veterans, and service-connected veterans rated noncompensable (0%), whose annual income and/or net worth are not greater than VA financial thresholds.
- Veterans in receipt of VA Pension benefits.
- Veterans eligible for Medicaid benefits.

PRIORITY GROUP 6

- Compensable 0% service-connected veterans.
- Veterans exposed to ionizing radiation during atmospheric testing or during the occupation of Hiroshima and Nagasaki.
- Project 112/SHAD participants.
- Veterans who served in the Republic of Vietnam between January 9, 1962 and May 7, 1975.

- Veterans of the Persian Gulf War who served in the Southwest Asia theater of combat operations between August 2, 1990, and November 11, 1998.
- For five years after discharge, veterans who served in a theater of combat operations and are discharged from active duty on or after January 28, 2003.

PRIORITY GROUP 7

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

PRIORITY GROUP 8

Veterans with gross household incomes:

- Above the VA Means Test thresholds who were enrolled as of January 16, 2003 and who agreed to pay the applicable copayment; or
- Effective June 15, 2009, do not exceed the VA Means Test thresholds or GMT income thresholds by more than 10% and who agree to pay the applicable copayment.

CATASTROPHICALLY DISABLED VETERANS

Veterans may be determined to be catastrophically disabled by VA, defined as having a permanent, severely disabling injury, disorder, or disease that:

- Compromises the ability to carry out the activities of daily living to such a degree that there is a requirement for personal or mechanical assistance to leave home or bed; or

- Requires constant supervision to avoid physical harm to oneself or others.

Veterans found to be catastrophically disabled are enrolled in Priority Group 4, unless eligible for a higher Priority Group and exempt from inpatient, outpatient and medication copays.

COMBAT THEATER VETERANS

Veterans, including activated Reservists and members of the National Guard, who served on active duty in a theater of combat operations after November 11, 1998, and have been discharged under other than dishonorable conditions are defined as “Combat Veterans” by VA for enrollment purposes.

“Combat Veterans” are assigned to Priority Group 6, unless eligible for enrollment in a higher Priority Group, for a period of five years after discharge.

During this time, VA provides cost-free (no VA copayments) health care services and nursing home care for conditions potentially related to service in the theater of operations.

Veterans continue to be enrolled even after their “Combat Veteran” status has ended. At that time, VA reassesses the veteran’s eligibility and make a new enrollment Priority Group determination.

VA HEALTH REGISTRIES

VA maintains health registries related to environmental and occupational exposures of US Veterans during military service, including Operation Enduring Freedom/Operation Iraqi Freedom (OEF/OIF), Gulf War, Vietnam, World War II, and atomic test activities.

These registries include a free specialized and comprehensive health examination provided by a VA Environmental Health (EH) clinician.

VA and the Department of Defense established the Depleted Uranium (DU) Follow-up Program at the Baltimore VA Medical Center to screen and monitor veterans for health problems associated with exposure to depleted uranium.

The DU Follow-up Program involves:

- Detailed physical exams
- Clinical tests of organ systems function
- Recommendations for treatment, including surgical removal of embedded fragments

Visit the VA Environmental Agents Service (EAS) website at www.va.gov/environagents for links to newsletters covering related topics:

- Agent Orange Review
- Operations Iraqi Freedom and Enduring Freedom Review
- Gulf War Review
- Ionizing Radiation Review

NURSING HOME CARE

VA provides nursing home services to veterans through three national programs: VA owned and operated Community Living Centers (CLC), state veterans' homes owned and operated by the states, and the contract community nursing home program. Each program has admission and eligibility criteria specific to the program.

VA CLCs provide a dynamic array of short stay (less than 90 days) and long stay (91 days or more) services.

Short stay services include, but are not limited to, skilled nursing, respite care, rehabilitation, hospice, and maintenance care for veterans awaiting placement in the community. Short stay services are available for veterans who are enrolled in VA health care and require CLC services.

Long stay services are available for enrolled veterans who need nursing home care for life or for an extended period of time for a service-connected disability and those rated 60 percent service-connected and unemployable; or veterans or who have a 70 percent or greater service-connected disability. All others are based on available resources.

State veterans homes are owned and operated by the states. The states petition VA for grant dollars for a portion of the construction costs followed by a request for recognition as a state home. Once recognized, VA pays a portion of the per diem if the state meets VA standards. States establish eligibility criteria and determine services offered for short- and long-term care. Specialized services offered are dependent upon the capability of the home to render them.

VA medical centers establish contracts with community nursing homes. The purpose of this program is to meet the nursing home needs of veterans who require long-term nursing home care in their own community, close to their families and meet the enrollment and eligibility requirements.

The general criteria for nursing home placement in each of the three programs requires that

a resident must be medically stable, i.e. not acutely ill, have sufficient functional deficits to require inpatient nursing home care and is assessed by an appropriate medical provider to be in need of institutional nursing home care. Furthermore, the veteran must meet the specific eligibility criteria for community living center care or the contract nursing home program and the eligibility criteria for the specific state veterans home.

In addition to nursing home care, VA offers a variety of other long-term care services either directly or by contract with community-based agencies. Such services include adult day health care, respite care, geriatric evaluation and management, hospice and palliative care, home based skilled nursing and home based primary care. Veterans receiving these services may be subject to a copay.

OUTPATIENT DENTAL TREATMENT

VA outpatient dental treatment includes the full spectrum of diagnostic, surgical, restorative and preventive procedures. The extent of care provided may be influenced by eligibility category.

DENTAL CARE ELIGIBILITY

The following veterans are eligible to receive dental care:

- Veterans with service-connected, compensable dental conditions
- Former Prisoners of War
- Veterans with service-connected, non-compensable dental conditions as a result of combat wounds or service injuries

- Veterans with non-service-connected dental conditions determined by VA to be aggravating a service-connected medical problem
- Veterans whose service-connected disabilities have been rated at 100 percent or who are receiving the 100 percent rate by reason of individual unemployability.
- Veterans participating in a VA vocational rehabilitation program
- Certain veterans enrolled in a VA Homeless Program for 60 consecutive days or more may receive certain medically necessary outpatient dental services
- Those with non-service-connected dental conditions or disabilities for which treatment was begun while the veteran was in an inpatient status in a VA medical center, when it is clinically determined to be necessary to complete such dental treatment on an outpatient basis
- Veterans requiring treatment for dental conditions clinically determined to be complicating a medical condition that is currently under treatment

Recently discharged veterans with a service-connected noncompensable dental condition or disability who served on active duty 90 days or more and who apply for VA dental care within 180 days of separation from active duty, may receive one-time treatment for dental conditions if the dental condition is shown to have existed at the time of discharge or release and the veteran's certificate of discharge does not indicate that the veteran received necessary dental care within a 90-day period prior to discharge or

release. This includes veterans who reentered active military, naval or air service within 90 days after the date of a prior discharge and; veterans whose disqualifying discharge or release has been corrected by competent authority.

PURCHASED DENTAL PLANS

VA is partnering with Delta Dental and MetLife to allow eligible veterans, plus family members receiving care under the Civilian Health and Medical Program (CHAMPVA), to purchase affordable dental insurance.

Veterans who are enrolled in VA health care can choose to purchase one of the offered dental plans. This three-year pilot has been designed for veterans with no dental coverage, or those eligible for VA dental care who would like to purchase additional coverage. Participation will not affect entitlement to VA dental services and treatment.

There are no eligibility limitations based on service-connected disability rating or enrollment priority assignment. People interested in participating may complete an application online through either Delta Dental, www.deltadentalvadip.org, or MetLife, www.metlife.com/vadip.

Coverage for this new dental insurance began January 1, 2014, and is available throughout the United States and its territories.

Also eligible for the new benefits are spouses and dependent children who are reimbursed for most medical expenses under VA's CHAMPVA program.

Dental services under the new program vary by plan and include diagnostic, preventive,

surgical, emergency and restorative treatment. Enrollment in the VA Dental Insurance Plan (VADIP) is voluntary. Participants are responsible for all premiums, which range from \$8.65 to \$52.90 per month for individual plans. Copayments and other charges may apply.

For more information on VADIP, visit www.va.gov/healthbenefits/vadip.

PROSTHETIC SERVICES

Generally, all veterans enrolled in the VA health care system are eligible for all needed prosthetics, medical equipment and supplies. Certain veterans are eligible for needed prosthetics, medical equipment and supplies even though they are not enrolled.

The two most significant groups of veterans who do not need to be enrolled are:

1. Veterans needing prosthetics, medical equipment and supplies for a service-connected disability; and
2. Veterans with a service-connected disability rated at least 50 percent.

SPECIAL ELIGIBILITY FOR CHILDREN WITH SPINA BIFIDA

VA provides needed health care benefits, including prosthetics, medical equipment and supplies to certain children of Vietnam veterans, i.e., children who are suffering from spina bifida or a disability associated with such condition. For complete details on eligibility rules for such benefits, reference should be made to 38 C.F.R. §§ 17.900-17.905.

SPECIAL ELIGIBILITY FOR VETERANS PARTICIPATING IN VOCATIONAL REHABILITATION

Veterans participating in VA's vocational rehabilitation program may receive VA health care benefits including prosthetics, medical equipment and supplies. For complete details on eligibility rules for such benefits, reference should be made to 38 C.F.R. § 17.47(j).

LIMITATIONS ON BENEFITS AVAILABLE TO VETERANS OUTSIDE THE UNITED STATES

Veterans outside the United States are eligible for prosthetics, medical equipment and supplies only for a service-connected disability, except as otherwise provided in 38 U.S.C. § 1724.

REPAIR OR REPLACEMENT

Under certain conditions, the VA may provide repairs or replacement of VA issued or VA authorized prosthetic appliances. The VA may issue to veterans prosthetic service cards for limited repairs of their prosthetic appliances. The limitation of expenditures for the repairs is indicated on the card. Repairs in excess of the limitation indicated on the prosthetic service card must be approved by the VA prior to the repairs. Approval must be obtained by directly contacting the Prosthetic and Sensory Aids Services at a VA hospital.

PHARMACY SERVICES

Pharmacy services are provided free to:

- Veterans receiving medication for treatment of service-connected conditions;

- Veterans rated with 50% or more service-connected disability; and
- Veterans whose annual incomes do not exceed the maximum VA pension.

Non-service-connected veterans and veterans with a service-connected rate of less than 50% are charged a pharmacy co-payment for each 30-day supply.

VA will fill non-VA prescriptions for veterans who are in receipt of Aid and Attendance or Housebound benefits. These veterans may contact, or have their non-VA physician contact, their local VA facility's Pharmacy Service for more information.

Otherwise, VA is not authorized to fill prescriptions unless they are written by a VA provider. This ensures that VA is able to provide and track the complete medical care for all veteran patients. The total medication management for a prescription is the responsibility of the provider who writes that prescription.

If the veteran is receiving care from a non-VA physician, the VA providers need to know about all of the medications (prescription, over-the-counter and herbal supplements) being taken. The private provider must also be aware of the medical treatment and medications received from VA.

