

**STATE OF FLORIDA
DEPARTMENT OF VETERANS' AFFAIRS**



FLORIDA DEPARTMENT OF VETERANS' AFFAIRS

Honoring those who served U.S.

**TRAINING AND REFERENCE GUIDE
FOR 2020**

VETERANS CLAIMS EXAMINER TRAINING GUIDE



Daniel W. "Danny" Burgess, Jr.
Executive Director

State of Florida
DEPARTMENT OF VETERANS' AFFAIRS
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Ron DeSantis
Governor
Ashley Moody
Attorney General
Jimmy Patronis
Chief Financial Officer
Nikki Fried
Commissioner of Agriculture

I want to take a moment to welcome you to the FDVA Certification Training Course, and thank you for your dedication and commitment to working with Florida's more than 1.5 million veterans. At FDVA, our mission is "to advocate with purpose and passion for Florida Veterans and link them to superior services, benefits, and support." Florida has earned a reputation as being the most veteran-friendly state in the nation. With your help, Florida will remain the premier point of entry for our veterans to access the benefits they so greatly earned and deserve.

In your role as a Claims Examiner/County Veteran Service Officer, you will embark on what I consider the most intrinsically rewarding of all careers. You will have the knowledge, ability and privilege to significantly impact the lives of our veterans, their family members, and their survivors on a daily basis. I cannot personally think of a more noble profession to undertake.

Attending the FDVA Certification Course is the first step in your journey of becoming a life-long professional advocate for an extremely deserving population.

I hope that you find the FDVA training both interesting and challenging, and hope it deepens your commitment to serving our veterans and their families. Again, thank you for stepping up to this challenge. Good luck!

Sincerely,

A handwritten signature in blue ink that reads "Daniel W. Burgess, Jr.".

Daniel W. "Danny" Burgess, Jr.
Captain, U.S. Army Reserve
Executive Director

"Honoring those who served U.S."

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The State of Florida, Department of Veterans' Affairs is pleased to provide you with this newest edition of our Veterans' Benefits Training and Reference guide. This publication is being made available for your use as another outreach service by this Department.

The purpose of this guide is to assist State, County, City, Post, and Chapter Service Officers as you prepare claims for Veterans and their Families. As you use this material, please remember that benefit eligibility and claim procedures change frequently. We encourage you to maintain close coordination with your State Service Organization as you counsel Veterans and provide claims assistance service. You may also contact this Department at any time for assistance at: (727) - 319 - 7440, FAX Number (727) - 319 - 7780. In addition, this training manual is available at our web site, as shown above, with updates as needed.

The Florida Department of Veterans' Affairs commends you for attending this training event. We extend our best wishes for your continued success as you service Veterans and Families in Florida.

Sincerely,

A handwritten signature in black ink, appearing to read "Donald Stout".

Donald Stout
Director
Division of Benefits and Assistance
Florida Department of Veterans' Affairs

"Honoring those who served U.S."

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CHAPTER 1

DEPARTMENT OF VETERANS' AFFAIRS



VETERANS CLAIMS EXAMINER TRAINING GUIDE

U.S. DEPARTMENT OF VETERANS AFFAIRS

The U.S. Department of Veterans Affairs administers the federal Veterans' benefits programs through these major offices - the Veterans Benefits Administration, the National Cemetery System and the Veterans Health Services and Research Administration.

The Department of Veterans Affairs (DVA) was established on March 15, 1989, succeeding the Veterans Administration. It is responsible for providing federal benefits to Veterans and their families. Headed by the Secretary of Veterans Affairs, VA is the second-largest of the 15 Cabinet departments and operates nationwide programs for health care, financial assistance and burial benefits.

As of 2017, of the 19.9 million Veterans currently alive, nearly three-quarters served during a war or an official period of conflict. About a quarter of the nation's population is potentially eligible for VA benefits and services because they are Veterans, family members or survivors of Veterans.

In the federal fiscal year (FY) 2020 budget, there is a proposed total of \$220.2 billion for the U.S. Department of Veterans Affairs (VA). This request, an increase of 9.6% over 2019. This budget provides robust funding for the secretary's top priorities that are:

MISSION Act: \$8.9 billion for implementation of the Maintaining Internal Systems and Strengthening Integrated Outside Networks Act of 2018 (MISSION Act) to provide greater choice on where Veterans receive their care, maintain care for current Choice Program users, provide a new urgent care benefit and expand the Caregivers program.

Electronic Health Record Modernization (EHRM): \$1.6 billion (\$496 million above FY 2019) to create and implement a single

longitudinal electronic health record for military service members from their active duty to Veteran status, and ensure interoperability with the Department of Defense. The increase will support ongoing activities at the three initial deployment sites and the deployment to further sites, as well as additional site assessments.

Transforming Business Systems: Funds the continued deployment of a modern integrated financial and acquisition management system (\$184.9 million) and implementation of the Defense Medical Logistics Standard Support (\$36.7 million).

Improving Customer Service: \$8.1 million to maintain VA's trajectory of improving its customer service. The results of a recent customer-experience feedback survey of Veterans regarding their trust of the department's health care outpatient services revealed "trust scores" for outpatient services increased from 84.7 percent in June 2017 to 87.9 percent in January 2019.

Preventing Veteran Suicide: \$9.4 billion (\$426 million above 2019) for mental health services, which includes \$222 million for suicide-prevention outreach, a \$15.6 million increase over 2019.

Women's Health: \$547 million (\$42 million above 2019) for gender-specific women's health care. This increase will help meet VA's goals of developing Designated Women's Health Primary Care Providers at every site where women access VA care, and improve the availability and quality of services to women Veterans.

Capital Investments: \$1.6 billion for major and minor construction, including \$410 million for the construction of a new hospital in Louisville, Kentucky, and \$150 million for the Manhattan, New York, medical center.

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Compensation and Pension

Disability compensation is a payment to Veterans who are disabled by injury or disease incurred or aggravated during active military service. Wartime Veterans with low incomes who are permanently and totally disabled may be eligible for financial support through VA's pension program.

In fiscal year 2016, VA provided \$84 billion in disability payments to nearly 4.6 million Veterans with service-connected disabilities. In addition, about 554,700 spouses, children and parents of deceased Veterans received VA benefits.

Education and Training

Since 1944, when the first GI Bill began, more than 21.8 million Veterans, service members and family members have received \$83.6 billion in GI Bill benefits for education and training. The number of GI Bill recipients includes 7.8 million Veterans from World War II, 2.4 million from the Korean War and 8.2 million post-Korean and Vietnam era Veterans, plus active duty personnel. Since the dependents program was enacted in 1956, VA also has assisted in the education of more than 775,000 dependents of Veterans whose deaths or total disabilities were service-connected. Since the Vietnam-era, there have been approximately 2.7 million Veterans, service members, reservists and National Guardsmen who have participated in the Veterans' Educational Assistance Program, (VEAP) established in 1977, and the Montgomery GI Bill, established in 1985.

Medical Care

Perhaps the most visible of all VA benefits and services is health care. From 54 hospitals in 1930, as of 06/30/2018, VA's health care system now includes 143 medical centers, with

at least one in each state, Puerto Rico and the District of Columbia. VA operates more than 1,700 sites of care, including 1,231 ambulatory care and community-based outpatient clinics, 135 nursing homes, 48 residential rehabilitation treatment programs, 300 Vet Centers, and 108 comprehensive home-care programs. VA health care facilities provide a broad spectrum of medical, surgical and rehabilitative care. As of FY 2018, Total Enrollees in VA Health Care is estimated to be 9.12 million.

VA manages the largest medical education and health professions training program in the United States. VA facilities are affiliated with 107 medical schools, 55 dental schools and more than 1,200 other schools across the country, totaling approximately 15,000 affiliated medical faculty. Each year, about 127,000 health professionals are trained in VA medical centers.

VA's medical system also serves as a backup to the Defense Department during national emergencies and as a federal support organization during major disasters.

In 1996, VA put its health care facilities under 21 networks that provide more medical services to more Veterans and family members than at any time during VA's long history.

VA has experienced unprecedented growth in the medical system workload over the past few years. The number of patients treated increased by 29 percent from 4.2 million in 2001 to nearly 5.5 million in 2008.

To receive VA health care benefits most Veterans must enroll. The VA health care system had nearly 9.05 million Veterans who were enrolled as of FY 2017. When they enroll, they are placed in priority groups or categories that help VA manage health care services within budgetary constraints.

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Some Veterans are exempted from having to enroll. People who do not have to enroll include Veterans with a service-connected disability of 50 percent or more, Veterans who were discharged from the military within one year but have not yet been rated for a VA disability benefit and Veterans seeking care for only a service-connected disability. Veterans with service-connected disabilities receive priority access to care for hospitalization and outpatient care. Veterans of Operation Enduring Freedom and Operation Iraqi Freedom (OEF/OIF) are eligible to receive enhanced health care benefits for five years following their military separation date.

Since 1979, VA's Readjustment Counseling Service has operated Vet Centers, which provide psychological counseling for war-related trauma, community outreach, case management and referral activities, plus supportive social services to Veterans and family members.

Since the first Vet Center opened, more than 2 million Veterans have been helped. Every year, Vet Centers serve more than 130,000 Veterans and accommodate more than a million visits by Veterans and family members.

Vet Centers are open to any Veteran who served in the military in a combat theater during wartime or anywhere during a period of armed hostilities. Vet Centers also provide trauma counseling to Veterans who were sexually assaulted or harassed while on active duty, and bereavement counseling to the families of service members who die on active duty.

During FY 2013, VA provided specialized services to nearly 260,000 Veterans who were homeless or at-risk of homelessness. Though the proportion of Veterans among the homeless is declining, VA continues to engage Veterans in outreach, medical care, benefits assistance, transitional housing, and case

management for Veterans in permanent housing. VA has made more than 450 grants for transitional housing, service centers and vans for outreach and transportation to state and local governments, tribal governments, non-profit community and faith-based service providers.

Indispensable to providing America's Veterans with quality medical care are over 75,000 active volunteers in VA's Voluntary Service who donate more than 11 million hours annually to bring companionship and care to hospitalized Veterans.

Research

VA research focuses on areas of concern to Veterans. VA research has earned an international reputation for excellence in areas such as aging, chronic disease, prosthetics and mental health. Studies conducted within VA help improve medical care not only for the Veterans enrolled in VA's health care system, but for the nation at large. Because seven in 10 VA researchers are also clinicians, VA is uniquely positioned to translate research results into improved patient care. VA scientists and clinicians collaborate across many disciplines, resulting in a synergistic flow of inquiry, discovery and innovation between labs and clinics.

VA investigators played key roles in developing the cardiac pacemaker, the CT scan, radioimmunoassay and improvements in artificial limbs. The world's first liver transplant was performed by a VA surgeon-researcher. VA clinical trials established the effectiveness of new treatments for tuberculosis, schizophrenia and high blood pressure. The "Seattle Foot" developed in VA allows people with amputations to run and jump. VA contributions to medical knowledge have won VA scientists many awards, including the Nobel Prize and the Lasker Award.

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Special VA “center of excellence” conduct leading edge research in areas of prime importance to Veterans, such as neuro-trauma, prosthetics, spinal cord injury, hearing and vision loss, alcoholism, stroke, and health care disparities. Through VA’s Cooperative Studies Program, researchers conduct multicenter clinical trials to investigate the best therapy for various diseases affecting large numbers of Veterans. Examples of current projects include testing whether intensive control of blood sugar can reduce cardiovascular problems for patients with Type 2 diabetes; and conducting deep brain stimulation with other treatments for Parkinson’s disease. In addition to studies focused on recent Veterans of OIF/OEF, research continues on issues to Veterans of earlier conflicts, such as Gulf War and Vietnam War.

Home Loan Assistance

Since 1944, when home loan guaranties were first offered under the original GI Bill, VA has guaranteed more than 22 million home loans worth over \$1.1 trillion. The program provides a guaranty for mortgage loans made by private lenders to eligible Veterans. The guaranty backing effectively eliminates the need for a down payment, helping Veterans afford homeownership.

Home loans guaranteed by the Department of Veterans Affairs continue to have the lowest serious delinquency and foreclosure rates in the mortgage industry. Veterans have also taken advantage of their home loan benefit in record numbers, as VA loan originations reached their highest total in eight years.

The VA Home Loan program benefit is not a one-time benefit, its reusable. VA loans can be obtained for up to the full appraised value of the home (100% loan-to-value). In addition, there is the potential for these loans to include up to \$6,000 towards improvements for energy

efficiency, AND the loan funding fee can be rolled right into the loan balance. VA waives that funding fee for Veterans who receive VA compensation benefits, those who are service-connected disabled, but serving on active-duty, or those drawing retirement pay. Some surviving spouses are also exempt from the funding fee.

Insurance

VA operates one of the largest life insurance programs in the world. VA directly administers six life insurance programs. In addition, VA supervises the Service members’ Group Life Insurance and the Veterans’ Group Life Insurance programs. These programs provide \$1.2 trillion in insurance coverage to 6 million Veterans, active-duty members, reservists and Guard members, plus spouses and children.

The Traumatic Injury Protection program under Service members’ Group Life Insurance provides coverage to active-duty personnel who sustain traumatic brain injuries that result in severe losses. Benefit amounts range from \$25,000 to \$100,000, depending on the loss. This program covers 2.4 million members.

Vocational Rehabilitation

VA’s Vocational Rehabilitation and Employment program provides services to enable Veterans with service-connected disabilities to achieve optimum independence in daily living, and, to the maximum extent feasible, obtain and maintain employment. During fiscal years 1999 through 2008, 86,983 program participants achieved rehabilitation by obtaining and maintaining suitable employment. Additionally, during that same period, 21,108 participants achieved rehabilitation through maximum independence in daily living.

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VA National Cemeteries

In 1973, the Army transferred 82 national cemeteries to VA, which now manages them through its National Cemetery Administration. Currently, VA operates 135 national cemeteries and 33 soldiers' lots and monument sites in 40 states and Puerto Rico. More than 4 million Americans, including Veterans of every war and conflict, are buried in VA's national cemeteries. VA also provides funding to establish, expand, improve and maintain 105 Veterans cemeteries in 47 states and territories including tribal trust lands, Guam, and Saipan.

For Veterans not buried in a VA national cemetery, VA provides headstones, markers or medallions to commemorate their service. In 2016, VA honored more than 345,000

Veterans and their loved ones with memorial benefits in national, state, tribal and private cemeteries. In FY2014, VA national cemeteries conducted 125,185 interments. In FY2014, VA provided 354,943 headstones or markers for Veterans' graves. Since taking over the Veterans' cemetery program in 1973, VA has provided more than 12 million headstones and markers.

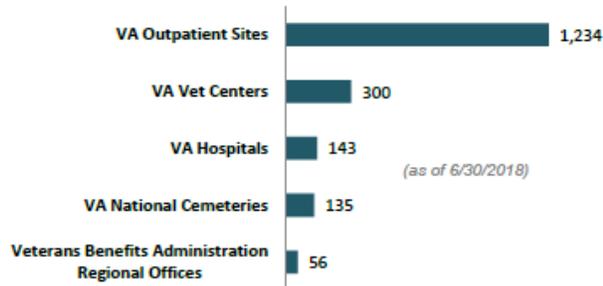
VA administers the Presidential Memorial Certificate program, which provides gold embossed certificates signed by the president to commemorate honorably discharged, deceased Veterans. They are sent to the Veteran's next of kin and loved ones. VA provided 618,570 certificates in FY2014.

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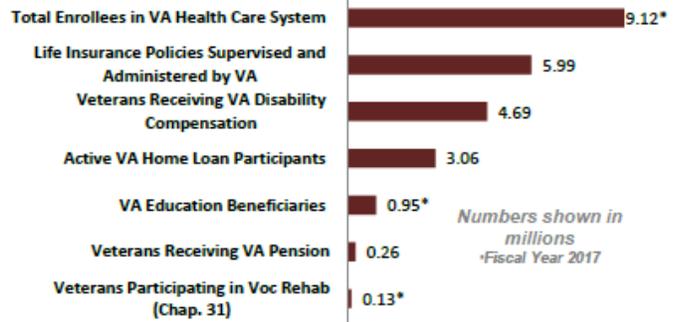
Department of Veterans Affairs Statistics at a Glance

(Updated 6/30/2018)

Number of VA Facilities



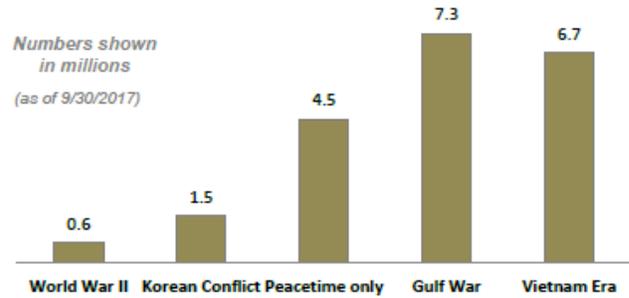
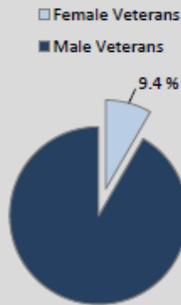
VA Benefits and Health Care Utilization



Projected Veteran Population

19,998,799

(as of 9/30/2017)



NOTE: Categories are not mutually exclusive. Veterans may serve in multiple periods.

Source: Department of Veterans Affairs, Office of Data Governance and Analytics, Veteran Population Projection Model (VetPop) 2016; Veterans Benefits Administration; Veterans Health Administration, Office of the Assistant Deputy Under Secretary for Health for Policy and Planning.

Prepared July 2018



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CHAPTER 2

FLORIDA DEPARTMENT OF VETERANS' AFFAIRS



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FLORIDA DEPARTMENT OF VETERANS' AFFAIRS

The Florida Department of Veterans' Affairs (FDVA) is a state agency created to assist all former, present, and future members of the Armed Forces of the United States and their dependents in preparing claims for and securing such compensation, hospitalization, vocational training and other benefits or privileges to which they may be entitled under any federal or state regulation by reason of their service in the Armed Forces of the United States.

At the end of World War II, the State of Florida recognized the need to provide services to returning service members and created a division within state government to connect veterans with their earned federal and state benefits. To better serve veterans and their families, Florida voters in 1988 overwhelmingly approved a Constitutional Amendment to create a Cabinet Agency to "Honor Those Who Served U.S."

Today, the Florida Department of Veterans' Affairs is the premier point of entry for Florida veterans to access earned services, benefits and support. We serve the nation's third largest veterans' population with more than 1.5 million veterans residing in the Sunshine State.

FDVA plays a major role in the direct infusion of more than \$18 billion annually for veterans into Florida's economy through federal compensation, education and pension benefits, U.S. Department of Veterans Affairs' medical services and military retired pay.

But as impressive as that sounds, there are many thousands of our veterans and their families who, for whatever reason, are not taking advantage of benefits earned through their military service. Florida offers unique benefits such as in-state tuition rates for

veterans and their families using the Post-9/11 GI Bill®, several layers of property tax exemptions, expanded veterans' preference, and extensive benefits, licensure and fee waivers for many activities and occupations. All services are provided at no cost to the Veteran and applicants.

FDVA Strategic Goals

Goal One: Provide information and advocacy to Florida veterans, their families and survivors, and assist them in obtaining all federal and state benefits due to them. (Division of Veterans' Benefits and Assistance)

Goal Two: Provide quality long-term health care services to eligible Florida veterans. (State Veterans' Homes Program)

Goal Three: Provide effective and responsive management to support divisions and programs serving veterans.

Agency Objectives

1. To increase value of cost avoidance due to retroactive compensation.
2. To increase value of cost avoidance due to veterans' issue resolutions.
3. To maintain a minimum occupancy rate at State Veterans' Homes in operation two years or longer.
4. To operate FDVA State Veterans' Homes in compliance with Agency for Health Care Administration (AHCA), Centers for Medicare and Medicaid Services (CMS), and U.S. Department of Veterans Affairs (USDVA) rules and regulations.
5. To provide quality, cost effective and efficient executive leadership and administrative support services.

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Florida Veterans Foundation

The Florida Veterans Foundation was established by the legislature in 2008 as a Direct Support Organization of the Florida Department of Veterans' Affairs. Tax deductible contributions help to fulfill our mission to provide assistance to Florida's veterans and their families.

Organizations the FDVA represents

THE AMERICAN LEGION
AMERICAN EX-PRISONERS OF WAR, INC.
THE AMERICAN RED CROSS
BLINDED VETERANS' ASSOCIATION
FLEET RESERVE ASSOCIATION
JEWISH WAR VETERANS OF THE USA, INC.
MARINE CORPS LEAGUE
THE RETIRED ENLISTED ASSOCIATION
THE FLORIDA DEPARTMENT OF
VETERANS' AFFAIRS

Veterans Florida

Veterans Florida is a non-profit corporation created by the State of Florida to help veterans transition to civilian life. Veterans Florida provides tools for veterans to take advantage of the benefits of living and working in the Sunshine State. The organization provide a gateway to veteran-friendly educational institutions and programs that can maximize veteran employment opportunities. Through our Career Services Program, they connect veterans with employers who are eager to hire veterans for jobs that put their particular military skills to use. They also assist veterans in creating a winning resume and preparing for job interviews. Employers can also apply to receive grant funds to hire and train veterans.

For those veterans who want to start their own business, Veterans Florida has created the

Veterans Florida Entrepreneurship Program. The Entrepreneurship Program provides all the knowledge needed to successfully launch and operate a company. As soon as their business is up and running, they also help them get certified for free with the Office of Supplier Diversity. Veterans Florida is committed to providing one-on-one support and guidance at all stages of transition.

County Veteran Service Offices

The County Veteran Service Offices and the Florida Department of Veterans' Affairs (FDVA) are staffed with accredited Veteran's Service Officers and are available to assist with general information, claims preparation, claims development, appeals of Department of Veterans' Affairs (VA) final decisions, general information regarding The Board of Veterans' Appeals, and The United States Court of Appeals for Veterans Claims procedures. Specific information regarding individual claims is available only when a properly completed Appointment of Veterans Service Organization as Claimant's Representative (VA Form 21-22), appointing the FDVA or a National Service Organization affiliated with FDVA, has been received by the VA.

The FDVA does not represent claimants at the Board of Veterans' Appeals in Washington, D.C. or at the United States Court of Appeals for Veterans Claims. National Service Organizations affiliated with FDVA **may** provide representation at the Board of Veterans' Appeals in Washington, D.C.

Telephone numbers of other National Veteran Service Organizations located in the St. Petersburg, Florida, VA Regional Office (VARO):

AM EX – POW	(727) 319 – 5914
AMVETS	(727) 319 – 7492
VFW	(727) 319 – 7483

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DAV	(727) 319 – 7444
MOPH	(727) 319 – 7488
PVA	(727) 319 – 7470
VVA	(727) 319 – 5921

Role of an Advocate

Veterans Service Representatives (VSR's) are advocates for Veterans. Their role is to provide Florida Veterans with competent, high quality representation that results in receipt of all benefits Veterans have earned.

Interviewing Veterans

Well-trained advocates begin by interviewing Veterans with empathy, compassion, and cultural sensitivity. Many times, Veterans feel vulnerable or ashamed in talking about injuries that they incurred in the military. Additionally, conditions such as post-traumatic stress disorder resulting from combat, military sexual trauma and traumatic brain injury can be very difficult and painful for Veterans to discuss. In order to give Veterans opportunities to disclose painful information, VSR's should employ active listening and demonstrate respect for each Veteran's unique circumstances. Getting each Veteran's full story is critical to the claim, and successful advocates are able to take the time needed to allow Veterans to tell their stories in their own ways, even under the time constraints of a heavy workload.

Requesting Records

After listening to the Veteran's story and asking questions, advocates should let the Veteran know what benefits he or she may be eligible for. The VSR then determines what evidence is necessary to support the claim and seeks to obtain that evidence or assist the Veteran in doing so. Veterans should be active participants in this process if they are able; however, disability may prevent some Veterans

from providing much more assistance than signing release forms. In such cases, advocates must submit the requests for records and follow up on them to be sure the records are obtained.

Reviewing Records

In the case of an original service-connected disability claim, the best practice is to review service medical/treatment records (SMR's or STR's). They will reveal what injuries were actually documented in service and in some cases, may reveal other important information, such as other injuries that occurred that the Veteran forgot to mention. Another benefit of reviewing records is that the advocate can let the Veteran know when a claim has no possibility of success and advise against submitting the claim. Also, carefully reviewed records may reveal additional evidence that can be highlighted and pointed out in the application.

Developing Supporting Statements

Personal statements from the Veteran or his/her family and friends are frequently important pieces of evidence. The VSR should advise the Veteran what should be included and not included in their letters. For Veterans with disabilities who are not capable of writing a coherent and focused letter independently, the advocate can interview the Veteran and write down the Veteran's answers, working them up into a statement using the Veteran's own words.

Keeping the Veteran Informed

After filing the claim, the advocate should keep the Veteran apprised of the status of the claim. Upon receipt of the decision, the decision should be fully explained to the Veteran and advice given regarding the best course of action. If the claim is to be pursued further, the

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VSR should identify what additional evidence is required and seek to acquire it or assist the Veteran to acquire it.

A Collaboration Between VSR's and Veterans

When a VSR develops a claim, he/she is NOT working for the Veteran; they are working WITH Veterans.

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CHAPTER 3

**COMMON VA DEFINITIONS, TERMS
AND
CLASSIFICATION OF SERVICE**



VETERANS CLAIMS EXAMINER TRAINING GUIDE

DEFINITIONS & TERMS

Veteran means a person who served in the active military, naval, or air service and who was discharged or released under conditions other than dishonorable.

Active military service includes active duty, any period of active duty for training during which the individual concerned was disabled or died from a disease or injury incurred or aggravated in line of duty, and any period of inactive duty training during which the individual concerned was disabled or died from an injury incurred or aggravated in line of duty.

Compensation means a monthly payment made to the Veteran because of a service-connected disability or to a spouse, child, or dependent parent of a Veteran because of a service-connected death. If the Veteran was discharged or released from service, the discharge or release must have been under conditions other than dishonorable.

Service Connected means, with respect to disability or death, that such disability was incurred in or aggravated (beyond normal progression) during service, or death resulted from a disability incurred or aggravated in line of duty in active military, naval or air service.

Non-service Connected means, with respect to disability or death, that such disability was not incurred or aggravated, or that the death did not result from a disability incurred or aggravated, in line of duty in the active military, naval, or air service.

Line of Duty means an injury or disease incurred or aggravated during a period of active military, naval, or air service unless such injury or disease was the result of the Veteran's own willful misconduct or, for claims filed after October 31, 1990, was a result of his or her abuse of alcohol or drugs. A service department finding that injury, disease or death occurred in line of duty will be binding on the Department of Veterans Affairs unless it is

patently inconsistent with the requirements of laws administered by the Department of Veterans Affairs. Requirements as to line of duty **are not** met if at the time the injury was suffered or disease contracted the Veteran was:

(1) Avoiding duty by desertion, or was absent without leave which materially interfered with the performance of military duty.

(2) Confined under a sentence of court-martial involving an unremitted dishonorable discharge.

(3) Confined under sentence of a civil court for a felony as determined under the laws of the jurisdiction where the person was convicted by such court.

Note: See §3.1(y) (2) (iii) for applicability of *line of duty* in determining former prisoner of war status.

Willful misconduct means an act involving conscious wrongdoing or known prohibited action. A service department finding that injury, disease or death was not due to misconduct will be binding on the Department of Veterans Affairs unless it is patently inconsistent with the facts and the requirements of laws administered by the Department of Veterans Affairs.

(1) It involves deliberate or intentional wrongdoing with knowledge of or wanton and reckless disregard of its probable consequences.

(2) Mere technical violation of police regulations or ordinances will not per se constitute willful misconduct.

(3) Willful misconduct will not be determinative unless it is the proximate cause of injury, disease or death. (See §§3.301, 3.302.)

Wartime Service is defined in 38 CFR 3.2 as follows:

Indian Wars, 1/1/1817 – 12/21/1898

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Spanish-American War, 4/21/1898 – 7/4/1902

World War I, 4/6/1917 – 11/11/1918,

World War II, 12/7/41 – 12/31/1946

Korean Conflict, 6/27/1950 – 1/31/1955,

Vietnam era, 8/5/1964 – 5/4/1975
(NOTE: Section 505 of Public Law 104-275 extended the Vietnam era back to: Feb. 28, 1961 for Veterans who actually served in country)

Persian Gulf War, 8/2/1990 – through date to be prescribed by Presidential proclamation or law.

For Florida Benefits ONLY: May 22, 1998, Chapter 98-121, Laws of Florida, amended the period of war for the Vietnam conflict back to February 28, 1961. NOTE: The law does not require an in country assignment to qualify.

SERVICE DEEMED TO BE ACTIVE SERVICE FOR VA BENEFITS

1. Service as a member of the Women's Army Auxiliary Corps (WAAC) for 90 days or more by any woman who before October 1, 1943 was honorably discharged for disability incurred or aggravated in line of duty which rendered her physically unfit to perform further service in the WAAC shall be considered active duty for the purpose of all laws administered by the DVA.

Service in the WAAC after May 13, 1942 and before September 30, 1943, is considered active service for DVA benefits if followed by active service in the Armed Forces after September 30, 1943. For this purpose both periods of service must have terminated under conditions other dishonorable.

2. Any person entitled to compensation or pension by reason of paragraph (1) and to employees' compensation based upon the same service under the Federal Employees' Compensation Act must elect which benefit she will receive.

3. Any person -

a. who has applied for enlistment or enrollment in the active military, naval or air service and has been provisionally accepted and directed or ordered to report to a place for final acceptance into such service; or

b. who has been selected or drafted for-service in the Armed Forces and has reported pursuant to the call of his local draft board and before rejection; or

c. who has been called into the Federal service as a member of the National Guard, but has not been enrolled for the Federal service; and who has suffered an injury or contracted a disease in line of duty while in route to or from or at, a place for final acceptance or entry upon active duty;

d. will, for the purposes of determining service connection of a disability, be considered to have been on active duty and to have incurred such disability in the active military, naval, or air service.

4. Whenever an individual is discharged or released from a period of active duty he or she shall be deemed to continue on active duty during the period of time immediately following the date of such discharge or release from such duty determined by the Secretary concerned to be required for him or her to proceed to his or her home by the most direct route, and in any event until midnight of the date of such discharge or release.