If a non-VA physician has prescribed a medication that is not on the VA National Formulary, the VA physician may elect to re-write that prescription for a formulary medication. If this switch is made, it is because the VA health care provider believes the formulary drug offers the best safety, effectiveness and overall value.

If the VA health care provider believes that the VA National Formulary medication should not be prescribed, an alternative will be sought. The VA health care provider may need to contact the non-VA physician to obtain access to medical documents that support using a non-formulary medication.

MENTAL HEALTH AND READJUSTMENT COUNSELING

VA provides specialty inpatient and outpatient mental health services at its medical centers and community-based outpatient clinics. Additionally, readjustment counseling services are available at Vet Centers across the nation. The goal is to support recovery and enable veterans who experience mental health problems to live meaningful lives in their communities and to achieve their full potential.

VA provides no-cost military sexual trauma counseling and referral. This includes appropriate care and services to overcome psychological trauma resulting from a physical assault or battery of a sexual nature or from sexual harassment that occurred while the veteran was on active duty or was on active duty for training.

Vet Center's provides individual, group, family, military sexual trauma, and bereavement counseling to combat veterans in the effort to make a satisfying transition from military to civilian life. Generally, veterans are eligible if they served on active duty in a combat theater.

Services include individual and group counseling, marital and family counseling for treatment of post-traumatic stress disorder or help with any other military related issue that

affects functioning within the family, work, school or other areas of everyday life. Other services include outreach, education, medical referral, homeless veteran services, employment, VA benefit referral and the brokering of non-VA services.

Bereavement Counseling is available through Vet Centers to all immediate family members (including spouses, children, parents and siblings) of servicemembers who die in the line of duty while on active service. This includes federally activated members of the National Guard and reserve components.

WOMEN VETERANS

Women veterans are eligible for the same VA benefits as male veterans. Services and benefits for women veterans are gender-sensitive, reflecting an understanding that women have unique health care needs. VA provides appropriate and timely medical care to any eligible woman veteran. In addition to routine medical care, VA medical facilities provide each woman veteran upon admission with a complete physical exam that includes a breast and pelvic examination. Preventive health care is emphasized that includes counseling, contraceptive services, menopause management, Pap smears and mammography. Referrals are made for services that are not available at a VA facility.

VA health care professionals can also provide counseling and treatment to help women overcome psychological trauma resulting from personal and sexual assault during military service.

To ensure privacy for women veterans, VA medical centers have made structural changes. Women Veterans' Coordinators are available at all VA facilities to assist women veterans seeking treatment and benefits.

FAMILY CAREGIVERS

VA's Family Caregivers Program provides support and assistance to caregivers of post 9/11 veterans and servicemembers being medically discharged. Eligible primary family caregivers can receive a stipend, training, mental health services, travel and lodging reimbursement, and access to health insurance if they are not already under a health care plan.

More information can be obtained from a Caregiver Support Coordinator at the nearest VA health care facility, by visiting www.caregiver.va.gov, or by calling 1-877-222-VETS (8387).

VA AND THE AFFORDABLE CARE ACT

The Affordable Care Act, also known as the health care law, was created to expand access to affordable health care coverage to all Americans, lower costs and improve quality and care coordination. Under the health care law, people will:

- Have health coverage that meets a minimum standard (called "minimum essential coverage");
- Qualify for an exemption; or
- Pay a fee when filing their taxes if they have affordable options but remain uninsured.

VA wants all veterans and their family members to receive health care that improves their health

VA has a digital downloads page where a comprehensive Health Care System Guide is available in PDF, ePub and Mobi formats. This guide is designed to provide veterans and their families with the information they need to understand VA's health care systems, including the use of the MyHealthVet online service.

www.va.gov/healthbenefits/resources/epublications.asp

and wellbeing. Family members are a key part of veterans' good health and support network.

Veterans' families deserve to know their health care options under the new law so they can make informed choices, as a family.

Veterans' family members who already receive health care coverage—through their employers, TRICARE or certain VA programs—don't need to take additional steps to meet the health care law coverage standards.

Veterans' family members who do not have coverage that meets the health care law's standard should consider their options through the Health Insurance Marketplace.

- Starting October 1, 2013, veterans' family members can submit an application for health care coverage through the Marketplace and learn the amount of assistance for which they are eligible.
- Veterans' family members may get lower costs on monthly premiums or out-of-pocket costs. They could be eligible

for free or low-cost coverage through Medicaid or the Children's Health Insurance Program.

- Family members of veterans who are enrolled in VA may be eligible to receive tax credits in the health insurance Marketplace.

For more information about VA and the Affordable Care Act, visit www.va.gov/aca or call 1-877-222-VETS (8387) Monday through Friday from 8 a.m. until 10 p.m. and Saturday from 11 a.m. until 3 p.m. Eastern. For more information about the Marketplace, visit www.healthcare.gov or call 1-800-318-2596.

TELEPHONE HOTLINES

VA Health Care Enrollment

1-877-222-VETS (8387)

Veterans Crisis Line

1-800-273-TALK (8255), Press 1

National Call Center for Homeless Veterans

1-877-424-3838

Foreign Medical Program

1-877-345-8179

Health Care Coverage for Eligible Dependents of Veterans (CHAMPVA)

1-800-733-VETS (8387)

ONLINE SERVICES

VA Health Care Facility Locations

www2.va.gov/directory/guide/home.asp

VA Health Care Main Site

www.va.gov/healthbenefits/

Online VA Health Care Application

www.1010ez.med.va.gov/

Family Caregivers Program

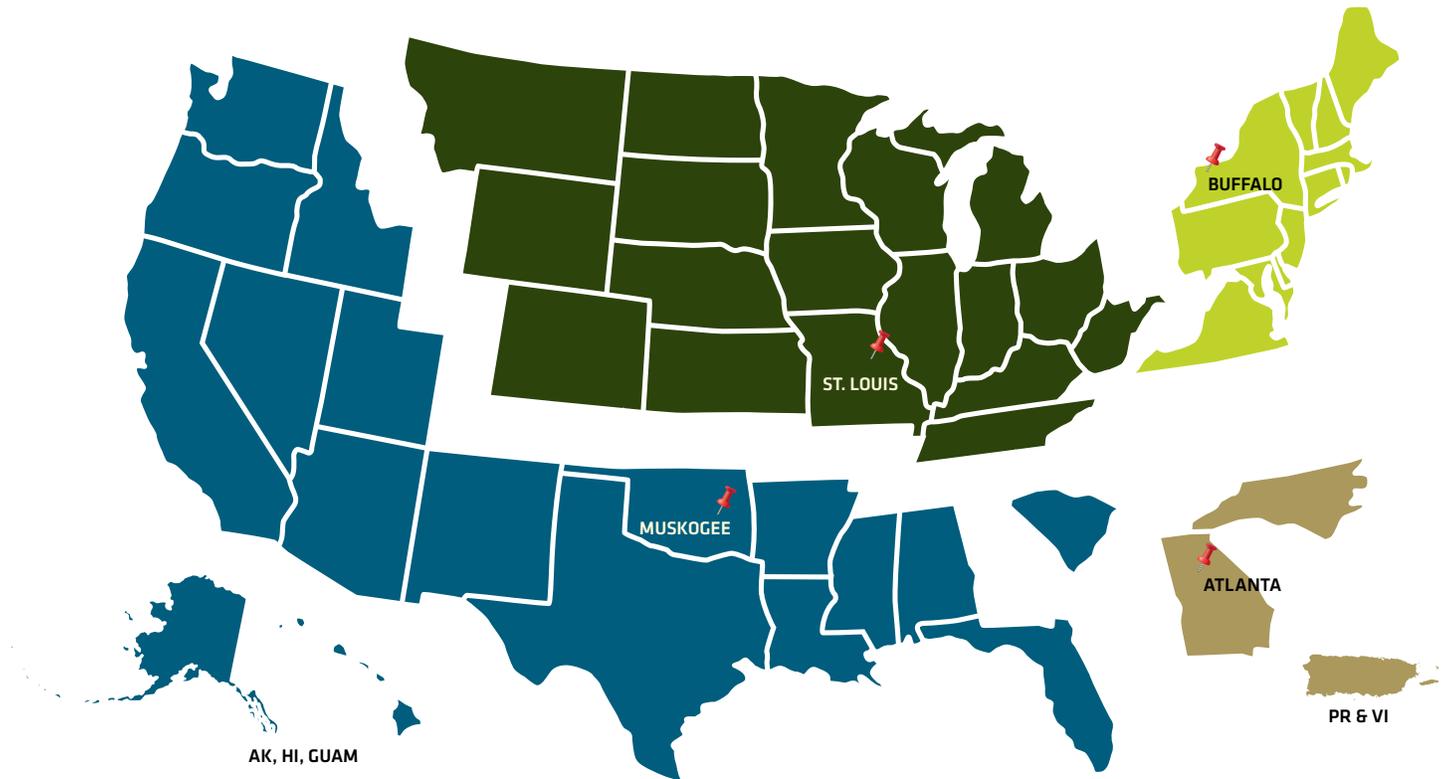
www.caregiver.va.gov/

My HealthVet Healthy Living Center

www.myhealth.va.gov

EDUCATION BENEFITS

The delivery of most VA education benefits is consolidated into four Regional Processing Offices listed below. Each of these offices administers education benefits for states within their jurisdiction, based upon the physical location of the school and not necessarily upon the location of the claimant.



Regional Processing Offices

Buffalo RPO Jurisdiction
P.O. Box 4616
Buffalo, NY 14240-4616

- Connecticut
- Delaware
- District of Columbia
- Maine
- Maryland
- Massachusetts
- New Hampshire
- New Jersey
- New York
- Pennsylvania
- Rhode Island
- Vermont
- Virginia
- Foreign Schools

**Atlanta RPO Jurisdiction
P.O. Box 100022
Decatur, GA 30031-7022**

- Georgia
- North Carolina
- Puerto Rico
- US Virgin Islands

**St. Louis RPO Jurisdiction
P.O. Box 66830
St. Louis, MO 63166-6830**

- Colorado
- Illinois
- Indiana
- Iowa
- Kansas
- Kentucky
- Michigan
- Minnesota
- Missouri
- Montana
- Nebraska
- North Dakota
- Ohio
- South Dakota
- Tennessee
- Wisconsin
- West Virginia
- Wyoming

**Muskogee RPO Jurisdiction
P.O. Box 8888
Muskogee, OK 74402-8888**

- Alabama
- Alaska
- Arizona
- Arkansas
- California
- Florida
- Hawaii
- Idaho
- Louisiana
- Mississippi
- New Mexico
- Nevada
- Oklahoma
- Oregon
- South Carolina
- Texas
- Utah
- Washington
- Trust Territories/
Philippines

The Post 9/11 GI Bill



ELIGIBILITY

Eligible individuals include those who serve on active duty at least 90 aggregate days beginning on or after September 11, 2001, or individuals discharged with a service-connected disability after 30 days of continuous service. (Discharged individuals must have received an honorable discharge to be eligible, or have a discharge or release for a medical condition Existing Prior to Service, Hardship, or Condition Interfering with Duty.)