5. An individual, who, when authorized or required by competent authority, assumed an obligation to perform active duty for training or inactive duty training; and who is disabled or dies from an injury incurred by him or her while proceeding directly to or returning directly from such active duty for training or inactive duty training as the case may be; shall be deemed to have been on active duty for training or inactive duty training, as the case may be, at the time such injury was incurred. In determining whether or not such individual was so authorized or required to perform such duty,

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and whether or not he or she was disabled or died from injury so incurred, the Secretary shall take into account the hour on which he or she began so to proceed or to return; the hour on which he or she was scheduled to arrive for, or on which he or she ceased to perform such duty, the method of travel employed; his or her itinerary, and the immediate cause of disability or death. Whenever any claim is filed alleging that the claimant is entitled to benefits by reason of the above, the burden of proof shall be on the claimant.

CLASSIFICATION OF SERVICE

The following duty classifications qualify for benefit purposes:

Active Duty

1. Full-time duty in the Armed Forces, other than active duty for training.

2. Full-time duty (other than for training purposes) as a commissioned officer of the Regular or Reserve Corps of the Public Health Service:

- a. On or after July 29, 1945, or
- b. Before that date under circumstances affording entitlement to "full military benefits," or
- c. At any time, for the purposes of dependency and indemnity compensation.

3. Full-time duty as a commissioned officer of the Coast and Geodetic Survey or of its successor agencies, the Environmental Science Services Administration and the National Oceanic and Atmospheric Administration:

- a. On or after July 29, 1945, or
- b. Before that date:
 - (1) While on transfer to one of the Armed Forces, or
 - (2) While, in time of war or national emergency declared by the President, assigned to duty on a project for one of

the Armed Forces in an area determined by the Secretary of Defense to be of immediate military hazard, or

(3) In the Philippine Islands on December 7, 1941, and continuously in such islands thereafter, or

c. At any time, for the purposes of dependency and indemnity compensation.

d. Service at any time as a cadet at the United States Military, Air Force, or Coast Guard Academy, or as a midshipman at the United States Naval Academy.

e. Attendance at the preparatory schools of the United States Air Force Academy, the United States Military Academy, or the United States Naval Academy for enlisted active-duty members who are reassigned to a preparatory school without a release from active duty, and for other individuals who have a commitment to active duty in the Armed Forces that would be binding upon disenrollment from the preparatory school;

f. Authorized travel to or from such duty or service; and

g. A person discharged or released from a period of active duty, shall be deemed to have continued on active duty during the period of time immediately following the date of such discharge or release from such duty determined by the Secretary concerned to have been required for him or her to proceed to his or her home by the most direct route, and, in all instances, until midnight of the date of such discharge or release. (Authority: 38 U.S.C. 106(c))

Active duty for training

1. Full-time duty in the Armed Forces performed by Reserves for training purposes;

2. Full-time duty for training purposes performed as a commissioned officer of the Reserve Corps of the Public Health Service:

- a. On or after July 29, 1945, or

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b. Before that date under circumstances affording entitlement to "full military benefits," or

c. At any time, for the purposes of dependency and indemnity compensation.

3. Full-time duty performed by members of the National Guard of any State, under 32 U.S.C. 316, 502, 503, 504, or 505, or the prior corresponding provisions of law or full-time duty by such members while participating in the reenactment of the Battle of First Manassas in July 1961;

4. Duty performed by a member of a Senior Reserve Officers' Training Corps program when ordered to such duty for the purpose of training or a practice cruise under Chapter 103 of Title 10, United States Code.

a. The requirements of this paragraph are effective:

(1) On or after October 1, 1982, with respect to deaths and disabilities resulting from diseases or injuries incurred or aggravated after September 30, 1982, and

(2) October 1, 1983, with respect to deaths and disabilities resulting from diseases or injuries incurred or aggravated before October 1, 1982.

b. Effective on or after October 1, 1988, such duty must be prerequisite to the member being commissioned and must be for at least four continuous weeks. (Authority: 38 U.S.C. 101(22)(D) as amended by Pub. L. 100-456)

c. Attendance at the preparatory schools of the United States Air Force Academy, the United States Military Academy, or the United States Naval Academy by an individual who enters the preparatory school directly from the Reserves, National Guard or civilian life, unless the individual has a commitment to service on active duty which would be binding upon disenrollment from the preparatory school.

d. Authorized travel to or from such duty. (Authority: 38 U.S.C. 101(22))

The term does not include duty performed as a temporary member of the Coast Guard Reserve.

Inactive duty training

1. Duty (other than full-time duty) prescribed for Reserves (including commissioned officers of the Reserve Corps of the Public Health Service) by the Secretary concerned under 37 U.S.C. 206 or any other provision of law;

2. Special additional duties authorized for Reserves (including commissioned officers of the Reserve Corps of the Public Health Service) by an authority designated by the Secretary concerned and performed by them on a voluntary basis in connection with the prescribed training or maintenance activities of the units to which they are assigned, and

3. Training (other than active duty for training) by a member of, or applicant for membership (as defined in 5 U.S.C. 8140(g)) in, the Senior Reserve Officers' Training Corps prescribed under Chapter 103 of Title 10, United States Code.

4. Duty (other than full-time duty) performed by a member of the National Guard of any State, under 32 U.S.C. 316, 502, 503, 504, or 505, or the prior corresponding provisions of law. The term "inactive duty training" does not include:

a. Work or study performed in connection with correspondence courses,

b. Attendance at an educational institution in an inactive status, or

c. Duty performed as a temporary member of the Coast Guard Reserve. (Authority: 38 U.S.C. 101(23))

Travel status—training duty (disability or death from injury)

Any individual:

1. Who, when authorized or required by competent authority, assumes an obligation

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to perform active duty for training or inactive duty training; and

2. Who is disabled or dies from an injury incurred while proceeding directly to or returning directly from such active duty for training or inactive duty training shall be deemed to have been on active duty for training or inactive duty training, as the case may be. The Department of Veterans Affairs will determine whether such individual was so authorized or required to perform such duty, and whether the individual was disabled or died from injury so incurred. In making such determinations, there shall be taken into consideration the hour on which the individual began to proceed or return; the hour on which the individual was scheduled to arrive for, or on which the individual ceased to perform, such duty, the method of travel performed; the itinerary; the manner in which the travel was performed; and the immediate cause of disability or death. Whenever any claim is filed alleging that the claimant is entitled to benefits by reason of this paragraph, the burden of proof shall be on the claimant. (Authority: 38 U.S.C. 106(d), 38 CFR §3.6 – Duty periods.)

MERCHANT MARINE

Pursuant to PL 95-202, on January 7, 1988, the Secretary of Defense declared certain Merchant Marine services as qualifying for Department by Veterans Affairs benefits. To receive recognition, each member of the "American Merchant Marine in Oceangoing Service during the Period of Armed Conflict, December 7, 1941, to August 15, 1945," must meet the following eligibility criteria

1. Was employed by the War Shipping Administration or Office of Defense Transportation or their agents as a merchant seaman documented by the U.S. Coast Guard or Department of Commerce (Merchant Mariner's Document/Certificate of Service), or as a civil servant employed by U.S. Army Transport Service (later

redesigned U.S. Army Transportation Corps, Water Division) or the Naval Transportation Service; and

2. Served satisfactorily as a crew member during the period of armed conflict December 7, 1941, to August 15, 1945, aboard:

a. merchant vessels in "oceangoing", i.e., foreign, intercostal, or coastal or coastwise service (46 USC 10301 & 10501) and further, to include "near foreign" voyages between the United States and Canada, Mexico, or the West Indies via ocean routes, or

b. public vessels in oceangoing service or foreign waters.

A Certificate of Release or Discharge from Active Duty (DD Form 214) and a discharge certificate, or an Honorable Service Certificate/Report of Casualty, shall be provided each qualifying member of the Merchant Marine, the U.S. Army Transport Service, and the U.S. Naval Transportation Service upon receipt of application from the member and upon verification of creditable service in accordance with service directives. Total active duty service shall be the summation of each foreign, near foreign, coastal, and inter-coastal voyage within the period of armed conflict of World War II. Inclusive dates of each creditable voyage shall be reflected on the DD Form 214. For qualifying members taken as prisoners of war while on active duty, creditable service shall extend to date of repatriation or date of death while a prisoner of war.

The application, DD Form 2168, available through any DVA Regional Office, is to be used by applicants seeking a discharge certificate.

Merchant Marine seamen who served as civil servants employed by the U.S. Army Transport Service which was later re-designated as the U.S. Army Transportation Corps, Water Division:

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Commander
U.S. Army Reserve Personnel Command
(AR-PERSCOM-PSV-V)
1 Reserve Way
St. Louis, MO 63132

If employed by the Naval Transportation Service, DD Form 2168 is sent to:

Naval Military Personnel Command
PERS-312
Millington, TN 38054-5045

If employed by the War Shipping Administration or Office of Defense Transportation, DD Form -2168 is to be sent to:

National Maritime Center
4200 Wilson Blvd.
Suite 630
Arlington, VA 22203-1804
(202) 493-1039

Medical Records

It is not possible to request Service Medical Records for this type of claimant. Merchant Seamen who served under the jurisdiction of the Coast Guard do not have a medical file as such. However, these seamen were eligible to receive medical treatment at U.S. Public Health Service (USPHS) hospitals, and the USPHS does have microfilm copies of certain medical records. If the claimant alleges treatment at a USPHS hospital *and* the claimant can furnish the minimum information required under subparagraph (3) below, send a request to the USPHS. If there is no allegation of treatment at a USPHS facility, do not send a request for records to the USPHS.

Make the request manually by writing a letter and attach VA Form 21-4142, "Authorization and Consent to Release Information to the Department of Veterans Affairs." Provide information requested in Para 3a – 3g.

Send the request to the following address:

National Hansen's Disease Program
Health Data Center

1770 Physicians Park Drive
Baton Rouge, LA 70816

Note: Where priority/expedited assistance is required, telephone 1-800-642-2477 or (225) 756-3773.

The following information should be furnished before the U.S. Public Health Service can search for treatment records:

- (a) The Veteran's *full* name and any aliases. (*Required*)
- (b) The Veteran's Social Security number. (*If known*)
- (c) The Veteran's date of birth. (*Required*)
- (d) Clinic/hospital where the Veteran was treated (at least the State). If more than one, list all. (*Required*)
- (e) Month and year of treatment (at least the decade). (*Required*)
- (f) Veteran's Z number. (*If available*)
- (g) Any other identifying information.

If you are unable to furnish the minimum required information set out in subparagraph (3) above, do not send a request to the USPHS. Review subparagraphs d and e below to determine if there is any possibility that records may be available from National Archives or the Office of Maritime Labor and Training. If not, route the claim to the rating board for final rating action. The rating must outline the efforts made to obtain the records. The letter to the claimant must explain that a search cannot be conducted for medical records without the minimum required information outlined in subparagraph (3).

Merchant Mariners are now eligible for American Legion membership. If any questions as to individual qualifications for membership exist, the application and substantiating documentation (DD-214), or copies thereof, should be forwarded to the National Judge Advocate in Indianapolis.

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NOTE: PL 105-368, Section 402, effective November 11, 1998, extends Veteran benefits to an individual who served as a member of the U.S. merchant marine between August 16, 1945, and December 31, 1946, and who, during that period, was a crewmember of a vessel that at the time of service was: (1) operated by the War Shipping Administration, the Office of Defense Transportation, or an agent thereof; (2) operated in waters other than the inland waters, the Great Lakes, and other lakes, bays, and harbors of the United States; (3) under contract or charter to, or was property of, the U.S. Government; and (4) serving the armed forces. Establishes application procedures; requires the issuance of a certificate of honorable discharge to an individual who performed qualified service; deems qualified service to be active duty in the armed forces during a period of war; sets forth provisions regarding: (1) reimbursement of the Secretary for benefits provided under this section; and (2) an application processing fee.

CIVILIAN GROUPS EXTENDED VETERANS STATUS (under PL 95-202)

The following are included:

Aerial Transportation of Mail (Pub. L. 140, 73d Congress)

Persons who were injured or died while serving under conditions set forth in Pub. L. 140, 73d Congress.

Aliens

Effective July 28, 1959, a Veteran discharged for alienage during a period of hostilities unless evidence affirmatively shows he or she was discharged at his or her own request. A Veteran who was discharged for alienage after a period of hostilities and whose service was honest and faithful is not barred from benefits if he or she is otherwise entitled. A discharge changed prior to January 7, 1957, to honorable by a board established under authority of section 301, Pub. L. 346, 78th Congress, as amended, or section 207, Pub. L. 601, 79th

Congress, as amended (now 10 U.S.C. 1552 and 1553), will be considered as evidence that the discharge was not at the alien's request. (See §3.12.) (Authority: 38 U.S.C. 5303(c))

Army Field Clerks

Included as enlisted men.

Army Nurse Corps, Navy Nurse Corps, and female dietetic and physical therapy personnel.

1. Army and Navy nurses (female) on active service under order of the service department.
2. Dietetic and physical therapy (female) personnel, excluding students and apprentices, appointed with relative rank on or after December 22, 1942, or commissioned on or after June 22, 1944.

Aviation Camps

Students who were enlisted men during World War I.

Cadets and Midshipmen

See §3.6(b)(4).

Coast and Geodetic Survey, and its successor agencies, the Environmental Science Services Administration and the National Oceanic and Atmospheric Administration. See §3.6(b)(3).

Coast Guard.

Active service in Coast Guard on or after January 29, 1915, while under jurisdiction of the Treasury Department, Navy Department, or the Department of Transportation. (See §3.6(c) and (d) as to temporary members of the Coast Guard Reserves.)

Contract surgeons.

For compensation and dependency and indemnity compensation, if the disability or death was the result of disease or injury contracted in line of duty during a war period while actually performing the duties of assistant surgeon or acting assistant surgeon with any

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military force in the field, or in transit or in hospital.

Field clerks, Quartermaster Corps.

Included as enlisted men.

Lighthouse service personnel.

Transferred to the service and jurisdiction of War or Navy Departments by Executive order under the Act of August 29, 1916. Effective July 1, 1939, service was consolidated with the Coast Guard.

Male nurses.

Persons who were enlisted men of Medical Corps.

National Guard.

Members of the National Guard of the United States and Air National Guard of the United States are included as Reserves. See §3.6(c) and (d) as to training duty performed by members of a State National Guard and paragraph (o) of this section as to disability suffered after being called into Federal service and before enrollment.

Persons heretofore having a pensionable or compensable status. (Authority: 38 U.S.C. 1152, 1504)

Persons ordered to service.

1. Any person who has:
 - a. Applied for enlistment or enrollment in the active military, naval, or air service and who is provisionally accepted and directed, or ordered, to report to a place for final acceptance into the service, or
 - b. Been selected or drafted for such service, and has reported according to a call from the person's local draft board and before final rejection, or
 - c. Been called into Federal service as a member of the National Guard but has not been enrolled for Federal service, and

- d. Suffered injury or disease in line of duty while going to, or coming from, or at such place for final acceptance or entry upon active duty, is considered to have been on active duty and therefore to have incurred such disability in active service.

2. The injury or disease must be due to some factor relating to compliance with proper orders. Draftees and selectees are included when reporting for pre-induction examination or for final induction on active duty. Such persons are not included for injury or disease suffered during the period of inactive duty, or period of waiting, after a final physical examination and prior to beginning the trip to report for induction. Members of the National Guard are included when reporting to a designated rendezvous.

Philippine Scouts and others.

1. Service in the Philippine Scouts (except that described in paragraph (ii)), the Insular Force of the Navy, Samoan Native Guard, and Samoan Native Band of the Navy is included for pension, compensation, dependency and indemnity compensation, and burial allowance. Benefits are payable in dollars.

2. *Other Philippine Scouts.* Service of persons enlisted under section 14, Pub. L. 190, 79th Congress (Act of October 6, 1945), is included for compensation and dependency and indemnity compensation. Such benefits are payable at a rate of \$0.50 for each dollar authorized under the law. All enlistment's and reenlistment of Philippine Scouts in the Regular Army between October 6, 1945, and June 30, 1947, inclusive were made under the provisions of Pub. L. 190 as it constituted the sole authority for such enlistments during that period. This paragraph does not apply to officers who were commissioned in connection with the administration of Pub. L. 190. (Authority: 38 U.S.C. 107)

NOTE: Public Law 108-183 Provides full compensation and DIC to members of the new

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Philippine Scouts if the individual resides in the United States as a citizen or permanent resident. Also extends eligibility for burial in a national cemetery.

Commonwealth Army of the Philippines.

1. Service is included, for compensation, dependency and indemnity compensation, and burial allowance (Note: P.L. 106-419, Section 332, grants the full dollar rate of burial benefits to certain Filipino Veterans of World War II who die after November 1, 2000), from and after the dates and hours, respectively, when they were called into service of the Armed Forces of the United States by orders issued from time to time by the General Officer, U.S. Army, pursuant to the Military Order of the President of the United States dated July 26, 1941. Service as a guerrilla under the circumstances outlined in paragraph (d) of this section is also included. Service on or after July 1, 1946, is not included. Benefits are payable at a rate of \$0.50 for each dollar authorized under the law. (Authority: 38 U.S.C. 107)

2. Unless the record shows examination at time of entrance into the Armed Forces of the United States, such persons are not entitled to the presumption of soundness. This also applies upon reentering the Armed Forces after a period of inactive service.

Guerrilla Service.

1. Persons who served as guerrillas under a commissioned officer of the United States Army, Navy or Marine Corps, or under a commissioned officer of the Commonwealth Army recognized by and cooperating with the United States Forces are included. (See paragraph (c) of this section.) Service as a guerrilla by a member of the Philippine Scouts or the Armed Forces of the United States is considered as service in his or her regular status. (See paragraph (a) of this section.)

2. The following certifications by the service departments will be accepted as establishing guerrilla service:

a. Recognized guerrilla service;

b. Unrecognized guerrilla service under a recognized commissioned officer only if the person was a former member of the United States Armed Forces (including the Philippine Scouts), or the Commonwealth Army. This excludes civilians.

A certification of "Anti-Japanese Activity" will not be accepted as establishing guerrilla service.

3. *Combined service.* Where a Veteran who had Commonwealth Army or guerrilla service and also had other service, wartime or peacetime, in the Armed Forces of the United States, has disabilities which are compensable separately on a dollar and a \$0.50 for each dollar authorized basis, and the disabilities are combined under the authority contained in 38 U.S.C. 1157, the evaluation for which dollars are payable will be first considered and the difference between this evaluation and the combined evaluation will be the basis for computing the amount payable at the rate of \$0.50 for each dollar authorized.

Public Health Service. See §3.6(a) and (b).

Reserves. See §3.6(a), (b), and (c).

Revenue Cutter Service. While serving under direction of Secretary of the Navy in cooperation with the Navy.

Training camps. Members of training camps authorized by section 54 of the National Defense Act, except members of Student Army Training Corps Camps at the Presidio of San Francisco, Plattsburg, New York, Fort Sheridan, Illinois, Howard University, Washington, D.C., Camp Perry, Ohio, and Camp Hancock, Georgia, from July 18, 1918, to September 16, 1918.

Women's Army Corps (WAC). Service on or after July 1, 1943.

Women's Reserve of Navy, Marine Corps, and Coast Guard.

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Same benefits as members of the Officers Reserve Corps or enlisted men of the United States Navy, Marine Corps or Coast Guard.

Russian Railway Service Corps.

Service during World War I as certified by the Secretary of the Army.

Active military service certified as such under section 401 of Pub. L. 95-202.

Such service, if certified by the Secretary of Defense as active military service and if a discharge under honorable conditions is issued by the Secretary. The effective dates for an award based upon such service shall be as provided by §3.400(z) and 38 U.S.C. 5110, except that in no event shall such an award be made effective earlier than November 23, 1977. Service in the following groups has been certified as active military service:

1. Women's Air Forces Service Pilots (WASP).
2. Signal Corps Female Telephone Operators Unit of World War I.
3. Engineer Field Clerks.
4. Women's Army Auxiliary Corps (WAAC).
5. Quartermaster Corps Female Clerical Employees serving with the AEF (American Expeditionary Forces) in World War I.
6. Civilian Employees of Pacific Naval Air Bases Who Actively Participated in Defense of Wake Island during World War II.
7. Reconstruction Aides and Dietitians in World War I.
8. Male Civilian Ferry Pilots.
9. Wake Island Defenders from Guam.
10. Civilian Personnel Assigned to the Secret Intelligence Element of the OSS.
11. Guam Combat Patrol.

12. Quartermaster Corps *Keswick* Crew on Corregidor (WWII).

13. U.S. Civilian Volunteers Who Actively Participated in the Defense of Bataan.

14. United States Merchant Seamen Who Served on Block ships in Support of Operation Mulberry.

15. American Merchant Marine in Oceangoing Service during the Period of Armed Conflict, December 7, 1941 to August 15, 1945.

16. Civilian Navy IFF Technicians Who Served in the Combat Areas of the Pacific during World War II (December 7, 1941 to August 15, 1945). As used in the official name of this group, the acronym "IFF" stands for Identification Friend or Foe.

17. U.S. Civilians of the American Field Service (AFS) Who Served Overseas Operationally in World War I during the Period August 31, 1917 to January 1, 1918.

18. U.S. Civilians of the American Field Service (AFS) Who Served Overseas Under U.S. Armies and U.S. Army Groups in World War II during the Period December 7, 1941 through May 8, 1945.

19. U.S. Civilian Employees of American Airlines Who Served Overseas as a Result of American Airlines' Contract with the Air Transport Command During the Period December 14, 1941 through August 14, 1945.

20. Civilian Crewmen of United States Coast and Geodetic Survey Vessels Who Performed Their Service in Areas of Immediate Military Hazard While Conducting Cooperative Operations with and for the United States Armed Forces Within a Time Frame of December 7,

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1941, to August 15, 1945. The USCGS vessels are: Derickson, Explorer, Gilbert Mlizard, E. Lester Hones, Lydonia, Patton, SunMor, Wainwright, and Westdahl.

21. Honorably Discharged Members of the American Volunteer Group (Flying Tigers) Who Served During the Period December 7, 1941, to July 18, 1942.

Individuals must have an AVG discharge certificate or letter, or identification as an honorably discharged AVG member from other creditable publications or documents. Before applying for Veterans' benefits, individuals must first apply for an Armed Forces Discharge Certificate by filing DD Form 2168, which is available from any VA regional office or the Department of the Air Force (see address below). The completed form together with any supporting documents should be sent to:

HQ AFMPC/DP MARS2
Randolph AFB, TX 78150-6001
Attn: Flying Tigers.

22. U. S. Civilian Flight Crew and Aviation Ground Support Employees of United Air Lines (UAL), Who Served Overseas as a Result of UAL's Contract With the Air Transport Command During the Period December 14, 1941, through August 14, 1945.

23. U. S. Civilian Flight Crew and Aviation Ground Support Employees of Transcontinental and Western Air (TWA), Inc., Who Served Overseas as a Result of TWA's Contract With the Air Transport Command During the Period December 14, 1941, through August 14, 1945.

24. U.S. Civilian Flight Crew and Aviation Ground Support Employees of Consolidated Vultree Aircraft Corporation (Consairway Division) Who Served Overseas as a Result of a Contract With the Air Transport

Command During the Period December 14, 1941, through August 14, 1945.

25. U.S. Civilian Flight Crew and Aviation Ground Support Employees of Pan American World Airways and its Subsidiaries and Affiliates, Who Served Overseas as a Result of Pan American's Contract with the Air Transport Command and Naval Air Transport Service during the Period December 14, 1941 through August 14, 1945.

26. Honorably Discharged Members of the American Volunteer Guard, Eritrea Service Command During the Period June 21, 1942 to March 31, 1943.

27. U.S. Civilian Flight Crew and Aviation Ground Support Employees of Northwest Airlines, Who Served Overseas as a Result of Northwest Airline's Contract with the Air Transport Command during the Period December 14, 1941, through August 14, 1945.

28. U.S. Civilian Female Employees of the U.S. Army Nurse Corps While Serving in the Defense of Bataan and Corregidor During the Period January 2, 1942, to February 3, 1945. (Authority: Sec. 401, Pub.L. 95-202, 91 Stat. 1450) 38 CFR §3.7

REFERENCE MATERIALS

The CONSTITUTION of The UNITED STATES of AMERICA established The CONGRESS which passes bills about Veterans which, when signed into law by The PRESIDENT, are codified by Congress as Title 38 United States Code (U.S.C.) which is interpreted by VA in 38 Code of Federal Regulations (CFR) from which VBA policy and procedural instructions are given in DIRECTIVES in the form of MANUALS and VBA CIRCULARS.

NOTE: The United States Court of Appeals for Veterans Claims and VA General Counsel (in GC Opinions) refine the interpretation of laws

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and regulations pertaining to benefits administered by VA. Regulations contained in title 38 Code of Federal Regulations (CFR) have the force and effect of law, as do General Counsel precedent opinions and United States Court of Appeals for Veterans Claims precedent opinions.

C&P SERVICE REFERENCES

Regulations

Title 38 CFR contains 48 Parts (0 through 47) (similar to chapters in a book). As a Rating Specialist you will use Parts 3 and 4 almost exclusively. However, regulations in other Parts do, from time to time, affect your actions. For instance, the regulation concerning equitable relief is found in Part 2; the requirement for a rating determining eligibility for medical treatment in certain cases is found in Part 17; and the Board of Veterans Appeals regulations are found in Parts 19 and 20. The citations in Part 3 and Part 4 of 38 CFR follow a numerical sequence. In Part 3, the citations run from 38 CFR 3.1 through 38 CFR 3.1612. If you subtract the 3 from the citation and you will see that they are numbered from 1 through 1612. The same principle applies to Part 4, and in each of the other Parts.

For example, if you are looking for 38 CFR 3.203, you are seeking the two hundred and third regulation in Part 3. 38 CFR 3.203 would be found after 38 CFR 3.57 (the fifty seventh regulation) but before 38 CFR 3.557 (the five hundred and fifty seventh regulation).

The Manual

M21-1 (The Manual) is the procedural guide for the adjudication of claims.

Part I contains an excellent history of VA and Veterans benefits. It also contains an outline of the structure of a traditional Adjudication Division, as well as a consolidated index to M21-1.

Part II is Clerical Procedures. This section defines the procedures for establishing a

record of a Veteran and computer control of claims.

Part III is Clerical and Authorization Procedures. This section defines procedures for securing evidence.

Part IV is Authorization Procedures. This part covers the procedures for processing claims through the point of inputting them into the computer.

Part V is Computer Procedures. This part covers the procedures regarding computer input.

Part VI is Rating Procedures. This part guides the rating board in its functions.

Appendix A is the book of rating codes.

Appendix B is the book of rate tables, current and historical.

Appendix C is the code book for computer claims processing.

VBA Circulars

VBA Circulars are numbered as follows: 20 - YY - ##

The first number (in this case – 20), represents to whom the circular is addressed, or the VBA element affected. If this number is 21, it means the circular applies to C&P issues, 22 applies to Education issues, 23 to Administration, 24 to Finance, 25 to Personnel, 26 to Loan Guaranty, 27 to Veterans Assistance, 28 to Vocational Rehabilitation, and 29 to Insurance. The number 20 means the circular applies to a combination of the above elements, such as C&P and Education, or Education, Finance and Vocational Rehabilitation.

The second number, represented as YY, is the calendar year in which the circular is issued. 90 were originally issued in 1990, 74 in 1974, etc.

The third number, represented as ##, is the *number* of the circular. VBA Circular 21-88-2 is

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the second circular of 1988 for C&P issues and VBA 20-90-15 is the fifteenth circular of 1990 for more than two elements.

VBA Circulars remain active until rescinded. They can be self-rescinding. A self-rescinding expiration date would be found in the last numbered paragraph above the signature block in the circular. Circulars can rescind each other (look in the same area), or they can be rescinded by a Manual change (look on the rescission list on the manual change transmittal sheet).

Central Office periodically issues an APL Update (Active Publication List Update) which you can use to verify if a circular is current.

Filing VBA Circulars is a matter of personal preference. It is recommended that they be filed by element category, (all the 20's together, then all the 21's, etc.), then by year of issue, (1990, 1991, 1992, etc.), and finally by numeric sequence. Often, circulars have changes issued while the circular is still active. We advise that you start an index, subdivided in the same fashion, so you can check to see if you have the circular or change and where it is located.

C&P Service Fast Letters

C&P Service Fast Letters follow the same numeric system but without the first number. They only contain the year [YY] and the number of issuance [##]. They are dated and also self-rescind.

WARNING: DD-214's contains personal information. Keep them secure and private. DD-214's filed at a public records facility such as a court house or vital statistics agency may be subject to public disclosure on request. Veterans may want to inquire about the level of security in place to limit public access to your document at these locations.

CHAPTER 4

AUTHORITY TO ACT AND HOW TO BE APPOINTED AS A VETERAN'S REPRESENTATIVE



VETERANS CLAIMS EXAMINER TRAINING GUIDE

APPOINTMENT of VETERANS' SERVICE ORGANIZATION as CLAIMANT'S REPRESENTATIVE

Power of attorney

A VSO/VCE must have power of attorney (VA Form 21-22) to assist a veteran or claimant in connection with a Department of Veterans Affairs claim. Many veterans or claimants are neither familiar with this procedure nor do they know that the organization is in a position to assist them. Our VSO's/VCE's will be glad to review the case of any veteran, upon request, provided a power of attorney is furnished. The Department of Veterans Affairs will not release a veteran's claims file for review purposes, or otherwise recognize any VSO/VCE 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 canceled 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 veteran's service organization. In 2012 the VA Form 21-22 was substantially changed. Significantly, the form now requires additional information from the 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 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.