Active-duty service time required by graduates of a service academy or ROTC does not count toward the three years necessary to qualify for full benefits.

For those who serve fewer than 36 months, the percentage of benefit ranges from 40% to 90%:

- 90% – 30 total months (including service on active duty in entry level and skill training)
- 80% – 24 total months (including service on active duty in entry level and skill training)

- 70% – 18 total months (excluding service on active duty in entry level and skill training)
- 60% – 12 total months (excluding service on active duty in entry level and skill training)
- 50% – 6 total months (excluding service on active duty in entry level and skill training)
- 40% – 90 or more days (excluding service on active duty in entry level and skill training)

If an individual is eligible for the Post 9/11 GI Bill as well as other GI Bill benefits, the veteran will be required to make an irrevocable choice of which benefit to receive.

Individuals who were previously eligible for the Montgomery GI Bill-Active Duty (MGIB-AD, Chapter 30), Montgomery GI Bill-Selected Reserve (MGIB-SR, Chapter 1606), or the Reserve Educational Assistance Program (REAP, Chapter 1607) may continue to receive benefits for approved programs not offered by degree-granting institutions.

These programs include flight, correspondence, apprenticeship/on-the-job training, preparatory courses, and national tests. Individuals in these programs will be paid as if they are still receiving benefits under Chapters 30, 1606, and 1607.

For those individuals who are eligible for other VA education programs and elect the Post-9/11 GI Bill, other training programs (such as on-the-job training, apprenticeship training, flight training and non-college degree courses) may be covered at the same rate as the benefit the individual gave up, such as the Montgomery GI Bill and the Reserve Education Assistance Program.

The period of eligibility for the Post 9/11 GI Bill ends 15 years from the date of the last discharge or release from active duty of at least:

- 90 consecutive days, or 30 days but less than 90 days if released for a service-connected disability; or,
- 15 years from the date of discharge for the last period of service used to meet the minimum service requirements of 90 aggregate days of service.

PAYMENT OF BENEFITS

Under the Post-9/11 GI Bill, tuition and fees are paid directly to the school, not to exceed the maximum in-state undergraduate tuition and fees at a public Institution of Higher Learning.

A monthly housing allowance is paid to the student, equal to the Basic Allowance for Housing for an E-5 with dependents and the zip code for the location of the school. Individuals on active duty or who are enrolled exclusively in online training will not receive the housing allowance.

An annual books and supplies stipend is paid to the student, up to \$1,000, paid proportionately based on enrollment. Individuals on active duty do not receive a books and supplies stipend.

A one-time rural benefit payment of \$500.00 may be provided to individuals who reside in a county with six persons or fewer per square mile (as determined by the most recent decennial census), and who either physically relocate at least 500 miles to attend an educational institution, or who relocate by air to attend an educational institution (if no other land-based transportation exists.)

TRANSFER OF ENTITLEMENT

The Post-9/11 GI Bill allows servicemembers (officer or enlisted, active duty or Selected Reserve), on or after August 1, 2009, to transfer unused education benefits to immediate family members (spouse and children). The service member must have at least six years of service, and commit to an additional four years of service in order to transfer benefits to a spouse or child. Because of the potential impact of this benefit on recruiting and retention, transferability policy is determined by the Department of Defense and the military services.

A family member must be enrolled in the Defense Eligibility Enrollment Reporting System and be eligible for benefits, at the time of transfer to receive transferred educational benefits.

An eligible servicemember may transfer up to the total months of unused Post-9/11 GI Bill benefits, or the entire 36 months if the member has used none.



YELLOW RIBBON GI EDUCATION ENHANCEMENT PROGRAM

The Yellow Ribbon GI Education Enhancement Program is a provision of the Post-9/11 Veterans Educational Assistance Act of 2008. This program allows institutions of higher learning (degree-granting institutions) in the United States to enter voluntarily into an agreement with

VA to fund tuition and fee expenses that exceed the highest public in-state undergraduate tuition rate. The institution can contribute a specified dollar amount of those expenses and VA will match the same amount as the institution not to exceed 50% of the difference.

MARINE GUNNERY SERGEANT JOHN DAVID FRY SCHOLARSHIP

Public Law 111-32, the Marine Gunnery Sergeant John David Fry Scholarship, amended the Post-9/11 GI Bill to include the children of servicemembers who die in the line of duty after September 10, 2001. The benefit became effective August 1, 2009, the same day the Post-9/11 GI Bill took effect. Eligible children attending school may receive up to the highest public, in-state undergraduate tuition and fees, plus a monthly living stipend and book allowance under this program.

Vocational Rehabilitation (Chapter 31)

The term vocational rehabilitation means training (including educational and vocational counseling, all appropriate individualized tutorial assistance, and other necessary incidental services) for the purpose of restoring employability, or to achieve maximum independence in daily living to the extent consistent with the degree of disablement, lost by virtue of a handicap due to service-connected disability.

VOCATIONAL REHABILITATION ELIGIBILITY

Veterans who serve in the Armed Forces may be eligible for vocational rehabilitation if all of the following are met:

1. They suffered a service-connected disability in active service, which entitles them to 10% compensation, or would, but for the receipt of retirement pay. The disability must be a serious employment handicap.
2. They are discharged or released under other than dishonorable conditions.
3. The VA determines that they need vocational rehabilitation to overcome the handicap of their disabilities.

Vocational rehabilitation is generally limited to 48 months and may not be afforded to a veteran after 12 years following release from active duty unless it is determined by VA that an extension is necessary to overcome the handicap imposed by a service-connected disability. An extension may be granted when it is shown that the veteran was too seriously disabled to begin training within the period of eligibility, or where the character of discharge was changed to one under conditions other than dishonorable or when the veteran's service-connected disability increases in severity after the termination date.

Extension may also be granted in the case of a blind or other seriously disabled veteran not previously rehabilitated, or if rehabilitated, the service-connected disability has increased in severity to the extent that the veteran is now precluded from performing the duties of the occupation for which he or she was previously trained.

REHABILITATION PLANNING

An initial evaluation will be provided each disabled veteran who has basic eligibility for vocational rehabilitation and applies for training. Once entitlement to vocational rehabilitation training has been established, an individualized plan will be developed. Rehabilitation planning will include not only those services needed to improve the veteran's ability to function in employment, but also in his or her family and community.

An individual written rehabilitation plan, jointly developed by the VA and the veteran, is the means through which the goals of most rehabilitation programs are developed and designates the means and the time by which these goals will be achieved. In addition to the 48 months of training, the VA may provide job placement and adjustment services for up to 18 months.

TYPES OF TRAINING

Eligible veterans may enroll in schools or colleges; train on the job; take institutional on-farm training or enter other programs, which combine school and job training. Specialized courses such as restorative training, sheltered workshop, correspondence or training in the home are available when disability imposes limitation on travel to and from a suitable training facility.

A veteran, once placed into training, will ordinarily be expected to pursue his or her training program to completion without changing the employment objective. Change of employment objective may be approved when it is determined that continuance in training for the present objectives will result in failure to accomplish vocational rehabilitation for

reasons not within the veteran's control, or the new employment objective is more in keeping with the interests and aptitudes of the veteran, or for other justifiable reasons.

SUBSISTENCE ALLOWANCE

While pursuing a course of vocational rehabilitation training and for two months after the veteran's employability is determined, each veteran will be paid a monthly subsistence allowance. In addition, the VA will assume the cost of tuition, fees, books, supplies, equipment and other charges for training. The VA will not reimburse a veteran who personally buys supplies. Payment for supplies is made to the training institution or the vendor from whom they are purchased by the VA.

The subsistence allowance is paid each month, and is based on the rate of attendance in a training program (full time, three quarter time, or half time), the number of dependents and the type of training.

A veteran who qualifies for the Post-9/11 GI Bill may be eligible to receive the Basic Allowance for Housing rate for Vocational Rehabilitation subsistence allowance.

For more information about current subsistence allowance rates visit:

[www.benefits.va.gov/vocrehab/
subsistence_allowance_rates.asp](http://www.benefits.va.gov/vocrehab/subsistence_allowance_rates.asp)

SCOPE OF SERVICES AND ASSISTANCE

The vocational rehabilitation program enables VA to provide Chapter 31 trainees with a wide range of goods and services, to include medical and dental care, adjustment counseling, as well as prosthetic appliances, eyeglasses and other

corrective and assistive devices necessary for the trainee to complete a program of training.

In addition, to carry out the full purposes of the program, the range of services and assistance now include employment assistance as an integral part of the program for service-connected veterans who are or have been in vocational rehabilitation programs. In this way, veterans will be assisted in obtaining and retaining employment by those counselors who best know their background, disability limitations, interests and aptitudes.

DISABILITY REDUCTION DURING TRAINING

When a veteran is in an approved course of vocational rehabilitation and his or her service-connected disability evaluation is reduced to a non-compensable evaluation, the veteran may be continued in training until attainment of his or her objective.

SEVERANCE OF DISABILITY DURING TRAINING

If a rating action is accomplished while the veteran is in training that results in severance of the service-connected disability, training will be terminated effective as of the last day of the month in which severance of service-connection becomes final.

WORK STUDY PROGRAM

Veterans, Chapter 35 education benefit recipients and Chapter 1606 reservists who are pursuing programs of education or training at three-quarter time or more are eligible to receive a work-study allowance. A student may work between 100 to 375 hours per semester or four-month period at a hourly rate equal to the higher of the state or

federal minimum wage. An advance payment will be made to eligible students equal to either 40% of the hours specified in the contract or the amount payable for the first 50 hours of service, whichever is less.

Students must be assigned to locations that will permit them to perform VA related activities to include VA Regional Offices, Medical Centers, Out-Patient Clinics, Cemeteries, Vet Centers, Educational Institutions and other sites.

LOANS

A veteran is eligible for loans from the vocational rehabilitation revolving fund upon establishing need for vocational rehabilitation and agreement as to the course of training. No advance from this fund of more than two times the full-time institutional rate for a single veteran will be made at one time, and in no case will the total outstanding advancement exceed those maximums. Advances will be made only upon a showing of necessity and then only to the extent of such need.

TUTORING

All appropriate individualized tutoring at government expense may be provided when there is need for special assistance in order for a veteran to be successfully rehabilitated.

TRAINING FOR HOSPITALIZED PERSONS

Vocational rehabilitation may be provided to any person who is hospitalized pending final discharge from the active military, naval or air service, if the person is qualified for training in every respect except for discharge. No subsistence allowance is provided under this program.

Survivors' and Dependents' Educational Assistance Program (Chapter 35)

CHILDREN'S EDUCATION AND TRAINING BENEFITS

This educational program was established for the purpose of providing opportunities for education to children whose education would otherwise be impeded or interrupted by reason of the disability or death of a parent who incurred disease or injury in the Armed Forces.

ELIGIBILITY

The Survivors' and Dependents' Educational Assistance Program provides benefits to sons and daughters of veterans who died of a service-connected disability, or who have a total disability permanent in nature resulting from a service-connected disability, or who died while a total and permanent service-connected disability was in existence.