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Example of VA form 21-22 for veterans portion to fill out

OMB Control No. 2900-0121
 Respondent Burden: 5 Minutes
 Expiration Date: 08/31/2018

 Department of Veterans Affairs		APPOINTMENT OF VETERANS SERVICE ORGANIZATION AS CLAIMANT'S REPRESENTATIVE	
NOTE - If you would prefer to have an individual assist you with your claim, you may use VA Form 21-22a, "Appointment of Individual as Claimant's Representative." VA Forms are available at www.va.gov/vaforms .			
IMPORTANT - PLEASE READ THE PRIVACY ACT AND RESPONDENT BURDEN ON REVERSE BEFORE COMPLETING THE FORM.			
1. LAST-FIRST-MIDDLE NAME OF VETERAN		2. VA FILE NUMBER (Include prefix)	
3A. NAME OF SERVICE ORGANIZATION RECOGNIZED BY THE DEPARTMENT OF VETERANS AFFAIRS (See list on reverse side before selecting organization)			
3B. NAME AND JOB TITLE OF OFFICIAL REPRESENTATIVE ACTING ON BEHALF OF THE ORGANIZATION NAMED IN ITEM 3A (This is an organization and does not indicate the designation of only this specific individual to act on behalf of the organization)			
3C. E-MAIL ADDRESS OF THE ORGANIZATION NAMED IN ITEM 3A			
INSTRUCTIONS - TYPE OR PRINT ALL ENTRIES			
4. SOCIAL SECURITY NUMBER (OR SERVICE NUMBER, IF NO SSN)		5. INSURANCE NUMBER(S) (Include letter prefix)	
6. NAME OF CLAIMANT (If other than veteran)		7. RELATIONSHIP TO VETERAN	
8. ADDRESS OF CLAIMANT (No. and street or rural route, city or P.O., State and ZIP Code)		9. CLAIMANT'S TELEPHONE NUMBERS (Include Area Code)	
		A. DAYTIME	B. EVENING
		10. E-MAIL ADDRESS (if applicable)	
		11. DATE OF THIS APPOINTMENT	
12. AUTHORIZATION FOR REPRESENTATIVE ACCESS TO RECORDS PROTECTED BY SECTION 7332, TITLE 38, U.S.C. By checking the box below, I authorize the service organization named on this appointment form any records that may be in my file relating to treatment for infection with the human immunodeficiency virus (HIV), or sickle cell anemia.			
<input type="checkbox"/> I authorize the service organization named in item 3A to disclose to the service organization named in item 3A all treatment records relating to drug abuse, alcoholism or alcohol abuse, infection with the human immunodeficiency virus (HIV), or sickle cell anemia. Redisclosure of these records by any service organization or the Court of Appeals for Veterans Claims, is not authorized without my further written consent. This authorization will remain in effect until the earlier of the following events: (1) I revoke this authorization by filing a written revocation with VA, or (2) I revoke the appointment of the service organization named above, either by explicit revocation or the appointment of another representative.			
13. LIMITATION OF CONSENT - I authorize disclosure of records related to treatment for all conditions listed in item 12 except:			
<input type="checkbox"/> DRUG ABUSE <input type="checkbox"/> ALCOHOLISM OR ALCOHOL ABUSE		<input type="checkbox"/> INFECTION WITH THE HUMAN IMMUNODEFICIENCY VIRUS (HIV) <input type="checkbox"/> SICKLE CELL ANEMIA	
14. AUTHORIZATION TO CHANGE CLAIMANT'S ADDRESS - By checking the box below, I authorize the organization named in item 3A to act on my behalf to change my address in my VA records.			
<input type="checkbox"/> I authorize any official representative of the organization named in item 3A to act on my behalf to change my address in my VA records. This authorization does not extend to any other organization without my further written consent. This authorization will remain in effect until the earlier of the following events: (1) I file a written revocation with VA, or (2) I appoint another representative, or (3) I have been determined unable to manage my financial affairs and the individual or organization named in item 3A is not my appointed fiduciary.			
I, the claimant named in items 1 or 6, hereby appoint the service organization named in item 3A as my representative to prepare, present and prosecute my claim(s) for any and all benefits from the Department of Veterans Affairs (VA) based on the service of the veteran named in item 1. I authorize VA to release any and all of my records, to include disclosure of any Federal tax information (other than as provided in items 12 and 13), to my appointed service organization. I understand that my appointed representative will not charge any fee or compensation for service rendered pursuant to this appointment. I understand that the service organization I have appointed as my representative may revoke this appointment at any time, subject to 38 CFR 20.608. Additionally, in some cases a veteran's income is developed because a match with the Internal Revenue Service necessitated income verification. In such cases, the assignment of the service organization as the veteran's representative is valid for only five years from the date the claimant signs this form for purposes restricted to the verification match. Signed and accepted subject to the foregoing conditions.			
THIS POWER OF ATTORNEY DOES NOT REQUIRE EXECUTION BEFORE A NOTARY PUBLIC			
15. SIGNATURE OF VETERAN OR CLAIMANT (Do Not Print)		16. DATE SIGNED	
17. SIGNATURE OF VETERANS SERVICE ORGANIZATION REPRESENTATIVE NAMED IN ITEM 3B (Do Not Print)			
VA USE ONLY	COPY OF VA FORM 21-22 SENT TO:		DATE SENT
	<input type="checkbox"/> VR&E FILE <input type="checkbox"/> LG FILE	<input type="checkbox"/> EDU FILE <input type="checkbox"/> INSURANCE FILE	ACKNOWLEDGED (Date)
NOTE: As long as this appointment is in effect, the organization named herein will be recognized as the sole representative for preparation, presentation and prosecution of your claim before the Department of Veterans Affairs in connection with your claim or any portion thereof.			

VA FORM 21-22
 AUG 2015

SUPERSEDES VA FORM 21-22, OCT 2014,
 WHICH WILL NOT BE USED.

VETERANS CLAIMS EXAMINER TRAINING GUIDE

Confidential nature of claims

This means that no unauthorized disclosures of information will be made, as custody of the veteran's records is privileged and private.

- Any organization or member thereof or other person who, knowingly uses any name or address released from the U.S. Department of Veterans' Affairs for any purpose other than that for the purpose for which it was released shall be guilty of a misdemeanor and may be fined not more than \$5000.00 in the case of a first offense and not more than \$20,000 in the case of any subsequent offense. U.S.C. 38, 5701.
- The records of the identity, diagnosis, prognosis, or treatment of any patient or subject which is maintained (by the VA) in connection with the performance of any program or activity shall be confidential: and such records may not be disclosed, unless expressly authorized.
- **Contested Claims** - Representatives may not participate in the prosecution of a contested claim, or one which may reasonably become contested.

A veteran has the right to review his or her paper and computer files maintained by the U.S. Department of Veterans Affairs. In order to review his or her Claims Folder (C-File) maintained at the regional office, the veteran **must write** the VA and request a copy of the file, or request a file review. The veteran must go to the regional office for a file review. Medical Records may be reviewed at the medical center where they are located.

In accordance with the American Legion Code of Procedures for American Legion Accredited Representatives "It is contrary to the policy of The American Legion to accept a Power of Attorney from any person whose interests are detrimental or adverse to those of the veteran, regardless of the fact The American Legion does not hold Power of Attorney from the veteran." This same policy will apply with any other Power of Attorney which we represent under agreement with the SO and the State of Florida.. An accredited representative may not take any action that is adverse or detrimental to the interest of the veteran we represent unless such action is tantamount as a criminal act. In which case, you are required to duly report it to the proper governing authorities for legal resolution. Further, it is cause to terminate representation of the claimant. Notify your supervisor before taking any action.

Federal Authority To Act As A VSO for Service Organization Representatives

A recognized organization shall file with the Office of the General Counsel VA Form 21 (Application for Accreditation as Service Organization Representative) for each person it desires accredited as a representative of that organization. The form must be signed by the prospective representative and the organization's certifying official. For each of its accredited representatives, a recognized organization's certifying official shall complete, sign and file with the Office of the General Counsel, not later than five years after initial accreditation through that organization or the most recent recertification by that organization, VA Form 21 to certify that the representative continues to meet the criteria for accreditation specified in paragraph (a)(1), (2) and (3) of this section. In recommending a person, the organization shall certify that the designee:

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(1) Is of good character and reputation and has demonstrated an ability to represent claimants before the VA;

(2) Is either a member in good standing or a paid employee of such organization working for it not less than 1,000 hours annually; is accredited and functioning as a representative of another recognized organization; or, in the case of a county veteran's service officer recommended by a recognized State organization, meets the following criteria:

(i) Is a paid employee of the county working for it not less than 1,000 hours annually;

(ii) Has successfully completed a course of training and an examination which have been approved by a Regional Counsel with jurisdiction for the State; and
(iii) Will receive either regular supervision and monitoring or annual training to assure continued qualification as a representative in the claim process; and

(3) Is not employed in any civil or military department or agency of the United States.

STATE AUTHORITY TO ACT AS A VSO

TITLE XX VETERANS, CHAPTER 292, VETERANS' AFFAIRS; SERVICE OFFICERS

292.10 Local governing bodies authorized to assist war veterans; powers.—The board of county commissioners of each county and the governing body of each city in the state are hereby granted full and complete power and authority to aid and assist wherever practical and feasible the veterans, male and female, who have served in the Armed Forces of the United States in any war and received an honorable discharge from any branch of the military service of the United States, and their dependents, in presenting claims for and securing such compensation, hospitalization, education, loans, career training, and other benefits or privileges to which said veterans, or any of them, are or may become entitled under any federal or state law or regulation by reason of their service in the Armed Forces of the United States.

292.11 County and city veteran service officer.—

(1) Each board of county commissioners may employ a county veteran service officer; provide office space, clerical assistance, and the necessary supplies incidental to providing and maintaining a county service office; and pay said

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expenses and salaries from the moneys hereinafter provided for. The governing body of any city may employ a city veteran service officer; provide such office space, clerical assistance, and supplies; and pay expenses and salaries. A county or city veteran service officer must be a veteran who served as a member of the Armed Forces of the United States during a period of war, as defined in Title 38, U.S.C.; who served at least 18 months' active duty in the Armed Forces; and who was separated from such service under honorable conditions, or the surviving spouse of any such veteran. Any honorably discharged wartime veteran who was so discharged for service-connected or aggravated medical reasons before serving 18 months of active duty; who completed a tour of duty other than active duty for training, regardless of the length of the tour; or who satisfied his or her military obligation in a manner other than active duty for training or reserve duty shall be eligible for employment as a county or city veteran service officer. Every county or city veteran service officer, in order to be eligible for employment as a county or city veteran service officer, shall have a 2-year degree from an accredited university, college, or community college or a high school degree or equivalency diploma and 4 years of administrative experience.

(2) Any county or city desiring to employ a county or city veteran service officer under the provisions of this section may notify the Department of Veterans' Affairs of its intention to do so and may furnish the department with the name or names of any person or persons applying to fill such position, along with documentation supporting the qualifications thereof. The department shall thereupon certify to such county or city the name or names of candidates for such position who meet the requirements and qualifications prescribed by the department. The county or city may thereupon employ any person or persons so certified by the department. Duties, compensation, and terms of employment shall be prescribed by the board of county commissioners or, where applicable, by the governing body of the city.

(3) Any person employed by any county or city under the provisions of this section shall, from the time of his or her employment, be subject to such rules as the Department of Veterans' Affairs may from time to time prescribe. Appropriations made by any county or city, or both, for the purposes set forth in this section are hereby declared to be appropriations for a county or municipal purpose, as the case may be.

(4) The Department of Veterans' Affairs is directed to establish a training program for county and city veteran service officers. Every county or city veteran service officer employed under this chapter shall attend the training program

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established by the department and successfully complete a test administered by the department prior to assuming any responsibilities as a county or city veteran service officer. The department shall further establish periodic training refresher courses which each county or city veteran service officer must attend and complete as a condition of remaining in employment as a county or city veteran service officer. County and city veteran service officers shall be reimbursed for travel expenses, as provided in s. 112.061, in fulfilling the requirements of this section.

(5) The provisions of subsection (1) shall not apply to, or in any way affect, the employment of any county or city service officer who was so employed prior to July 1, 1974.

292.13 Services to be without charge.—All services performed by any county or city veteran service officer employed hereunder for any veteran or his or her dependents shall be rendered without charge to said veteran or said dependents.

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CHAPTER 5
CLAIMS FOR SERVICE CONNECTION



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BASIC REQUIREMENTS FOR BENEFITS

Discharge Requirements

There are five basic types of military discharges currently being issued by the Military Service Departments:

- a. Honorable Discharge - Veteran qualifies for VA Benefits
- b. General Discharge
 - (1) General under Honorable - Veteran usually qualifies for most VA Benefits (will not qualify for Education Chapter 30)
 - (2) General under less than Honorable - Veteran may qualify for some VA Benefits (will not qualify for Education Chapter 30 benefits).
- c. Bad Conduct Discharge - Veteran may, but usually does not qualify for VA Benefits
- d. Dishonorable Discharge - Veteran does not qualify for VA Benefits.
- e. Uncharacterized Discharge - Discharge is to be considered honorable, Veteran may qualify for some VA benefits.

Statutory Bars to benefits and character of discharge determinations

There are several conditions for which the VA is prohibited by law from paying benefits, some of these are: discharge as a conscientious objector, a deserter, an officer who resigned for the good of the service, or absence without leave (AWOL) for 180 continuous days or more.

Willful Misconduct

The VA will not award benefits for an injury or illness if the disability was the result of the Veterans' own willful misconduct. For VA purposes, willful misconduct is defined as deliberate or intentional wrongdoing with knowledge of or wanton and reckless disregard

for the consequences of one's own action. Willful abuse of drugs or alcohol, with the intent to become intoxicated, will be bars to VA benefits.

Length of Service Requirements

To be eligible for VA benefits, a Veteran must have completed a minimum period of active duty. Effective 9/8/80, a Veteran must complete either 24 months of continuous active duty or the full period for which the Veteran was called or ordered to active duty. Discharges or release from active duty for hardship, service-connected disability, or reduction of force may exempt the Veteran from the 24 month requirement.

Basic Entitlement for Service-Connection

Disabilities resulting from injury or disease incurred in, or aggravated by military service, in line of duty, and not the result of misconduct, are termed service-connected disabilities.

Presumption of Service-Connection. The Law presumes certain diseases to have been incurred in service if they can be shown to have existed to a degree of 10% or more within the first year following discharge from service. There is also a list of chronic diseases, i.e., Active Tuberculosis, there is a presumptive period of 3 years; Multiple Sclerosis = 7 years, Persian Gulf Undiagnosed Disabilities = 5 years, etc.

NOTE: In order to qualify for this presumption, the Veterans must have served 90 days or more active duty during a wartime period after January 1, 1947 or have a condition listed in CFR 3.309.

Veterans who are found to be eligible for disability compensation are entitled to monthly payments.

Veterans whose service-connected disabilities are rated 30% or more are entitled to additional allowances for dependents.

When a Veteran's disabilities are extremely severe (for example, loss of an eye, an arm or

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a leg) a rating above the 100% is available. These rates are called Special Monthly Compensation (SMC).

Establishing Service Connection

There are five primary ways of establishing that a disability is service-connected:

1. **DIRECT** - Service medical records show that the condition claimed was diagnosed during military service, and the condition continues to affect the individual's industrial capacity. (38 CFR 3.304)
2. **AGGRAVATION** - By demonstrating that a condition that existed prior to military service was aggravated beyond normal progression during military service. (38 CFR 3.306).
3. **PRESUMPTIVE** - Radiation claims, Agent Orange claims, Persian Gulf Claims, certain disabilities, tropical diseases, and certain POW conditions. The Veteran must have served 90 continuous days or more during a war period or after December 31, 1946. (38 CFR 3.307)
4. **SECONDARY** - By demonstrating that a condition is approximately the result of, or linked to, and existing service-connected condition. (38 CFR 3.310)
5. **INJURY AS A RESULT OF TREATMENT (38 USC Sec 1151)** - Where disease, injury, death or the aggravation of an existing disease or injury occurs as a result of having submitted to an examination, medical or surgical treatment, hospitalization or the pursuit of a course of vocational rehabilitation under any law administered by the VA and not the result of his (or her) own willful misconduct, disability or death compensation, or dependency and

indemnity compensation will be awarded for such disease, injury, aggravation, or death as if such condition were service connected.