The child must generally be between 18 and 26 years of age. It is possible, however, to receive these benefits before age 18 if the child has graduated from high school, or is above the age of compulsory school attendance in his or her state, and the VA finds that it would be in his or her best interest to commence training before he or she reaches age 18.

Under certain circumstances, schooling may be continued beyond age 26. If the eligible dependent is in the Armed Forces, this benefit may not be used while on active duty. To pursue training after military service, the claimant's discharge must not be under dishonorable conditions. VA can extend the period of eligibility

by the number of months and days equal to the time spent on active duty. This extension cannot generally go beyond the claimants 31st birthday.

ENTITLEMENT

An eligible person may receive up to 45 months of schooling, or the equivalent of 45 months if enrolled part-time. If the eligible person also has entitlement to educational benefits under another law administered by the VA, the total length of entitlement may not exceed 48 months.

TYPES AND PLACES OF TRAINING

Training may be taken in any approved vocational school, college, professional school, farm cooperative program, or any establishment providing apprenticeship or other on-the-job training.

A person may take training in public or private secondary schools, vocational schools, business schools, junior college, teachers colleges, normal schools, professional schools, scientific schools, technical college or universities, or any other approved schools which furnish education and training.

The Chapter 35 program includes special restorative training to help overcome the effects of disabilities handicapping young persons in pursuit of their schooling. The claimant may be furnished with VA education or vocational counseling. The parent or guardian must then prepare an educational plan, which must show the selected goal, the program of education, the school the student plans to attend, and an estimate of the costs and fees and tuition. This plan, signed by the parent or guardian, becomes a part of the application for training.

NONDUPLICATION OF BENEFITS

The commencement of a program of education or special restorative training under Chapter 35 is a bar to subsequent payments, increased rates or additional amounts of compensation, Dependency and Indemnity Compensation, or pension based on the death or total permanent disability of a parent to an eligible person by reason of the child's pursuit of a course in an educational institution.

MARRIAGE OF CHILD

The marriage of the child is not a bar to benefits under the Survivors' and Dependents' Educational Assistance Program.

Spouses' and Widow(er)s' Education and Training Benefits

The widow(er) of any veteran who died of a service-related disability, or the spouse of a veteran who has a total disability, permanent in nature, resulting from a service-connected disability, or the widow(er) of a veteran who died while a disability so evaluated was in existence, is eligible for educational benefits. The spouse of a service member missing in action is also eligible.

ENTITLEMENT

The period of entitlement for a spouse or widow(er) extends for 10 years from the date the veteran was first found to have a service-connected total, disability, permanent in nature or from the date of the veteran's death, whichever is later.

If the VA rated the veteran permanently and totally disabled with an effective date of three years from discharge, a spouse will remain eligible for 20 years from the effective date of the rating. This change is effective October 10, 2008, and no benefits may be paid for any training taken prior to that date.

For surviving spouses (spouses of service-members who died on active duty) benefits end 20 years from the date of death.

TRAINING

Educational entitlement may be used to pursue courses at a public or private secondary school, vocational school, business school, junior college, teachers college, college, normal school, professional school, university or scientific or technical institution or any other institution if it furnishes education at the secondary school level or above.

Programs of education for eligible spouses and widow(er)s may be approved for on-the-job training, apprenticeship, farm-cooperative training, and correspondence courses.

Eligibility for enrollment in courses at the secondary school level for a spouse or widow(er) will be established if he/she has not received a secondary school diploma or an equivalent certificate, or he/she needs additional secondary school education, either refresher or deficiency courses, to qualify for admission to an appropriate educational institution.

TUTORIAL ASSISTANCE

Tutorial assistance is available for those pursuing post-secondary educational programs on a half-time or more basis. No charge will be made

against the student's educational assistance entitlement for tutorial assistance received under Chapter 35.

CONCURRENT BENEFITS

Educational assistance may be paid to a spouse or widow(er) concurrently with pension, compensation or Dependency and Indemnity Compensation.

COUNSELING

VA counseling is available to spouses and widow(er)s upon request, however, it is not required. Additionally, the VA also provides a job training counseling service program, an employment placement service program and a job training placement service program.

Visit the GI Bill Comparison Tool for helpful information:

<http://department-of-veterans-affairs.github.io/gi-bill-comparison-tool/>

VA Life Insurance Programs

The Government Life Insurance Programs are administered by the Department of Veterans Affairs' Regional Office and Insurance Center in Philadelphia. This office collects premiums, maintains policies and pays death and disability claims for multiple types of insurance.

The Philadelphia office is also responsible for all Actuarial functions. The Insurance Actuarial Staff is responsible for the soundness of insurance funds. The Insurance Program Management Staff (IPMS) is also located in Philadelphia. They have the responsibility of formulating policy, plans and procedures, evaluating the performance of the Insurance Operations' Divisions, and reviewing and analyzing insurance legislation and regulations.

SERVICEMEMBERS' GROUP LIFE INSURANCE (SGLI)

This is a low-cost group term life insurance program for servicemembers. Coverage can be extended for up to two years if the servicemember is totally disabled at separation.

Coverage is automatic for most active duty servicemembers, Ready Reserve and National Guard members scheduled to perform at least 12 periods of inactive training per year, members of the Commissioned Corps of the National Oceanic and Atmospheric Administration and the Public Health Service, cadets and midshipmen of the U.S. military academies and ROTC members.



SERVICEMEMBERS' GROUP LIFE INSURANCE TRAUMATIC INJURY PROTECTION (TSGLI)

This is an automatic feature of SGLI that provides payments to servicemembers who suffer losses, such as amputations, blindness and paraplegia, due to traumatic injuries that occur in service.

FAMILY SERVICEMEMBERS' GROUP LIFE INSURANCE (FSGLI)

FSGLI insures spouses and children of servicemembers with SGLI coverage. Spousal coverage may not exceed the servicemember's coverage. Dependent children are automatically covered at no charge.

VETERANS' GROUP LIFE INSURANCE (VGLI)

Servicemembers with full-time SGLI coverage are eligible to convert SGLI to VGLI after separation from service. The program allows veterans to convert their SGLI to a civilian program of lifetime renewable term coverage after separation.

SERVICE-DISABLED VETERANS' LIFE INSURANCE (S-DVI)

This program provides life insurance coverage to veterans who have been given a VA rating for a new service-connected disability in the last two years. Totally disabled veterans are eligible for free coverage (waiver of premiums) and have the opportunity to purchase additional life insurance.

VETERANS' MORTGAGE LIFE INSURANCE (VMLI)

This program provides mortgage life insurance protection to disabled veterans who have been approved for a Specially Adapted Housing grant.

VA LIFE INSURANCE ONLINE POLICY ACCESS

Veterans whose VA life insurance policy number begins with a V, RH, J, RS, K or W may now access the policy through an online access portal system at <https://insurance.va.gov/portal/>.

The portal system allows policyholders to:

- View policy information such as face amount, loan and cash value, and premium status;
- Change the mode of premium payment;
- View an image of the policy beneficiary designation;
- Request mailing of annual policy statement, statement of loan and cash values, or beneficiary designation form;
- Request a policy loan, a dividend withdrawal, or change the dividend option;
- Apply for S-DVI insurance and VGLI coverage.

“SPECIAL DIVIDEND” FALSE RUMOR

Rumors have been spread for over 40 years that Congress approved a “special dividend” for veterans who do or do not have government life insurance. These rumors are false.

It started in the 1960's as a rumor about veterans with World War II insurance. More recently, it has been adapted to state that a dividend is being paid on SGLI or VGLI policies. VA has done everything possible to stamp out the rumor but it still persists.

The only dividends being paid by VA are on active government life insurance policies. Dividends on active policies have been paid annually for many years and policyholders do not need to apply for them.

“Special dividend” rumors are spread by well-meaning people who want to help veterans but fail to check out their sources before passing the information along to others. Such notices have appeared in veterans' magazines, union newspapers, fraternal publications, newspapers and every other publication imaginable. The hoax has appeared in many forms and seems to change to fit the times, now appearing in online formats.

GOVERNMENT INSURANCE POLICY HISTORY

There have been many different types of life insurance policies provided to servicemembers and veterans since the inception of government life insurance following World War I in 1919. The policies and prefix numbers are:

U.S. Government Life Insurance (USGLI; Policy Prefix K)

Issued from 1/1/19 to 4/24/40.

National Service Life Insurance (NSLI; Policy Prefix V)

Issued from 10/8/40 to 4/24/51.

Veterans Special Life Insurance (VSLI; Policy Prefixes RS, W)

Issued from 4/25/51 to 12/31/56.

Veterans Reopened Insurance (VRI; Policy Prefixes J, JR, JS)

Issued from 5/1/65 to 5/2/66.

Service Disabled Veterans Insurance (SDVI; Policy Prefix RH)

Issued from 4/25/51 to present.

Servicemen's Group Life Insurance (SGLI)

Issued from 9/29/65 to present.

Veterans Mortgage Life Insurance (VMLI)

Issued 8/11/71 to present.

Veterans Group Life Insurance (VGLI)

Issued 8/1/74 to present.

All of these policies are administered by the Philadelphia VA Insurance Center. Toll-free telephone: 1-800-669-8477 (8:00 a.m. to 6:00 p.m. Eastern time) The provisions of each series of policy are varied, and the details of the contracts are beyond the scope of this guide. VA has a Life Insurance Publications and Handbooks internet site. Persons interested in details about all policies may obtain a Veterans Life Insurance Handbook at:

benefits.va.gov/INSURANCE/ins_publications.asp

The site also contains handbooks and procedure guides for the currently issued insurance policies.

IMPORTANT:

Life Insurance can be complicated. All questions and forms concerning insurance should be referred to a DAV National Service Office for appropriate assistance.

NOTES



BASIC ELIGIBILITY REQUIREMENTS

World War II: (1) active duty service after September 15, 1940, and prior to July 26, 1947; (2) discharge under other than dishonorable conditions; and (3) at least 90 days total service unless discharged early for a service-connected disability.

Post-World War II Period: (1) active duty service after July 25, 1947, and prior to June 27, 1950; (2) discharge under other than dishonorable conditions; and (3) 181 days continuous active duty service unless discharged early for a service-connected disability.

Korean War: (1) active duty after June 26, 1950, and prior to February 1, 1955; (2) discharge under other than dishonorable conditions; and (3) at least 90 days total service, unless discharged early for a service-connected disability.

Post-Korean War Period: (1) active duty after January 31, 1955, and prior to August 5, 1964; (2) discharge under other than dishonorable conditions and (3) 181 days continuous service, unless discharged early for a service-connected disability.

Vietnam War: (1) active duty after August 4, 1964, and prior to May 8, 1975; (2) discharge under other than dishonorable conditions; and (3) 90 days total service, unless discharged early for a service-connected disability. For veterans who served in the Republic of Vietnam, the beginning date is February 28, 1961.

Post-Vietnam Period: (1) active duty after May 7, 1975, and prior to August 2, 1990; (2) active duty for 181 continuous days, all of which occurred after May 7, 1975; and (3) discharge under conditions other than dishonorable or early discharge for service-connected disability.