Federal Tort Claims Act

The Federal Tort Claims Act, prescribes a uniform procedure for handling of litigation against the United States, for money only, on account of damage to or loss of property, or on account of personal injury or death, caused by the negligent or wrongful act or omission of a Government employee while acting within the scope of his or her office or employment, under circumstances where the United States, if a private person, would be liable in accordance with the law of the place where the act or omission occurred.

The Act provides that:

1. No court action (except those involving a third party complaint, cross-claim, or counterclaim) shall be instituted unless the claimant shall have first presented his or her claim to, and it has been finally denied by, the appropriate Federal agency. The failure, however, of the agency to make final disposition of the claim within 6 months after it is filed may, at the option of the claimant, be deemed a final denial of the claim
2. Where a suit is filed after the denial of the administrative claim, the amount sought is limited to the amount of the claim presented to the Federal agency, except on proof of newly discovered evidence or intervening facts relating to the amount of the claim
3. Suits are tried without a jury, and a district court judgment may be appealed to the appropriate U.S. Circuit Court of Appeals, and (if permitted), to the U.S. Supreme Court.

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4. Administrative claims must be filed in writing with the appropriate Federal agency within 2 years from the date the claim accrues, and a suit must be filed within 6 months from the date of mailing of the final denial by the agency of the administrative claim

5. The U.S. must give its consent to be sued under the theory of sovereign immunity. The Federal Torts Claims Act allows suit to be filed for only some kinds of cases; for others, such as those listed 28 U.S.C. § 2680, the U.S. cannot be sued.

HOW TO APPLY

To initially apply for a service-connected disability the Veteran will need:

1. VA FORM 21-526EZ - Veteran's Application for Compensation.
2. Proof of military service.
3. Original or good copies of dependency documents, all marriages, divorces, and birth certificates of children.
4. Documentary proof of dissolution of prior marriages is not routinely required. The claimant's statement furnishing the information is adequate in the absence of conflicting evidence.
5. Social Security Number. (*Required*) (38 CFR §3.216 – Mandatory disclosure of social security numbers)
6. Service Medical Records (SMRs'), and/or private medical records that provide a diagnosis of, or statements that the disability exists or did exist. The following is a partial list of alternate documents that might substitute for service medical records in decisions relating to service connection for a disability or for cause of death:
 - a. VA military files.

b. Statements from service medical personnel.

c. Lay "Buddy" certificates or affidavits.

d. State or local accident and police reports.

e. Employment physical examinations.

f. Medical evidence from hospitals, clinics and private physicians by which or by whom a Veteran may have been treated, especially soon after separation.

g. Letters written during service.

h. Photographs taken during service.

i. Pharmacy prescription records.

j. Insurance examinations.

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 using 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 (Dependency and Indemnity Compensation, Death Pension and/or Accrued Benefits) are the required application forms to participate in the FDC process, 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 process must use the appropriate EZ form or electronic equivalent. 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

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traditional claims process is reviewed in depth by a service officer 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 of the intent to file form. 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 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.

Benefits Delivery Before Discharge (BDD) Claims

If a service member has an illness or injury that was caused—or made worse—by active-duty service, they can file a claim for disability benefits 180 to 90 days before leaving the military. This may help speed up the claim decision process so they can get benefits sooner. Use the BDD program if the veteran meets all of the requirements listed below:

- They're a Service member on full-time active duty (including a member of the National Guard, Reserves, or Coast Guard), **and**

- Have a known separation date, **and**
- The separation date is in the next 180 to 90 days

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

The service member can't file a BDD claim or add more medical conditions to an initial claim, but can still begin the process of filing a claim before discharge.

Are there any other reasons a service member can't use the BDD program?

A service member can't use the BDD program if their claim requires special handling—even if they are on full-time active duty, with more than 90 days left of service.

The BDD program cannot be used if any of these are true:

- Need case management for a serious injury or illness, **or**
- Have suffered the loss of a body part, **or**
- Are terminally ill, **or**
- Are waiting to be discharged while being treated at a VA hospital or other military treatment facility, **or**
- Need to have a VA exam done in a foreign country (except if the exam can be requested by the overseas BDD office in either Landstuhl, Germany, or Yongsan, Korea), **or**
- Are pregnant, **or**
- Are waiting for us to determine your Character of Discharge, **or**
- Can't go to a VA exam during the 45 day period after you submit your claim, **or**
- Didn't submit copies of your treatment records for your current period of service, **or**

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- Added a medical condition to your original claim when you had less than 90 days left on active duty (**Note:** We'll process the added conditions after your discharge.)

EVIDENCE

Evidence that a disability is related to military service can be daunting to prove. After the veteran has been discharged a few years, the situation may become more difficult, which is why a claim should be filed as soon after discharge as possible. Remember, just because the veteran is filing many years after service it does not mean that the claim will be denied. Each veteran experience is unique, and every claim different so be respectful of claimants' concerns without providing indications positive or negative about what you think the outcome will be. We are there to assist them in filing for their earned benefits, not to give them on-the-spot decisions on their claimed conditions. If we are assisting with a veteran's claim, all evidence should be submitted to the VSO/VCE 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. It is also appropriate to assist the claimant with filling out a power of attorney and intent to file form and sending that information to local national service office as soon as possible regardless of previously denied claims.

Medical Evidence

When you are dealing with any chronic disease listed in this guide, service connection may be granted upon the submission physician's statement clearly describing complete symptomatology and clinical findings supporting a diagnosis that 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 or her statement supporting claims for service-connected disability benefits. In some cases, service connection will be granted because 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. Doctor's 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. DBQs 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.

Lay Evidence

Chronic Diseases

Service connection for chronic diseases may be supported even without medical evidence. In such cases, laypeople 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 and heart disease—in other words, where the particular disease is not apparent to a layperson. 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

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the veteran dragged his or her leg or had a slurred speech or other symptoms peculiar to this disease. Statements may be submitted in lieu of affidavits, provided they bear 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 the layperson's attention. The layperson should state in his or her 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, the statement must be executed by people with whom the veteran served. They should state where and when they observed the injury or disability. Usually, it is best to state they served in the same outfit. If you are dealing with an injury, people making affidavits or statements should describe the injury in detail. If they did not witness the actual injury, they 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 people 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 or Social Security number. Where veterans are endeavoring to establish service connection for disabilities on the basis of statements from people with whom they served, they 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 the 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 Jan. 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 percent within one year (unless otherwise noted) from date of discharge. If the application is received after one 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

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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, of the brain or spinal cord or peripheral nerves
- Ulcers, peptic (gastric or duodenal) (A proper diagnosis of gastric or duodenal 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. Whenever possible, 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 percent or more within one year following separation from service. However, presumption relating to psychosis is extended

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for establishing service connection for entitlement to hospitalization or medical treatment, only, for any veterans 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 active service: before July 26, 1949, for World War II veterans; before Feb. 1, 1957, for Korea veterans; two years following termination of the Vietnam era for Vietnam veterans; and two years following the last day (date not yet established) of the Persian Gulf War for Persian Gulf era veterans. 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; and distrust of the VA and other government institutions. 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.
2. A history of a life-threatening situation that 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; 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 percent 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 or arrhythmia).
- Stroke and its complications.

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- Osteoporosis, on or after Oct. 10, 2008, if the secretary determines that the veteran has posttraumatic 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 10 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.
- Osteoporosis, on or after Sept. 28, 2009.

Secondary and aggravated conditions

Disability that 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 they do not meet the time and severity standards in the new regulation.

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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 percent 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 percent 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;therosclerotic 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: 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: 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

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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 the VA. The most up-to-date information can be found at the following link:

www.publichealth.va.gov/exposures/agentorange/conditions/

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 service office for proper development due to the complexity and seriousness of the disability involved.

Compensation for certain disabilities occurring in Persian Gulf veterans

The 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 percent or more not later than Dec. 31, 2021.*
- 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):

- (A) An undiagnosed illness.
(B) 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 or 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, multi-symptom 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, nonmedical 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

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pertinent evidence establishes that the signs or symptoms of the disability first became manifest.

Signs or Symptoms

Signs or symptoms that 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 percent 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 percent 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 percent 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, the 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:

www.publichealth.va.gov/exposures/gulfwar/index.asp

Camp Lejeune contaminated water presumptive conditions

Effective March 17, 2017, the Department of Veterans Affairs amends its adjudication regulations regarding presumptive service connection, adding certain diseases associated with contaminants present in the base water supply at U.S. Marine Corps Base Camp Lejeune, North Carolina, from Aug. 1, 1953, to Dec. 31, 1987. This final rule establishes that

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veterans, former reservists, and former National Guard members who served at Camp Lejeune for no less than 30 days (consecutive or nonconsecutive) during this period and who have been diagnosed with any of eight associated diseases are presumed to have incurred or aggravated the disease in service for purposes of entitlement to VA benefits. In addition, this final rule establishes a presumption that these individuals were disabled during the relevant period of service for purposes of establishing active military service for benefits purposes. Under this presumption, affected former reservists and National Guard members have veteran status for purposes of entitlement to some VA benefits. This amendment implements a decision by the secretary of Veterans Affairs that service connection on a presumptive basis is warranted for claimants who served at Camp Lejeune during the relevant period and for the requisite amount of time and later develop certain diseases.

Diseases associated with the water supply

If a veteran, or former reservist or member of the National Guard, was exposed to contaminants in the water supply at Camp Lejeune during military service and the exposure meets the requirements of § 3.307(a)(7), the following diseases shall be service connected even though there is no record of such disease during service, subject to the rebuttable presumption provisions of § 3.307(d):

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

Camp Lejeune Families Act of 2012

Veterans' health care

In accordance with the 2012 Camp Lejeune health care law, the VA provides cost-free health care for certain conditions to veterans who served at least 30 days of active duty at Camp Lejeune from Jan. 1, 1957, to Dec. 31, 1987. Qualifying health conditions include:

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

Veterans eligible for health care under the 2012 Camp Lejeune health care law may enroll in VA health care and receive medical services for the 15 covered health conditions at no cost (including copayments).

Family member health care reimbursement

Veterans' family members who also resided at Camp Lejeune during the qualifying period are eligible for reimbursement of out-of-pocket medical expenses related to the 15 covered health conditions. The VA can only pay treatment costs that remain after payment from your other health plans. More information about Camp Lejeune contaminated water, to include information on 2012 Camp Lejeune

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health care law for veterans and family members, can be found at:

www.publichealth.va.gov/exposures/camp-lejeune

Blue Water Navy Vietnam Veterans Act of 2019

The Blue Water Navy Vietnam Veterans Act of 2019 (PL 116-23) was signed into law on June 25, 2019, and takes effect January 1, 2020.

The law authorizes VA to extend the presumption of herbicide exposure, such as Agent Orange, to Veterans who served in the offshore waters of the Republic of Vietnam between January 9, 1962, and May 7, 1975. Veterans or their survivors may be eligible for benefits based on one of fourteen illnesses that have been related to contact with herbicides such as Agent Orange, used to clear trees and plants during the war.

Effective January 1, 2020, VA is authorized to begin deciding claims for disability compensation under the provisions of PL 116-23. The Act also includes provisions that affect VA's Home Loan Program, which take effect on January 1, 2020. Veterans who served in the offshore waters of the Republic of Vietnam may now be eligible for disability compensation and other benefits, for themselves and their families, for disabilities VA believes may be caused by herbicides such as Agent Orange.

VA is also extending benefits to children with spina bifida whose Veteran parent was exposed while serving in Thailand. Additionally, Veterans who served in or near the Korean Demilitarized Zone (DMZ) from September 1, 1967, to August 31, 1971, may now qualify for compensation and benefits for themselves and their family members.

Eligibility

Veterans who served aboard a U.S. military vessel in the offshore waters of the Republic of Vietnam between January 9, 1962, and May 7, 1975.

The vessel must have operated not more than 12 nautical miles seaward from the coordinates listed in PL 116-23.

Blue Water Navy (BWN) claims will be processed under current prioritization criteria which include, but are not limited to, giving priority to claims of Veterans who are over age 85 or who have a terminal condition

Claim Filing

To file an initial claim for herbicide-related disability (that has not been previously decided by VA), do not use or submit VA Form 20-0995. Use VA Form 21-526EZ, Application for Disability Compensation and Related Compensation Benefits.

If a veteran had an herbicide exposure claim with one or more presumptive conditions denied in the past, file a new claim. Provide or identify any new and relevant information regarding the claim, such as the dates the veteran's vessel traveled within the offshore waters of the Republic of Vietnam or updated medical information. Please submit the claim on a VA Form 20-0995, Decision Review Request: Supplemental Claim. VA will be using the new law to automatically review claims that are currently with the VA review process or under appeal.

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

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appliance, including a wheelchair, that 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. 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 that 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 Aug. 1 of each year.

CLAIMS FOR INCREASED EVALUATION

Reopened claims

Any claim may be reopened by submitting a doctor's statement or evidence 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 re-examination, 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, review the medical evidence before reopening the claim. 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 percent 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 percent 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 percent 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 percent 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 percent 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 percent 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 12 months, may be granted. A temporary 100 percent 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 his or her house or must use a wheelchair or crutches (regular weight-bearing prohibited).

TOTAL DISABILITY DUE TO 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 that, in the case of only one service-connected condition, it must be rated 60 percent or more; in the case of two or more service-connected disabilities, there shall be at least one rated 40 percent or more and sufficient additional disability combining to 70 percent 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. This is especially significant regarding claims that 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 that 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 that 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 that 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

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any time when the evidence will substantiate an increase in the disability.

Effective dates

Increases in compensation or pension based on marriage or 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 reopened 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 percent or more, he or she will be paid only the 10 percent rate. If the veteran is rated at 10 percent, he or she will be paid one-half the normal 10 percent 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.

MILITARY SEXUAL TRAUMA (MST) CLAIMS

MST is a term used by the VA to refer to a sexual assault or sexual harassment that occurred during military service. The VA defines MST in 38 U.S.C. § 1720D as "psychological trauma, which in the judgment of a mental health professional, resulted from a

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physical assault or battery of a sexual nature or sexual harassment occurring while the veteran was serving on active duty or active duty for training.” MST is also known as repeated, unsolicited verbal or physical contact of a sexual nature which is threatening in character. Someone may be:

- Physically forced into participation.
- Pressured into sexual activities (e.g., with threats of consequences; with implied better treatment).
- Unable to consent to sexual activities (e.g., intoxicated).

MST is a crime of aggression, domination and power. PTSD and other mental health conditions such as depression, anxiety, adjustment disorder, dissociative disorders, borderline personality disorder and substance abuse are linked to MST. Victims of MST may also have physical health problems like gastrointestinal symptoms, back pain, headaches, sexual dysfunction or chronic fatigue. Not everyone needs treatment, but recovery from MST can often be complicated by a number of factors:

- MST is an interpersonal trauma, and the perpetrator is frequently a friend, intimate partner or other trusted individual.
- MST may be particularly confusing in the military context, where others are your brothers- or sisters-in-arms.
- MST may be ongoing, and survivors may continue to have interactions with their perpetrator(s) while in the service.

The Sexual Assault Prevention and Response Office (SAPRO) is responsible for oversight of the Department of Defense sexual assault policy and for issuing congressionally required annual reports that track sexual assault within the military. Learn more at sapro.mil.

Military personnel who are victims of sexual assault have two reporting options:

Restricted: Confidential reporting to a covered individual [e.g., sexual assault response coordinator (SARC); victim advocate; health care provider; chaplain] that does NOT trigger an investigation. The SARC notifies the installation commander of the assault without identifying the victim, who is able to receive services and support.