24-Month Rule: If service was between September 8, 1980, (October 16, 1981, for officers) and August 1, 1990, veterans must generally complete 24 months of continuous active duty service or the full period (at least 181 days) for which they were called or ordered to active duty, and be discharged under conditions other than dishonorable.

Exceptions are allowed if the veteran completed at least 181 days of active duty service but was discharged earlier than 24 months for (1) hardship, (2) the convenience of the government, (3) reduction-in-force, (4) certain medical conditions, or (5) service-connected disability.

Gulf War: Veterans of the Gulf War era—August 2, 1990, to a date to be determined—must generally complete 24 months of continuous active duty service or the full period (at least 90 days) for which they were called to active duty, and be discharged under other than dishonorable conditions. Exceptions are allowed if the veteran completed at least 90 days of active duty but was discharged

earlier than 24 months for (1) hardship, (2) the convenience of the government, (3) reduction-in-force, (4) certain medical conditions, or (5) service-connected disability. Reservists and National Guard members are eligible if they were activated after August 1, 1990, served at least 90 days, and received an honorable discharge.

Active Duty Personnel: Until the Gulf War Era ends, persons on active duty are eligible after serving 90 continuous days. VA Guaranty Amount varies with the size of the loan and the location of the property.

Because lenders are able to obtain this guaranty from VA, borrowers do not need to make a down payment, provided they have enough home loan entitlement. VA will guarantee 25% of the principal loan amount, up to the maximum guaranty. The maximum guaranty varies depending upon the location of the property.

Surviving Spouse of Veteran Who Died on Active Duty: If the surviving spouse is already receiving Dependency and Indemnity Compensation (DIC), he or she does not need to send any additional documents when applying for a VA home loan guaranty.

If the surviving spouse is not in receipt of VA DIC payments, the following documentation should be submitted with the loan guaranty application:

- A copy of DD Form 1300 (Report of Casualty) from the military
- A copy of the marriage certificate

Put the servicemember's Social Security number on all documents.

Surviving Spouse of Veteran Who Died as a Result of Military Service: If the surviving spouse is already receiving VA DIC payments, submit a copy of the award letter with the loan guaranty application.

If the surviving spouse is not in receipt of DIC, submit the following documents with the loan guaranty application:

- A copy of the veteran's DD Form 214
- A copy of the veteran's death certificate
- A copy of the marriage certificate

Note:

For information about state and/or local property tax exemptions that may be available in your county, contact your local DAV National Service Office.

CERTIFICATE OF ELIGIBILITY

In addition to the periods of eligibility and conditions of service requirements, applicants must have a good credit rating, sufficient income, a valid Certificate of Eligibility (COE) and agree to live in the property in order to be approved by a lender for a VA home loan.

Apply by Mail: To obtain a COE by mail, complete VA Form 26-1880—"Request for a Certificate of Eligibility"—and mail to: VA Eligibility Center, P.O. Box 20729, Winston-Salem, NC 27120.

Apply Online: ACOE is very easy to obtain using the eBenefits portal at www.ebenefits.va.gov.

If you need any assistance call the eBenefits Help Desk at 1-800-983-0937. Their hours are Monday-Friday, 8am to 8pm EST.

Apply Through a Lender: Most lenders have access to the **Web LGY** system. This Internet-based application can establish eligibility and issue an online COE in a matter of seconds. Not all cases can be processed through Web LGY—only those for which VA already has sufficient data in its records.

Surviving Spouses: Spouses must apply by mail using VA Form 26-1817, Request for Determination of Loan Guaranty Eligibility – Unmarried Surviving Spouses. If the veteran died after service, VA must determine that the death was due to a service-connected disability, a process that may take several months.

HOME LOAN LIMITS

VA does not set a cap on how much a veteran can borrow to finance a home. However, there are limits on the amount of liability VA can assume, which usually affects the amount of money an institution will lend. The loan limits are the amount a qualified veteran with full entitlement may be able to borrow without making a down payment. These loan limits vary by county, since the value of a house depends in part on its location.

The basic entitlement available to each eligible veteran is \$36,000. Lenders will generally loan up to four times a veteran's available entitlement without a down payment, provided the veteran is income and credit qualified and the property appraises for the asking price.

Home loan interest rates are subject to change due to market fluctuations. VA evaluates these

market trends and determines if interest rate reductions or increases are warranted.

For current information about VA loan limits visit:

www.benefits.va.gov/HOMELOANS/purchaseco_loan_limits.asp

NOTES



Appeals

All questions on claims involving benefits under the laws administered by the Department of Veterans Affairs are subject to review on appeal. Decisions in such cases are to be made by the Board of Veterans' Appeals (BVA). In its decisions, the BVA is bound by statutes, regulations of the VA, and precedent opinions of the General Counsel, and the Court of Appeals for Veterans Claims.

All claimants have a right to appeal determinations made by the agency of original jurisdiction which includes questions relating to the timely filing and adequacy of the Notice of Disagreement and the Substantive Appeal (VA Form 9). Only the BVA will make final decisions with respect to its jurisdiction.

Medical determinations, such as determination of the need for and appropriateness of specific types of medical care and treatment for an individual, are not adjudicative matters and are beyond the BVA's jurisdiction. Typical examples of these issues are whether a particular drug should be prescribed, whether a specific type of physiotherapy should be ordered, and similar

judgmental treatment decisions with which an attending physician may be faced.

NOTICE OF RIGHT TO APPEAL

Notification initially informing a veteran or claimant of decisions or other adjudicative determinations subject to appellate review will include a Notice of Procedural and Appellate Rights. This Notice should be reviewed carefully, as it contains procedural instructions and specifies time frames in which certain actions must be accomplished during the appeal process.

NOTICE OF DISAGREEMENT

If a claimant or representative has a disagreement with a factual or legal conclusion made by the VA, the first step in the appeal process is to submit a written Notice of Disagreement (NOD). VA has implemented a new Standardized Notice of Disagreement form, VA Form 21-0958, which is included with correspondence sent to claimants informing them of decisions.

The NOD should state a belief that a claim for benefits was improperly disallowed in part or in full by reason of erroneous finding of fact or conclusion of law. It is desirable that the claimant outline where he or she believes the decision to be in error. It is important to note the BVA's appellate jurisdiction covers questions of legal or basic entitlement to benefits under laws administered by the VA as well as entitlement to hospitalization, domiciliary and out-patient treatment.

Determinations as to "need for" or "nature of" medical treatment do not fall within the BVA's jurisdiction. Eligibility for treatment is basically a claim for a benefit under VA laws which must

be formally adjudicated, whereas “need for” and “nature of” medical treatment are matters of therapeutic disposition of a patient’s medical problem.

STATEMENT OF THE CASE

After the NOD is received, and providing the issue is not resolved by granting the benefit sought, a Statement of the Case (SOC) will be prepared. The purpose of the SOC is to give the claimant notice of the facts pertinent to the issue and the action taken. The SOC consists of a summary of the evidence in the case, a citation or discussion of the law or regulation covering the issue and the decision on the issue along with the reasons for the determination. Information will be provided regarding the right and time limit to file a VA Form 9, to the BVA.

SUBSTANTIVE APPEAL

By filing a VA Form 9, the claimant completes the appeal at the Regional Office level. The benefit sought must be clearly identified. In preparing an appellate argument, the claimant and his/her representative should point out the errors of fact or law believed to have been made in the determination that has caused the erroneous decision. Insofar as possible, all statements should be related to specific items in the SOC, identifying any facts with which the claimant disagrees. The claimant will not be presumed to be in agreement with facts in the SOC, even though he/she has not taken exception to them. The BVA will make a decision on all issues as stated in the Statement of the Case. If a claimant does not want a decision on an issue listed in the SOC, a statement should be made withdrawing that issue.

Time Limits for Filing

NOTICE OF DISAGREEMENT

A Notice of Disagreement must be filed within one year from the date of mailing of notification of the initial determination that is being appealed. Otherwise, that decision will become final and can only be adjudicated again by submitting a reopened claim.

SUBSTANTIVE APPEAL

A Substantive Appeal shall be filed within 60 days from the date of mailing of the Statement of the Case, or within the remainder of the one year period from the date of mailing of the notification of the initial decision. Where a Supplemental Statement of the Case (SSOC) is furnished, a period of 60 days will be allowed for reply. However, a SSOC does not extend the period of time in which to submit the VA Form 9.

EXTENSION OF TIME

An extension of the 60 day period to file a VA Form 9 or the 30 day period for responding to an SSOC may be granted when requested by the claimant or the representative, when good cause is shown. The request must be made in writing and submitted prior to the expiration date for filing the VA Form 9, or prior to the expiration of time to respond to an SSOC.

MOTION FOR ADVANCEMENT ON THE DOCKET

Applications for review on appeal are docketed in the order in which they are received. Cases returned to the BVA following action pursuant to remand assume their original places on the

docket. Appeals are considered in the order in which they are entered on the docket, except when a case is advanced on the docket or is remanded for additional development from the Court of Appeals for Veterans Claims.

A case may be advanced on the docket if it involves an interpretation of law of general application or for other good cause.

Examples of Good Cause are:

- Terminal or Serious illness.
- Extreme Hardship which might be relieved in whole or in part if the benefits sought on appeal were granted.
- Advanced Age defined as 75 or more years of age.
- Administrative Error which results in significant delay in docketing the appeal.

The motion must be in writing, and must identify the good cause involved. It must also contain the name of the veteran or appellant, and the applicable VA claim number. The motion must be filed with the Director, Administrative Services, at the BVA.

Note:

A request for a motion to advance, with documents supporting the status of an illness or financial hardship, should be discussed with your local DAV National Service Office. DAV DSOs and CSOs must not submit such motions directly to the VA or to the BVA.

Generally, contentions of the appellant concerning illness or financial hardship must be supported by objective evidence. A motion filed on the basis of illness should be accompanied by a statement from the treating physician, or other medical records which confirm the serious or terminal illness. A motion filed on the basis of financial hardship should be accompanied by appropriate documents such as past due or collection letters, bankruptcy filing, or threat of foreclosure.

Hearings

Upon request, a claimant is entitled to a hearing at any time on any issue involved in a claim. A hearing on appeal will be granted where the claimant or representative expresses a desire for the claimant to be personally present. The claimant is entitled to produce witnesses and all testimony will be under oath or affirmation. The purpose of the hearing is to establish the appellate issue(s), introduce into the record any evidence available to the claimant that he or she may consider material, and any arguments and contentions with respect to the facts and applicable law which are considered pertinent.

It is the responsibility of VA personnel conducting the hearing to explain fully the issues and to suggest the submission of evidence which the claimant may have overlooked and would be of advantage to his/her position. Because of this, and to assure clarity and understanding, questions which are directed to the claimant or witnesses are to be framed to explore fully the basis for claimed entitlement, rather than

with intent to refute evidence and to discredit testimony.

Hearings on appeal may be held:

- At a VA Regional Office, before VA Regional Office personnel, or before a Decision Review Officer;
- At a VA Regional Office before a BVA Member;
- At a VA Regional Office before a BVA Member via video teleconference; or,
- At the BVA in Washington, D.C., at the expense of the appellant.

DECISIONS

All questions on claims involving benefits under the laws administered by the VA shall be subject to one review on appeal to the Secretary. When a claim is disallowed by the BVA, it may not thereafter be reopened and allowed, based upon the same factual evidence. However, the BVA may correct an obvious error in the record, or may upon the receipt of additional official records from the service department reach a contrary decision. The decisions of the BVA are in writing and contain findings of facts and conclusions of law separately stated.

Reconsideration of an appellate decision otherwise final under the rules of the VA may be accorded by the BVA upon allegation of error of fact or law by a claimant or representative or on the Board's own motion. Reconsideration of an appellate decision shall be based on the evidence of record and evidence which has a bearing on the issue, submitted with the request for reconsideration. Where a claimant feels the Board has made an error in their decision, it is absolutely essential, that contact is made with

a DAV NSO who will assist and provide advice regarding preparation of a reconsideration request.

THE UNITED STATES COURT OF APPEALS FOR VETERANS CLAIMS

The Veterans Judicial Review Act, Public Law 100-687, signed by President Reagan on November 18, 1988, established under Article 1 of the Constitution, the United States Court of Appeals for Veterans Claims (CAVC). The act vests in CAVC the exclusive jurisdiction to review decisions of the BVA in cases in which the Notice of Disagreement was filed with the VA on or after November 18, 1988. CAVC does not have jurisdiction to hear appeals where the Notice of Disagreement was filed prior to November 18, 1988, and/or where the attempted appeal was filed more than 120 days after the date the adverse BVA decision was mailed.

CAVC is an appellate tribunal empowered to review, on the record, decisions of the BVA. In actions brought before it, to the extent necessary to its decision, and when presented, the Court is empowered to review all legal and constitutional issues, including the validity of VA adjudication procedures and operations. The Court is also authorized to set aside any findings of fact made by the BVA if those findings are clearly erroneous.

The Judicial Review Act specifically states CAVC will not provide a trial de novo, that is to say, CAVC will not conduct a new trial or hearing in which the whole case is gone into as though it had not been heard before and if no decision had been previously rendered by

the VA. CAVC functions without a jury, does not receive evidence and will not hear witnesses.

If the appellant disputes BVA's version of the facts of the case, it must be shown that the BVA's version is clearly erroneous. Further, if other error in the BVA decision is established, it must be shown that the error materially affected the outcome of the case. Minor procedural errors which do not affect the outcome are not grounds for reversal.

The date on which the BVA mailed its decision to the claimant is of particular importance. The law provides that an appeal to CAVC must be filed within 120 days of the date on which the BVA decision was mailed to the claimant. If the appeal is not filed within the 120 day period, CAVC has no jurisdiction to hear the appeal.

DAV, in association with several law firms, offers claimants representation before CAVC. Contact your local DAV NSO for assistance and procedures for initiating an appeal to CAVC.

REVIEW OF BOARD OF VETERANS' APPEALS (BVA) DECISIONS

On November 21, 1997, Public Law 150-111 was signed into law providing claimants the right to have BVA decisions reviewed on the grounds of clear and unmistakable error. It also created the right to appeal an adverse BVA decision on this issue to the CAVC despite the lack of a Notice of Disagreement dated on or after November 18, 1988, as required for other appeals.

Clear and unmistakable error involves either a clear and outright misapplication of law or a finding of fact that is absolutely and conclusively erroneous and incorrect under any reasonable

theory. Because of this high standard, it is necessary that any consideration for a review under PL 150-111 go through the appropriate DAV NSO Supervisor.

ADDITIONAL INFORMATION

For additional information about the Board of Veterans' Appeals visit:

www.bva.va.gov/

The Board of Veterans' Appeals has a pamphlet that explains the appeals process, available for download at:

www.bva.va.gov/How_Do_I_APPEAL.asp

Each year the Chairman of the Board is required to provide Congress with a written report of the Board's activities. Copies of the annual report are available for download at:

www.bva.va.gov/Chairman_Annual_Rpts.asp

NOTES



Military Affairs

CHARACTER OF DISCHARGE

Department of Veterans Affairs regulations generally prohibit the granting of or payment for benefits where a former service member was discharged or released under one of the following conditions:

1. As a conscientious objector who refused to perform military duty, wear the uniform, or comply with lawful orders of competent authorities;
2. By reason of the sentence of a general court-martial;
3. Resignation by an officer for the good of the service;
4. As a deserter;
5. As an alien during a period of hostilities, where it is affirmatively shown that the former servicemember requested his or her release.

A discharge or release issued because of one of the following conditions is considered to have been issued under other than honorable conditions:

1. Acceptance of an undesirable discharge to avoid a trial by general court-martial;
2. Mutiny or spying;
3. An offense involving moral turpitude. This includes, generally, conviction of a felony;
4. Willful and persistent misconduct;
5. Homosexual acts involving aggravating circumstances or other factors affecting the performance of duty.

While a Service Officer may feel that an individual is not eligible for VA benefits by reason of the character of discharge issued, it is the duty and responsibility of the Service Officer to make certain that the individual files a formal claim for VA benefits.

In the event the veteran received an other than honorable discharge, VA will review the record and render its own determination relative to whether or not the discharge will be a bar to benefits. The VA has, in some cases, determined that the applicant is eligible for benefits.

It is important to note also that, while a favorable decision by the VA may entitle the individual to VA benefits, it does not actually change the type of discharge certificate issued by the military.

REVIEW OF DISCHARGE OR SEPARATION

The Discharge Review Boards (DRB's) are boards established by statute (10 USC 1553) to review upon their own motion, or upon application by or on behalf of an individual, the type of discharge awarded upon separation from the service. The DRB's may review any discharge, except one resulting from a sentence by a general court-martial or physical disability.

The purpose of the DRB's is to determine whether the type of discharge is equitable and proper. They act to insure that no former member is deprived of any benefit provided by law for veterans of military service by reason of improper discharge. They are not authorized to increase the severity of, or revoke discharge or dismissal, reinstate any person in the military service, recall any person to active duty, change the reason for discharge to one for medical reasons, or award monetary benefits. All decisions rendered by the DRB are referred to the Secretary of the particular branch of service and are subject to the approval and/or modification by the Secretary.

DD Form 293 is the form on which a petition or request for review of discharge is made to the DRB's. The form must be properly completed and the initial application, by law, must be received by the Department of the Air Force, Army, Navy or Transportation (in Coast Guard cases) no later than 15 years subsequent to the effective date of discharge. If this is not accomplished, the individual must petition the Board for Correction of Military Records by submitting DD Form 149.

In addition to the personnel records of the applicant, the DRB's consider any evidence submitted, either with the application or at the time of a personal appearance before the DRB's. The applicant should present any evidence or arguments he or she has to substantiate that the discharge or dismissal is improper or inequitable. Affidavits, testimony or statements attesting to character since release from service are helpful and are considered in context with the records.

An applicant may and should appear in open sessions with DAV as counsel; however, by law, in no circumstances will the expense incurred by the petitioner and/or counsel in preparing or presenting the case, be paid by the Government.

After the Board has considered the case and forwarded the decision to the Secretary concerned for final approval, the case will not be considered again, except on the basis of new and material evidence, which may reasonably be expected to change the findings and decision.

There are generally only two situations wherein the DRB's will entertain an application for re-hearing without requiring new evidence:

1. If the applicant did not appear in person before the DRB at the initial review; or
2. If, after a decision by the DRB, relevant statutes, regulations or Department of Defense standards for administrative discharges have changed, or subsequent court rulings have relevance.

BOARD FOR CORRECTION OF MILITARY RECORDS

The Correction Boards are established by statute (10 USC 1552) and composed of civilian employees from executive positions of the service departments. They are appointed by the Secretary concerned and are directed to act, on application, for the correction of the records of an individual on active duty, retired or discharged from the military, who believe their record contains an "error" or "injustice." While

these Boards are empowered to change or correct virtually “any” official military records, they may not accept jurisdiction until all other administration avenues of relief have been exhausted. This includes the DRB when applicable.

Jurisdiction of these Boards includes, but is not limited to, the following:

1. Changing administrative discharges to medical discharges;
2. Authorizing entitlement to an amount of disability severance pay, temporary or permanent disability retirement;
3. Authorizing entitlement to an amount of retired pay for longevity;
4. Changing discharges ordered by sentence of a general court-martial;
5. Consideration of application for review of discharge not timely filed with the DRB;
6. Review of a decision by a DRB;
7. Correction of dates of military service and computation of the length of creditable military service under various laws and military regulations;
8. Removal of derogatory information;
9. Promotions;
10. Awards and Citations, thought to be entitled to, but not conveyed by orders.

DD Form 149 is the form on which petition for correction is made to the Correction Boards. It must be properly completed and the initial application, generally, must be received within three years of the discovery of the alleged error or injustice.

In addition to the official records of the petitioner, these Boards consider any evidence

submitted to them. The applicants should be encouraged to submit any evidence they feel will substantiate their contentions. Affidavits, testimony or statements attesting to character since release from service may prove helpful and are considered in context with the records and other evidence submitted in those cases involving character of service or discharge.

Contrary to the privilege afforded to those individuals petitioning the DRBs, the Correction Boards will not routinely schedule a personal appearance before their respective Boards. If the applicant requests a hearing, the Board will review the case and schedule a personal appearance only in those cases where they feel one is justified. Applicants do not have a right to a personal appearance.

If the Board renders an unfavorable decision, an individual may request reconsideration by submitting new and material evidence. If the Board confirms and continues its denial, the only alternative remaining is a Court of Competent Jurisdiction. As in the case of the DRBs, the determinations rendered by the Correction Boards are referred to the respective Secretary of the particular branch of service and are subject to approval and/or modification.

PHYSICAL DISABILITY BOARD OF REVIEW

The Physical Disability Board of Review (PDBR) is established by statute (10 U.S.C. § 1554(a)). Its principal purpose is the review of the disability rating awarded to service members who were separated but not retired due to being medically unfit. This Board pertains only to service members who received 20% or less due to physical or mental impairment(s) from the Physical Evaluation Board (PEB) by their

host service. This decision must have become finalized between the dates of September 11, 2001 to December 31, 2009. The Boards characteristics and review process consists of:

- The Board is composed of three military officers in grade of O5/O6 or civilian equivalents.
- Service member need not allege any injustice occurred to have review conducted.
- The Board considers records from non-DoD sources.
- The Board will compare VA ratings with particular attention to the decision given within 12 months of medical discharge.

The Board recognizes DD Form 294 as the application for a review by the PDBR. The application must be completed in its entirety and must be accompanied by VA Form 3288 (Request for and Consent to Release of Information from Individual's Records). VA Form 3288 provides authorization for the PDBR to obtain information from the service members VA claims folder.

While the Board does not require the service member to allege an injustice, it is recommended that a summation be prepared outlining the entire contention. The service member should include all supportive medical documentation, PEB determinations with Medical Evaluation Board findings and VA rating decisions.