Unrestricted: Triggers an official investigation as well as services and support through the SARC.

According to SAPRO, 86.5 percent of sexual assaults are not reported, meaning that official documentation of many assaults may not exist.

All veterans seen in the Veterans Health Administration (VHA) are asked whether they experienced MST, and about 1 in 5 women and 1 in 100 men respond yes. VHA reports that approximately 23 percent of women and 1.3 percent of men screen positive for MST. It's important to remember that VHA provides free medical care for mental and physical health conditions related to MST. Eligibility for MST related care is entirely independent of the service connection process. Veterans do not need to have reported their experiences at the time or have other documentation that they occurred. They may be able to receive free MST-related care even if they are not eligible for other VA services.

Evidence for MST claims

The Veterans Benefits Administration (VBA) has specialized training to improve overall sensitivity and awareness of evidence development for MST-related PTSD claims, which has led to higher grant rates. As with other PTSD claims, the VA initially reviews the veteran's military service records for evidence

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of the claimed stressor. Due to the personal and sensitive nature of MST stressors, victims often do not report or document the event when it occurs due to shame, guilt or fear of reprisal. The VA has specific regulations and procedures for MST claims that assist in developing evidence necessary to support these claims. While disability claims for PTSD are found at 38 C.F.R. Section 3.304(f) and fall under personal assault, the VA has a regulatory category with special liberalizing considerations for claims for PTSD based on MST that are found in Section 3.304(f)(5).

Evidence of a “marker” found in service or post-service records indicating the stressor may have occurred meets the threshold that must be met under Section 3.304(f)(5) in order for the veteran to have a VA examination scheduled. The marker or evidence from sources other than a veteran’s service record that may corroborate the veteran’s account of the stressor incident includes:

- Records from law enforcement authorities, rape crisis or mental health counseling centers, hospitals or physicians.
- Pregnancy tests or tests for sexually transmitted diseases.
- Lay statements from family members, roommates, fellow service members or clergy. These are given special attention from the VA due to their probative value. Examples of behavioral markers or evidence that may indicate occurrence of an assault are:
 - A request for transfer to another military duty assignment.
 - Deterioration in work performance;
 - Substance abuse.
 - Episodes of depression, panic attacks or anxiety without an identifiable cause.

- Unexplained economic or social behavioral changes.

Based on a number of court cases, there are four criteria that require the VA to provide a medical exam and subsequent opinion:

1. Competent evidence of current disability or persistent or recurrent symptoms of a disability.
2. Evidence of a marker that a qualifying in-service event occurred in service or post-service records.
3. An indication that the disability may be associated with the veteran’s service using a low threshold and liberal approach.
4. Insufficient competent medical evidence on file for a decision on the claim, which is why an examination and medical opinion would be requested.

It is the VA’s duty to notify the veteran in writing that evidence from sources other than the veteran’s service record or evidence of behavior changes may constitute credible supporting evidence of the stressor and allow them to provide this type of evidence or to advise the VA of potential sources of such evidence. MST-related evidence from recently separated veterans may be easier to obtain due to DOD Forms 2910 and 2911, which corroborate the stressor. It is important to remember that actual documentation is not necessary, and the opinion of a qualified mental health clinician is credible evidence supporting occurrence of the claimed MST stressor. Per the VA, in the majority of cases, the clinician’s opinion will be enough to grant service connection. However, the final decision is in the hands of the VBA raters who are obligated to give the benefit of the doubt to the veteran when evidence is equal balance for and against service connection.

When a veteran files a claim for mental or physical disabilities other than PTSD based on MST, the VA will obtain the veteran’s service

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medical records, VA treatment records and relevant records identified by the veteran. If a veteran is not eligible for PTSD based on MST under 38 C.F.R. 3.304(f)(5), the claim can still be adjudicated under the appropriate regulations for PTSD or other mental health conditions.

COMPENSATION RATES

Compensation rates are periodically provided a cost of living adjustment (COLA) by Congress. Historically, COLAs have usually occurred effective Dec. 1, to reflect issuance of the higher payments commencing Jan. 1. Current and historical rate tables for compensation as well as other VA benefit program rates may be reviewed at:

benefits.va.gov/compensation/resources_comp01.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 that specify 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 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 or blindness with the complication of service-connected deafness. 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

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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 service members 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 service member or veteran may only receive the automobile grant once. 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. The VA may provide financial assistance in purchasing adaptive equipment more than once. This benefit is payable to either the seller or the veteran or service member. Eligibility requirements to receive the one-time automobile:

- Must be either a service member still on active duty or an honorably discharged veteran.
- 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.
 - Loss, or permanent loss of use, of one or both hands.
 - 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.

- 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.

One of the following eligibility requirements must be met to receive adaptive equipment:

- Must be either a service member still on active duty or an honorably discharged veteran and meet the disability requirements for the automobile grant.
- Must 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 the 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.

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

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service connected, 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 resulted in a 6.3 percent 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 increased from \$60,000 to \$63,780, and the aggregate amount of assistance available for the Adaptive Housing grant increased from \$12,000

IMPORTANT

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

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CHAPTER 6

PENSION



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PENSION

Improved Pension

Pension is a VA program to provide a level of established financial support to wartime Veterans or their widows, based on financial need. A Veteran must be permanently and totally disabled (P&T) i.e.; unable to secure employment for reasons other than related to military service or willful misconduct. If the veteran is age 65 or older, disability is not a factor.

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 reviewed before any application is formally submitted to the VA.

Entitlement

Military service requirements are met for a nonservice-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.
- 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.
- 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 Sept. 8, 1980, or officers who entered active duty on or after Oct. 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.

Total disability ratings for pension are based on unemployability, education and age of the individual. All Veterans who are basically eligible and who are unable to secure and follow a substantially gainful occupation by reason of disabilities which are likely to be permanent shall be rated as permanently and totally disabled. For the purpose of pension, the permanence of the percentage requirements of 38 CFR §4.17 is a requisite. If the veteran is age 65 or older, disability is not a factor.

When the percentage requirements are met, and the disabilities involved are of a permanent nature, a rating of permanent and total disability will be assigned if the Veteran is found to be unable to secure and follow substantially gainful employment by reason of such disability. Prior employment or unemployment status is immaterial if in the

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judgment of the rating board the Veteran's disabilities render him or her unemployable. In making such determinations, the following guidelines will be used:

- a. Marginal employment, for example, as a self-employed farmer or other person, while employed in his or her own business, or at odd jobs or while employed at less than half the usual remuneration will not be considered incompatible with a determination of unemployability, if the restriction, as to securing or retaining better employment, is due to disability.
- b. Claims of all Veterans who fail to meet the percentage standards but who meet the basic entitlement criteria and are unemployable will be referred by the rating board to the Adjudication Officer.

EXCEPTIONAL CASES

Where the evidence of record establishes that an applicant for pension who is basically eligible fails to meet the disability requirements based on the percentage standards of the rating schedule but is found to be unemployable by reason of his or her disabilities, age, occupational background and other related factors, the following are authorized to approve on an extra-schedular basis a permanent and total disability rating for pension purposes:

The Adjudication Officer, or where regular schedular standards are met as of the date of the rating decision, the rating board. (NOTE: This is not for request but rather for Rating Member judgment call)

Attaining age 65 DOES entitle Veterans' to pension benefits.

There are no disability requirements for a widow, child, or parent.

Excessive corpus of the claimant's estate has no specific dollar amount put on it. The VA uses an actuarial table to estimate the limit, very similar to what insurance companies use.

In September of 2018, the Department of Veterans Affairs (VA) released new rules for non-service connected disability pensions. These pensions include the following: the Basic Veterans Pension, Survivors Pension (also referred to as the Death Pension), Aid & Attendance Pension, and the Housebound Pension. These new VA rules, which include a Look Back Rule and a set, became effective October 18, 2018. While these rules were first proposed back in 2015, unlike with Medicaid, the VA has never had a look back rule or set net worth limit until now.

With the implementation of the new look back rule, another new rule is very important to mention. In previous years, there has been no established net worth limit set by the VA. However, it was previously advised that a veteran or surviving spouse have assets no greater than \$50,000, and a veteran with a spouse not have assets over \$80,000. That said, with the new rule, the VA has set a firm asset limit of \$127,061 for 2019 (and \$129,094 for 2020) . This figure, which will include the assets of one's spouse (if married), will increase annually as Social Security benefits are increased.

Net worth includes checking, savings, and money market accounts, mutual funds, and stocks. Some assets are not counted towards the net worth limit, and include one's primary home on up to 2 acres of land (acreage in excess of 2 acres will be counted towards one's net worth), household goods, a personal vehicle, and personal items, such as clothing.

Another important note, the new VA rules also indicate that income is to be considered part of one's net worth. Therefore, one's monthly income is multiplied by 12 and added to one's net worth. For example, if a veteran or

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surviving spouse receives \$1,200 / month in income, \$14,400 (\$1,200 x 12 = \$14,400) will be added to one's net worth. However, one can deduct unreimbursed medical expenses (meaning they are not paid for by insurance) from their income, effectively lowering one's income to be applied towards one's net worth. Examples of unreimbursed medical expenses include insurance premiums, in-home care, and assisted living / nursing home costs.

NOTE: On December 27, 2001, the president signed PL 107-103, Sec 206 and 207 give formal authority for statutory presumption of permanent and total disability for pension at age 65, as well as two other statutory pension presumptions.

The VA has the authority to concede pension entitlement without a formal rating in three specific instances. When one of these three criteria is met, the VA will make an annotation of which category the Veteran meets, cite this implementing memo in the remarks section of the award and proceed to an eligibility determination without referral to the rating board. Assuming the Veteran has the requisite wartime service, the criteria are as follows:

1. A patient in a nursing home for long-term care because of disability.
2. Disabled, as determined by the Commissioner of Social Security for purposes of any benefits administered by the Commissioner.
3. Unemployable as a result of disability reasonably certain to continue throughout the life of the person.
4. Suffering from:
 - a. Any disability which is sufficient to render it impossible for the average person to follow a substantially gainful occupation, but only if it is reasonably

certain that such disability will continue throughout the life of the person; or

b. Any disease or disorder determined by the Secretary to be of such a nature or extent as to justify a determination that persons suffering there from are permanently and totally disabled.

WARTIME SERVICE

- World War II: Dec. 7, 1941–Dec. 31, 1946.
- Korean conflict: June 27, 1950–Jan. 31, 1955.
- Vietnam era: Aug. 5, 1964 (Feb. 28, 1961, for veterans who served “in country” before Aug. 5, 1964)–May 7, 1975.
- Persian Gulf War: Aug. 2, 1990, through to a date to be set by law or presidential proclamation.

ELIGIBILITY

A veteran may be eligible if they meet the following criteria:

- They were discharged from service under other than dishonorable conditions, AND
- Served 90 days of active duty with at least one day during wartime, *AND
- Their countable income is below the maximum annual pension rate (MAPR), AND
- Meet net worth limitations AND
- Meet one of the following criteria:
 - Are age 65 or older.
 - Have a permanent and total nonservice-connected disability.
 - Are a patient in a nursing home due to mental or physical incapacity.
 - Are receiving Social Security disability benefits.

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Abdominal supports	Invalid chair	Podiatrist
Acupuncture service	Lab tests	Psychiatrist
Ambulance hire	Lip reading lessons	Psychoanalyst
Anesthetist	designed to overcome a disability	Psychologist
Arch supports	Lodging incurred in conjunction with out-of-town travel for treatment (to be determined on a facts-found basis)	Psychotherapy
Artificial limbs and teeth	Medicare premiums	Radium therapy
Back supports	Neurologist	Sacroiliac belt
Braces	Nursing services for medical care, including nurse's board paid by claimant	Seeing-Eye dog and maintenance
Cardiographs	Occupational therapist	Speech therapist
Chiropodist	Ophthalmologist	Splints
Chiropractor	Optician	Surgeon
Convalescent home (for medical treatment only)	Optometrist	Telephone/teletype special communications equipment for the deaf
Crutches	Oral surgery	Transportation expenses for medical purposes (41.5 cents per mile effective January 1, 2009, plus parking and tolls or actual fares for taxi, buses)
Dental service, for example, cleaning, x-ray, filling teeth	Osteopath, licensed	Vaccines
Dentures	Pediatrician	Wheelchairs
Dermatologist	Physical examinations	Whirlpool baths for medical purposes
Drugs, prescription and nonprescription	Physician	X-rays
Gynecologist	Physical therapy	
Hearing aids and batteries		
Home health services		
Hospital expenses		
Insulin treatment		
Insurance premiums, for medical insurance only		

The lists shows many of the common allowable medical expenses.

Note: This list is not all-inclusive. Allow all expenses that are directly related to medical care.

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Three Year Look back

When the VA receive a pension claim, they review the terms and conditions of any assets the Veteran may have transferred in the 3 years before filing the claim.

If a veteran transfers assets for less than fair market value during the look-back period, and those assets would have pushed the net worth above the limit for a VA pension, the veteran may be subject to a penalty period of up to 5 years. They won't be eligible for pension benefits during this time.

Note: This new policy took effect on October 18, 2018. If the veteran filed a claim before this date, the look-back period doesn't apply. (A look-back period never includes a date before October 18, 2018.)

What's a penalty period?

A penalty period is a length of time when a Veteran isn't eligible for pension benefits because they transferred assets for less than fair market value during the look-back period. The VA won't pay pension benefits during a penalty period.

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 and is unable to secure gainful employment, and/or is age 65 or older and you feel that he or 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, age 65 or older 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 that have been in effect for 20 years or more shall not be reduced, except in the case of fraud or excessive income.

Housebound 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 percent) disability as well as other disabilities independently evaluated at 60 percent 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

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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, that 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 or adjusting prosthetic devices, or to be protected from the hazards of the daily environment.
- Is bedridden, in that disabilities require that the veteran remain in bed apart from any prescribed course of convalescence or treatment.
- Is a patient in a nursing home due to mental or physical incapacity.
- Has corrected visual acuity of 5/200 or less, in either 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

The 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 through cost of living increases. In general, the 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. The VA then

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subtracts the countable income from the MAPR. The difference is the annual pension entitlement. The VA divides this amount by 12 and rounds down to the nearest dollar, arriving at the approximate amount of monthly pension payment.

The 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.

Pension Centers and Regions



The Philadelphia PMC is the servicing office for the State of Florida.

CHAPTER 7

SURVIVOR AND DEPENDENT BENEFITS



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SURVIVOR AND DEPENDENT BENEFITS

DEFINITION OF A SURVIVING SPOUSE

1. **Date of Marriage.** A surviving spouse must have been legally married to the Veteran one year or more or for any period of time if a child was born of the union.
2. **Residence with Veteran.** Lived with the Veteran continuously from the date of marriage to the date of the Veteran's death except where there was a separation which was due to the misconduct of, or procured by, the Veteran without the fault of the spouse, and who has not remarried or (in cases not involving remarriage) has not since the death of the Veteran and after September 19, 1962, lived with another person and held themselves out openly to the public to be the spouse of such other person.
3. **Surviving Spouse Remarriage.** Provides reinstatement of eligibility to Dependency and Indemnity Compensation for certain remarried surviving spouses upon termination of remarriage.
4. **Restores dependency and indemnity compensation (DIC), VA home loan guarantee, and education, benefit eligibility for spouses remarried after age 57, and burial eligibility for all remarried spouses.**

PENSION FOR SURVIVING SPOUSE

Once a Veteran dies no matter what Pension law he was under during his lifetime, there is no protection as to the Pension benefit. All widows/widowers who apply for Pension as a widow fall under the rules which govern the Improved Pension Program ("Improved Pension") means the disability and death pension programs becoming effective January 1, 1979, under authority of Pub. L. 95-588; 92 Stat. 2497.