MILITARY DISABILITY EVALUATION SYSTEM

A primary objective of the U.S. military is to provide for our nation's defense through a ready and fit organization that can use its manpower

to its maximum potential. When service members are injured or become ill, the military will determine whether these individuals can effectively continue to contribute to the mission of our nation's defense. When it is determined that a service member can no longer perform the duties of his or her office, grade, rank or rating due to disability, that service member will be evaluated by his or her service's Disability Evaluation System (DES).

A servicemember can appeal the finding of a proposed medical disability discharge before the PEB of the DES in-person without counsel, or can be represented by either military-provided or personally funded legal counsel. The service member can also elect to have counsel from an accredited representative of an organization recognized by the VA.

Upon request by a service member, or veteran if on the Temporary Disability Retired List (TDRL), our National Service Department will provide an NSO to act as counsel for the service member during his or her DES proceedings.

Each branch of military service has its own separate locations for PEB processing. If you encounter a service member who needs assistance with PEB proceedings, you should refer him or her to the nearest NSO office for assistance.

All Naval personnel have their formal PEBs processed by the PEB at the Walter Reed National Military Medical Center in Bethesda, Md. All Air Force personnel have their formal PEBs processed at Lackland Air Force Base in San Antonio, Tex. Coast Guard personnel have their formal PEBs processed in the Washington, D.C. area. The Army has three PEB locations,

at Fort Lewis, Wash., Fort Sam Houston, Tex., and Fort Belvoir, Va.

DISABILITY RETIREMENT

The Correction Boards consider applications to change an administrative discharge to one of disability retirement.

The Board's first order of business is to determine whether or not the applicant was unfit or unable to adequately perform the duties of his or her office, grade, rank or rating in such a manner as to reasonably fulfill the purpose of employment on active duty.

UNFITNESS

The primary requisite for disability retirement is that the servicemember must be found unfit to perform his or her assigned duties. It is imperative for DAV Service Officers to remember and advise potential applicants that, while they may have disabilities ratable by the VA, such disabilities, in and of themselves, are not automatically unfitting, regardless of the assigned evaluation. An individual could theoretically have disabilities evaluated as high as 100% and still maintain the ability to perform their assigned military duties. The Board is primarily concerned with the severity of the disability at the time of release from active duty and not what it is at any time following release.

PHYSICAL EVALUATION BOARD (PEB) EVALUATIONS

Subsequent to a finding of "Unfitness" by a PEB, all disabilities that are unfitting will be evaluated under the guidelines of the VA Schedule for Rating Disabilities. A minimum of

30% is required in order to qualify for disability retirement when unfitness is found prior to completion of 20 years active duty. A person with more than 20 years can be retired for disability with a rating of less than 30%.

TEMPORARY DISABILITY RETIREMENT LIST (TDRL)

When a member meets the above requirements for disability retirement but it is felt that the disabilities may not be medically stable in nature, such member may be placed on TDRL for a maximum period of five years.

Members placed on TDRL are required to undergo periodic examinations, usually every 18 months. Depending on the results, they will continue on TDRL, be permanently retired, discharged with severance pay, or found fit to return to active duty.

PERMANENT DISABILITY RETIREMENT LIST (PDRL)

A serviceperson will be placed on PDRL for physical disability when the requirements are met and the disabilities are considered permanent in nature.

DISCHARGE WITH SEVERANCE PAY

If the disability is less than 30%, the servicemember has less than 20 years of service and is otherwise qualified, the member will be discharged from service with severance pay. Severance pay is computed on the basic pay of the current active duty grade, or the highest temporary grade held satisfactorily while on active duty. The severance pay is two months basic pay of that grade, for each

year of service, up to 19 years. A half-year or more is counted as a whole year in computing severance pay.

At a minimum, all servicemembers will receive severance pay calculated for three years of service. If the servicemember was injured in a defined combat zone or during the performance of duty in combat-related operations, the minimum calculation is based on six years of service.

Since 1976, physical disability severance pay was taxable according to IRS regulations unless a finding was made under 26 U.S.C. § 104(b) (3) that the condition was the result of armed conflict, extra hazardous service, conditions simulating war or from an instrumentality of war. In September 1991, the United States District Court for the Eastern District of Virginia ruled in *St. Clair v. United States* that disability severance payments are amounts received for personal injury(ies) and are thus excluded from taxable income under 26 U.S.C. § 104(a)(4). Should you encounter a former servicemember who had taxes withheld from physical disability severance pay, they should be referred to the closest DAV National Service Office for assistance in requesting a refund from IRS.

DISCHARGE WITHOUT SEVERANCE PAY

The member will be discharged without severance pay if the Secretary of the service determines that the disability which rendered the member unfit for duty:

- Was due to intentional misconduct or willful neglect;
- Occurred during a period of unauthorized leave; or;

- Existed prior to entry into active duty and was not aggravated by his or her military service.

Reenlistment codes (RE-Codes)

RE-codes are used by each branch of the Armed Forces to show the reenlistment or status of an individual at the time of discharge or release from active duty.

RE-1: In all branches of the Armed Forces, RE-1 means the individual was fully qualified and recommended for reenlistment at the time of discharge or separation. An alphabetical suffix used with RE-1 shows that certain administrative action (grade determination, higher headquarters approval, etc.) must be accomplished by the recruiting service.

RE-2: The Army, Navy, Marine Corps and Coast Guard use RE-2 to show that the individual was qualified for reenlistment at a time of discharge but did not intend to reenlist. An alphabetical suffix used with RE-2 shows that approval for reenlistment must be obtained from higher headquarters. The Air Force uses RE-2 to show that the individual is barred from reenlistment because of nonwaiverable disqualifications.

RE-3: The Army, Navy, Marine Corps and Coast Guard use RE-3 to show that the individual is not eligible to reenlist without a waiver because of a disqualifying factor or factors. Individuals with an RE-3 code may be reenlisted, depending on the needs of the service, provided the disqualifying factors have been corrected and waiver is obtained. Alphabetical suffixes are used to indicate the reason for disqualifications. These reasons include, but are not limited to,

time lost, low aptitude scores, failure to advance in grade or unsuitability. The Air Force uses RE-3 to show that the individual is not eligible for immediate reenlistment, but can, depending on the needs of the Air Force, reenlist after 93 days without a waiver.

RE-4: This RE-code is used by the Army, Navy, Marine Corps and Coast Guard to identify individuals who are barred from reenlistment because of nonwaiverable disqualifications. An RE-4 assigned by the Air Force means the individual is not eligible for reenlistment without a waiver.

CHANGE OF RE-CODES

An RE-code, if correctly assigned based on reason or criteria existing at time of separation, will not be changed. If an individual believes the RE-code shown on DD Form 214 is incorrect, that is, it was entered by mistake or is not supported by the evidence of record, and no other correction is desired, he or she can request correction of the entry on the DD Form 214 by writing to:

Air Force:

AFMPC/MPCDOA1
Randolph AFB, TX 78150

Army:

Department of the Army
Office of Personnel Operations
9700 Page Boulevard
St. Louis, MO 63132

Coast Guard:

Commandant (GPS)
U.S. Coast Guard
Washington, DC 20591

Marine Corps:

Commandant (MC-MSRB)
U.S. Marine Corps
Washington, DC 20380

Navy:

Department of the Navy
Naval Military Personnel Command
Washington, DC 20370

The Discharge Review Boards do not have authority to change an RE-code. Former members of the Army, Air Force, or Coast Guard can apply to their respective Board for Correction of Military Records for a change of RE-code. The Board for Correction of Naval Records does not have authority to change the RE-code of former members of the Navy or Marine Corps.

WAIVER OF RE-CODES

Waivers of RE-codes are granted only in meritorious cases. To qualify for a waiver, the individual must (except for disqualification for which waiver is requested) meet the physical, mental, moral and administrative criteria currently in effect for enlistment.

A request for waiver of an RE-code must be made in writing through the local recruiting office of the service concerned. Request must be fully documented to prove that the reason for assignment of the original RE-code no longer exists. Requests are processed through recruiting channels to the approving authority within the service department concerned. Requests for waivers submitted through other than recruiting channels will not be acted on. Each service department considers only waiver requests from its own former members and

cannot waive RE-codes to allow enlistment in another service.

The burden of proof that an RE-code waiver is justified rests with the applicant. For this reason, the applicant must document post-service stability in employment, freedom from civil restraint, family and financial responsibility, etc., to be submitted with the waiver request. In most cases, persons assigned a waivable RE-code for cause (inaptitude, unsuitability, lost time, court-martial, conviction, etc.) must wait at least two years before becoming eligible to apply for reenlistment. The two-year waiting period permits the individual to demonstrate that the circumstances which caused the RE-code to be assigned no longer exist and to show there is no reason to believe they will recur.

APPOINTMENT OF COUNSEL

On each of the application forms for either correction of military records (DD Form 149) or review and up-grade of discharge (DD Form 293), the claimant is requested to appoint counsel or a representative. VA Form 21-22 is not accepted by the military agencies.

To appoint counsel or a representative, blocks 7(a) – 7(b) on DD Form 149 or blocks 5(a) – 5(d) on DD 293 should be completed to reflect the following:

Name of Counsel:

Marquis Barefield,
National Service Officer,
or any member of DAV staff

Address of Counsel:

DAV National Service Office
1722 I Street NW, Room 210

Washington, DC 20421-1111

Note:

On DD Forms 149 and 293 do not appoint as representative or counsel a local National Service Officer, Department Service Officer or Chapter Service Officer.

Phone Number of Counsel:

202-530-9260

CONCURRENT RETIREMENT AND DISABILITY PAY (CRDP)

CRDP is a phased-in restoration of the retired pay deducted from military retirees' accounts due to their receipt of VA compensation (reflected on Retiree Account Statements as the "VA waiver"). The phased-in restoration began January 1, 2004, and is an automatic service, meaning no application needs to be filed. Claimants are eligible for CRDP if they have a VA-rated, service-connected disability of 50% or higher and have 20 or more qualifying years of service for a normal retirement. For members of the Reserve Components the veteran must be in receipt of a "20 Year Letter" and be at least 60 years of age.

COMBAT-RELATED SPECIAL COMPENSATION (CRSC)

CRSC provides military retirees monthly compensation that is intended to replace some or all of their retired pay that is withheld due to receipt of VA compensation. CRSC is payable for disabilities that are found to be related to combat. This includes disabilities that were incurred in actual combat, while engaged in hazardous service, in the performance of duty simulating war or as a result of an instrumentality of war. The amount of CRSC payable is directly related to the evaluation(s) assigned to combat-related disability(ies), but cannot exceed the amount of withheld retired pay. Retirees cannot receive benefits simultaneously under both, the CRSC and the Concurrent Retirement and Disability Payments, programs.

The claimant must be a Military Retiree with 20 or more years of service or Medically retired under Chapter 61, Temporary Early Retirement Act (TERA), or TDRL or National Guard or Reserve with 20 or more good years; and, have a Combat Related VA disability rating of 10% or higher, or a disability directed related to a Purple Heart.

CRSC is not a VA program—it is administered by the Department of Defense. To receive CRSC the claimant must submit an application (DD form 2860) to the parent military service branch. Each service branch has the authority to determine eligibility. For more information on how to apply, contact the appropriate military branch:

DoD Defenselink

www.defenselink.mil/prhome/mppcrsc.html

Air Force

U.S. Air Force Personnel Center

www.afpc.randolph.af.mil/disability/CRSC/CRSCnew.htm

1-866-229-7074 Toll Free

Army

U.S. Total Army Personnel Command

www.crsc.army.mil/

1-866-281-3254 toll free

Coast Guard

Commanding Officer (RAS)

U.S. Coast Guard Personnel Service Center

www.uscg.mil/hq/psc/customerconnection/crsc.htm

1-866-772-8724

Navy and Marine Corps

Naval Council of Personnel Boards

www.hq.navy.mil/ncpb/CRSCB/combated.htm

1-877-366-2772 toll free

NOTES



Miscellaneous - Veterans' Programs

VETERANS' EMPLOYMENT

Employment is a dominant concern for most veterans making their transition to civilian life and DAV plays a vital role in assisting those individuals in obtaining employment through direct contact with veterans and employers in a variety of ways, including participation in career expos throughout the country.

The DAV National Employment Program, while principally directed at assisting veterans in obtaining employment, is responsible for all of the organization's employment-related programs and services and works with Congress, Department of Labor (DOL), VA,

the Office of Personnel Management (OPM), and other government and non-government agencies to ensure that the employment needs of disabled veterans are being addressed and met. Working closely with the DAV National Service and Legislative Programs, the DAV National Employment Program also focuses on ensuring that disabled veterans are treated fairly and equitably in the work force. Through DAV's efforts, the DOL established the Advisory Committee on Veterans' Employment and Training, which plays a vital role in protecting veterans' employment rights.

The Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA) is a federal law intended to ensure that persons who serve or have served in the Armed Forces, Reserves, National Guard or other "uniformed services":

1. Are not disadvantaged in their civilian careers because of their service;
2. Are promptly reemployed in their civilian jobs upon their return from duty and
3. Are not discriminated against in employment based on past, present or future military service.

USERRA is the latest in a series of laws protecting veterans' employment and reemployment rights going back to the Selective Training and Service Act of 1940.

USERRA's immediate predecessor was commonly referred to as the Veterans' Reemployment Rights Act (VRRRA), which was enacted as section 404 of the Vietnam Era Veterans' Readjustment Assistance Act of 1974. In enacting USERRA, Congress emphasized

USERRA's continuity with the VRRRA and its intention to clarify and strengthen that law. Congress also emphasized that federal laws protecting veterans' employment and reemployment rights for the past fifty years had been successful and that the large body of case law that had developed under those statutes remained in full force and effect, to the extent it is consistent with USERRA.

USERRA authorizes the DOL to publish regulations implementing the Act for state and local governments and private employers. USERRA also authorized the OPM to issue regulations implementing the Act for Federal executive agencies.

The DOL, through the Veterans' Employment and Training Service (VETS) provides assistance to all persons having claims under USERRA, including Federal and Postal Service employees.

For additional information about USERRA visit:

www.dol.gov/vets/programs/userra/index.htm

VETERANS' PREFERENCE

Veterans' preference gives eligible veterans preference in federal hiring over many other applicants. Veterans' preference applies to virtually all new appointments in both the competitive and excepted federal services. Veterans' preference does not guarantee veterans a job, and it does not apply to internal agency actions such as promotions, transfers, and reassignments.

Veterans' preference eligibility is based on dates of active duty service and receipt of a

campaign badge, Purple Heart or a service-connected disability.

Veterans discharged or released from active duty in the Armed Forces under honorable conditions are eligible for veterans' preference. A retired member of the armed forces is not included in the definition of preference eligible unless he or she is also a disabled veteran, or was retired below the rank of major or its equivalent.

There are two types of preference eligible veterans, disabled (ten-point preference eligible) and non-disabled (five-point preference eligible).

A veteran is **five-point preference eligible** if active duty service was any of the following:

1. 180 or more consecutive days, any part of which occurred during the period beginning September 11, 2001 and ending on a future date prescribed by Presidential proclamation or law.
2. Between August 2, 1990 and January 2, 1992.
3. 180 or more consecutive days, any part of which occurred after January 31, 1955 and before October 15, 1976.
4. In a war, campaign or expedition for which a campaign badge has been authorized or between April 28, 1952 and July 1, 1955.

A veteran is **ten-point preference eligible** if he or she served at any time, and:

- Has a service-connected disability; or
- Received a Purple Heart medal.

Additional information about veterans' preference is available at:

www.fedshirevets.gov/job/vetpref/index.aspx

MILITARY RECORDS AND MEDALS

A veteran or surviving spouse may apply in writing to the appropriate service department for service records, and for medals (decorations) which were inadvertently not awarded to a veteran. The proper form for inquiries of this nature is a Standard Form 180 available at your local National Service Office, the VA, or the National Archives.

The National Archives established an online system called eVetRecs where an application for military records and medals can be completed online. Visit the following links for complete information about these services:

www.archives.gov/veterans/replace-medals.html

www.archives.gov/veterans/military-service-records/index.html

COMMISSARY PRIVILEGES

The facilities of the Armed Forces commissaries and exchanges are available to honorably discharged, totally disabled service-connected veterans, including veterans with service-connected disabilities evaluated at 100% by reason of individual unemployability. Surviving spouses of service-connected veterans who were evaluated by the VA as 100% disabled at the time of death are also eligible for military commissary and exchange privileges.

Such privileges are not extended to veterans who are temporarily rated 100% under

Paragraph 29 or 30 of the rating schedule (hospital, convalescent or surgical rating).

Application for this benefit should be made through the DAV National Service Office or through the Veterans Services Division of the VA Regional Office. Eligible persons will be provided with a VA letter certifying their eligibility which should be presented to the nearest military installation that issues I.D. cards.

STATE BENEFITS

In addition to those benefits available through the federal government, there are numerous state benefits available to veterans. Therefore, DSOs and CSOs should acquaint themselves with the benefits provided by their state.

Below is a listing of some of the state benefits that may be available to veterans in a particular state:

- State Veterans' Bonus
- Notary Services (military records)
- Public Records Certification
- Soldiers and Sailors Relief
- State Veterans' Trust Funds
- Free or Reduced Tuition in State Educational Institutions
- State Employment Preference (Civil Service)
- Property Tax Exemption
- Business or Occupational License Tax Exemption
- Free Motor Vehicle License
- Motor Vehicle Tax Exemption
- Special Parking Permits
- Free Hunting and Fishing Permits.

This listing is for example purposes and is not all inclusive. Other benefits may be provided by your particular state. For a directory of state veteran services offices visit:

www.va.gov/statedva.htm

Note that in most cases, the state will require a confirmation letter from VA stating that the resident veteran is eligible to receive a particular state benefit. Contact your local DAV National Service Office for information about the process to apply for such eligibility letters if needed in your state.

Chapter 1 Introduction to DAV

Directory of DAV National Service Offices: www.dav.org/veterans/find-your-local-office

Chapter 2 Representation

DAV Web Site: www.dav.org

DAV Facebook Site: www.facebook.com/the.DAV

VA Forms: www.va.gov/vaforms

VA Rate Charts: benefits.va.gov/compensation/rates-index.asp

VA Benefit Fact Sheets: www.benefits.va.gov/benefits/factsheets.asp

Chapter 3 Service-Connected Disability Compensation

Diseases Associated with Herbicide Agents:

www.publichealth.va.gov/exposures/agentorange/diseases.asp

Health Effects of Infectious Diseases:

benefits.va.gov/compensation/claims-postservice-gulfwar.asp

Special Adaptive Housing and Home Adaptation Grants:

www.benefits.va.gov/homeloans/adaptedhousing.asp

VA Compensation Rates: www.benefits.va.gov/compensation/rates-index.asp

Chapter 4 Disability Pension

Electronic Code of Federal Regulations: www.ecfr.gov

Chapter 5 Death Benefits

VA Compensation Rates: www.benefits.va.gov/compensation/rates-index.asp

Burial Allowance Benefit Rates: www.cem.va.gov

Arlington National Cemetery: www.arlingtoncemetery.mil

National and State Veterans Cemetery Directory: www.cem.va.gov/cems/listcem.asp

Chapter 6 Medical Benefits

Online VA Healthcare Application: www.1010ez.med.va.gov

VA Environmental Agents Service: www.va.gov/environagents

Delta Dental: www.deltadentalvadip.org

MetLife: www.metlife.com/vadip

VA Dental Insurance Plan: www.va.gov/healthbenefits/vadip

Family Caregivers Program: www.caregiver.va.gov

VA Health Care Facility Directory: www2.va.gov/directory/guide/home.asp

VA Health Care Main Site: www.va.gov/healthbenefits

My HealthVet Healthy Living Center: www.myhealth.va.gov

VA Health Care System Guide: Health Care System Guide

www.va.gov/healthbenefits/resources/epublications.asp

Chapter 7 Education Benefits

Vocational Rehabilitation Subsistence Allowance Rates:

www.benefits.va.gov/vocrehab/subsistence_allowance_rates.asp

G.I. Bill Comparison Tool: www.benefits.va.gov/gibill/comparison_tool.asp

Chapter 8 Life Insurance Programs

Life Insurance Policy Holder Portal: at insurance.va.gov/portal

VA Life Insurance Publications: benefits.va.gov/insurance/ins_publications.asp

Chapter 9 Home Loans

Certificate of Eligibility: www.ebenefits.va.gov

Home Loan Limits: www.benefits.va.gov/homeloans/purchaseco_loan_limits.asp

Chapter 10 Appeals

Board of Veterans' Appeals: www.bva.va.gov

Pamphlet: How Do I Appeal?: www.bva.va.gov/how_do_i_appeal.asp

Board Annual Report to Congress: www.bva.va.gov/chairman_annual_rpts.asp

Chapter 11 Military Affairs

DoD Defenselink: www.defenselink.mil/prhome/mppcrsc.html

Air Force: www.afpc.randolph.af.mil/disability/CRSC/CRSCnew.htm

Army: www.crsc.army.mil/

Coast Guard: www.uscg.mil/hq/psc/customerconnection/crsc.htm

Navy and Marine Corps: www.hq.navy.mil/ncpb/CRSCB/combatrelated.htm

Chapter 12 Miscellaneous

Uniformed Services Employment and Reemployment Rights Act (USERRA):

www.dol.gov/vets/programs/userra/index.htm

Veterans Preference: www.fedshirevets.gov/job/vetpref/index.aspx

Replacement Medals: www.archives.gov/veterans/replace-medals.html

Military Service Records:

www.archives.gov/veterans/military-service-records/index.html

State Veterans Affairs Directory: www.va.gov/statedva.htm

Please report any broken hyperlinks to the DAV National Service Department:

www.dav.org/contact-us

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