Eligibility may exist for Pension as a Surviving Spouse if:

- a. The deceased Veteran was discharged from service under other than dishonorable conditions, AND
 - b. He or she served 90 days or more of active duty with at least 1 day during a period of war time. However, 38 CFR 3.12a requires that anyone who enlists after 9/7/80 generally has to serve at least 24 months or the full period for which a person was called or ordered to active duty in order to receive any benefits based on that period of service. With the advent of the Gulf War on 8/2/90 (and still not ended by Congress to this day), Veterans can now serve after 9/7/80 during a period of wartime. When they do, they generally now must serve 24 months to be eligible for pension or any other benefits. But note the exclusions in 38 CFR 3.12(d), AND
 - c. You are the surviving spouse or unmarried child of the deceased Veteran, AND
 - d. Your countable income and net worth is below a yearly limit set by law. A Pension Income Table can be found in the back of this book.
3. Unlike the Veteran (If under age 65), who must provide medical proof of unemployability, the widow/widower is not required to be disabled or meet any age requirement.
 4. Similar to computing countable income for Veterans, all income received by the widow/widower and children are counted, unless specifically excluded by law. Depending on the size of the estate, it may be necessary for the VA to make net worth determination. Net worth is reviewed on case-by-case basis with \$127,061 as the general maximum allowed.
 5. Payments are made monthly unless the amount of the annual benefit is less than 4 percent of the maximum annual rate payable to

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a Veteran, in which case payments may be made less frequently than monthly.

6. Application for Survivor's Pension is accomplished by completing the VA Form 21-534EZ, Application for Dependency and Indemnity Compensation, Death Pension and Accrued Benefits by a Surviving Spouse or Child.

DEPENDENCY AND INDEMNITY COMPENSATION

1. Dependency and Indemnity Compensation (DIC) payments may be authorized for:

- a. Surviving spouse (not Ex-spouse)
- b. Unmarried children under 18 years old
- c. Helpless children
- d. Children between 18 and 23 years old if attending a VA approved school
- e. Low income parents of service personnel

IF

- a. The Veteran died from a disease or injury incurred in or aggravated (beyond normal progression) by active duty, or active duty for training.
- b. The Veteran died of an injury incurred or aggravated in the line of duty while on inactive duty training.
- c. The Veteran died of a service-connected disability, recognized by the VA.
- d. The service-member died on active duty

And

- e. The death of the Veteran or service-member was not the result of willful misconduct.

ADDITIONALLY

2. DIC may also be authorized for surviving spouses, unmarried children under 18, helpless children, and those children between 18 and 23 if attending a VA approved school if the Veteran was totally disabled due to service-

connected disability at the time of death, but the death was not the result of the service-connected disability if:

- a. the Veteran was continuously rated service-connected totally disabled for a period of 10 or more years immediately preceding death.
- b. the Veteran was so rated for a period of not less than five years from the date of discharge from military service.
- c. the Veteran died as a result of an injury or treatment as a result of hospitalization, medical or surgical treatment received while properly admitted to a VA medical facility.
- d. when death occurred after service, the Veteran's discharge must have been under conditions other than dishonorable.

DIC is currently payable under 38 U.S.C. 1318 to survivors of Veterans whose service-connected conditions were rated totally disabling for 10 years or more immediately preceding the Veteran's death. Section 501 of Pub. L. 106-117 authorizes payment of DIC to the survivors of former Prisoners of War (POW) who died after September 30, 1999, and who was rated totally disabled for a service-connected disability continuously for a period of not less than one year immediately preceding death. This provision is effective November 30, 1999.

DIC payments

1. Surviving spouses of Veterans who died after January 1, 1993, receive a monthly payment that is adjusted annually. An additional allowance may be payable if at the time of the Veteran's death, the Veteran was in receipt of or entitled to receive compensation for a service-connected disability rated totally disabling (including a rating based on individual unemployability) for a continuous period of at least 8 years immediately preceding death AND the surviving spouse was married to the Veteran for those same 8 years. For each

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dependent child under 18 an additional allowance is payable.

2. Monthly rates for surviving spouses of Veteran's who died prior to January 1, 1993, are based on the pay grade of the Veteran.

3. The monthly rate of DIC to the surviving spouse shall be increased:

a. By an additional \$310.71 per month if the surviving spouse is a patient in a nursing home, or blind, or in need of aid and attendance.

b. By an additional \$145.55 per month if the surviving spouse is housebound.

4. Where there is no surviving spouse of a deceased Veteran entitled to DIC, payment shall be paid to eligible children in equal shares. Payments made by the VA are not taxable income under IRS rules. Payments made by the VA are offset by judicial awards or any money received from the Military Service Department for Survivors Benefits (SBP). DIC payments are not offset by Social Security benefits.

5. Surviving spouses can be paid an additional dependency and indemnity compensation for dependent children. The increased rate applies only to months "occurring" during the two-year period beginning on the date entitlement to DIC began. It ceases on the first month beginning after the expiration of the two-year period or the month in which all of the surviving spouse's children have attained the age of 18, or are removed from the award, whichever is earlier.

How to apply for DIC

1. Applicants apply for DIC by completing a VA Form 21-534EZ. The Veteran's death certificate, proof of marriage, and all previous divorce decrees or death certificates (if not previously provided) must be submitted with the claim.

2. Claims filed within one year of the date of the death of the Veteran are effective for payment of benefits the 1st day of the month of

the death of the Veteran. NOTE: Sect. 506 of Public Law 104-275 provides a surviving spouse is entitled to the Veteran's rate for the month of death after 12/31/96.

3. Claims filed after one year of the date of the death of the Veteran are effective for payment the first day of the month after receipt of claim.

DEPENDENCY AND INDEMNITY COMPENSATION FOR DEPENDENT PARENTS

1. Dependency and Indemnity Compensation for parents is a needs based program, with need being measured by income. Monthly rates depend upon the income of the surviving parent(s) and whether there is only one parent, two parents not living together or two parents together or remarried with a new spouse. The income limit for the benefit is adjusted annually.

2. To qualify for benefits, the dependent parent must have had a child who entered the Armed Forces and:

a. The Veteran child dies:

(1) From disease or injury incurred or aggravated in service.

(2) From disease or injury incurred or aggravated while on inactive duty training.

(3) From a service-connected disability compensable under VA Laws.

b. Rate of DIC paid depends on the amount of income and number of parents.

An additional amount is payable each month to a parent who is a patient in a nursing home or in need of aid and attendance (A&A).

How to apply for parental DIC

Applicants may apply for Parents DIC by completing a VA Form 21-535. Applications must be complete. The Veteran's death certificate and proof of dependency must be submitted with the claim. 2. Report all income

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received, including wages, interest and dividends. Also, report the source of income. In reporting wages or salary, report gross income, NOT TAKE HOME PAY. DO NOT deduct amounts withheld under a retirement act, or amounts withheld for income tax.

CHILDREN OF VIETNAM VETERANS WITH SPINA BIFIDA

38 CFR §3.814 Monetary allowance under 38 U.S.C. 1805 for an individual suffering from spina bifida whose biological father or mother is or was a Vietnam Veteran. Veterans who served in the offshore waters of the Republic of Vietnam may now be eligible for disability compensation and other benefits, for themselves and their families, for disabilities VA believes may be caused by herbicides such as Agent Orange. VA is also extending benefits to children with spina bifida whose Veteran parent was exposed while serving in Thailand.

(a) VA will pay a monthly allowance based upon the level of disability determined under the provisions of paragraph (d) of this section to or for an individual who it has determined is suffering from spina bifida and whose biological father or mother is or was a Vietnam Veteran. Receipt of this allowance will not affect the right of the individual or any other related individual to receive any other benefit to which he or she may be entitled under any law administered by VA. An individual suffering from spina bifida is entitled to only one monthly allowance under this section, even if the individual's biological father and mother are or were both Vietnam Veterans.

Public Law 108-183 Expanded benefits eligibility to children with Spina Bifida who were born to certain Vietnam-era Veterans who served in Korea near the demilitarized zone.

(b) Applicants for the monetary allowance under this section must submit an application to the VA regional office and include the information mandated on the following VA form entitled "Application for Spina Bifida Benefits."

[Ed. Note: Form will be found at the end of this section.]

(c) Definitions.

(1) Vietnam Veteran. For the purposes of this section, the term "Vietnam Veteran" means an individual who performed active military, naval, or air service in the Republic of Vietnam during the period beginning on January 9, 1962, and ending on May 7, 1975, without regard to the characterization of the individual's service. Service in the Republic of Vietnam includes service in the waters offshore and service in other locations if the conditions of service involved duty or visitation in the Republic of Vietnam.

(2) Individual. For the purposes of this section, the term "individual" means a person, regardless of age or marital status, whose biological father or mother is or was a Vietnam Veteran and who was conceived after the date on which the Veteran first served in the Republic of Vietnam during the Vietnam era. Notwithstanding the provisions of §3.204(a)(1), VA shall require the types of evidence specified in §§3.209 and 3.210 sufficient to establish in the judgment of the Secretary that an individual's biological father or mother is or was a Vietnam Veteran.

(3) Spina bifida. For the purposes of this section, the term "spina bifida" means any form and manifestation of spina bifida except spina bifida occulta.

(4) Except as otherwise specified in this paragraph, VA will determine the level of payment as follows:

(i) Level I. The individual walks without braces or other external support as his or her primary means of mobility in the community, has no sensory or motor impairment of the upper extremities, has an IQ of 90 or higher, and is continent of urine and feces without the use of medication or other means to control

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incontinence. \$314.00 per month benefit (COLA 12/01/14).

(ii) Level II. Provided that none of the disabilities is severe enough to warrant payment at Level III, and the individual: walks with braces or other external support as his or her primary means of mobility in the community; or, has sensory or motor impairment of the upper extremities, but is able to grasp pen, feed self, and perform self-care; or, has an IQ of at least 70 but less than 90; or, requires medication or other means to control the effects of urinary bladder impairment and no more than two times per week is unable to remain dry for at least three hours at a time during waking hours; or, requires bowel management techniques or other treatment to control the effects of bowel impairment but does not have fecal leakage severe or frequent enough to require wearing of absorbent materials at least four days a week; or, has a colostomy that does not require wearing a bag. \$1,072.00 per month benefit.

(iii) Level III. The individual uses a wheelchair as his or her primary means of mobility in the community; or, has sensory or motor impairment of the upper extremities severe enough to prevent grasping a pen, feeding self, and performing self-care; or, has an IQ of 69 or less; or, despite the use of medication or other means to control the effects of urinary bladder impairment, at least three times per week is unable to remain dry for three hours at a time during waking hours; or, despite bowel management techniques or other treatment to control the effects of bowel impairment, has fecal leakage severe or frequent enough to require wearing of absorbent materials at least four days a week; or, regularly requires manual evacuation or digital stimulation to empty the bowel; or, has a

colostomy that requires wearing a bag. \$1,827.00 per month benefit.

(2) If an individual who would otherwise be paid at Level I or II has one or more disabilities, such as blindness, uncontrolled seizures, or renal failure that result either from spina bifida, or from treatment procedures for spina bifida, the Director of the Compensation and Pension Service may increase the monthly payment to the level that, in his or her judgment, best represents the extent to which the disabilities resulting from spina bifida limit the individual's ability to engage in ordinary day-to-day activities, including activities outside the home. A Level II or Level III payment will be awarded depending on whether the effects of a disability are of equivalent severity to the effects specified under Level II or Level III.

(3) VA may accept statements from private physicians, or examination reports from government or private institutions, for the purpose of rating spina bifida claims without further examination, provided the statements or reports are adequate for assessing the level of disability due to spina bifida under the provisions of paragraph (d)(1) of this section. In the absence of adequate medical information, VA will schedule an examination for the purpose of assessing the level of disability.

(4) VA will pay an individual eligible for a monetary allowance due to spina bifida at Level I unless or until it receives medical evidence supporting a higher payment. When required to reassess the level of disability under paragraph (d)(5) or (d)(6) of this section, VA will pay an individual eligible for this monetary allowance at Level I in the absence of evidence adequate to support a higher level of disability or if the individual fails to report, without good cause, for a scheduled examination. Examples of good cause include, but are not limited to, the illness or hospitalization of the claimant, death of an immediate family member, etc.

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(5) VA will pay individuals under the age of one year at Level I unless a pediatric neurologist or a pediatric neurosurgeon certifies that, in his or her medical judgment, there is a neurological deficit that will prevent the individual from ambulating, grasping a pen, feeding himself or herself, performing self-care, or from achieving urinary or fecal continence. If any of those deficits are present, VA will pay the individual at Level III. In either case, VA will reassess the level of disability when the individual reaches the age of one year.

(6) VA will reassess the level of payment whenever it receives medical evidence indicating that a change is warranted. For individuals between the ages of one and twenty-one, however, it must reassess the level of payment at least every five years. (Authority: 38 U.S.C. 501, 1805)

(e) Effective dates. Except as otherwise provided, VA will award the monetary allowance for children suffering from spina bifida based on an original claim, a claim reopened after final disallowance, or a claim for increase as of the date VA received the claim or the date entitlement arose, whichever is later.

(1) VA will increase benefits as of the earliest date the evidence establishes that the level of severity increased, but only if the beneficiary applies for an increase within one year of that date.

(2) If a claimant reopens a previously disallowed claim based on corrected military records, VA will award the benefit from the latest of the following dates: the date the Veteran or beneficiary applied for a correction of the military records; the date the disallowed claim was filed; or, the date one year before the date of receipt of the reopened claim.

(f) Reductions and discontinuances. VA will generally reduce or discontinue awards

according to the facts found except as provided in §§3.105 and 3.114(b).

(1) If benefits were paid erroneously because of beneficiary error, VA will reduce or discontinue benefits as of the effective date of the erroneous award.

(2) If benefits were paid erroneously because of administrative error, VA will reduce or discontinue benefits as of the date of last payment.

To file a claim use:

- VA Form 21-0304
- Veterans DD 214
- Child's Birth Certificate showing Veteran as natural father
- Private Medical Statement showing Spina Bifida diagnosis

NOTE: The claims folder, when established, will be on the child with the child's social security number as the identifying claim number (not the Veteran's) must submit a separate 21-22 for the child in order to assist.

Definitions

Spina bifida - Literally means cleft or split spine. Results from a congenital failure of the bony vertebral arches that normally encircle the spinal cord to fuse because of abnormal development during the first month of pregnancy. The extent of disability may range from none to total. However, the term "spina bifida" is commonly used as a synonym for myelomeningocele, which is its most severe form.

Spina bifida occulta - Type of spina bifida where the only abnormality is a defect in the vertebral arch. There are no external abnormalities, and it is of no clinical significance. (However, may sometimes

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indicate that an internal abnormality, such as lipomas or other tumors, tethered cord, or diastematomyelia, may be present.)

Children of Women Vietnam Veterans Born with Certain Birth Defects

This section authorizes the payment of monetary benefits to, or on behalf of, certain children of female Veterans who served in Vietnam. Benefits are payable to qualifying children, or on their behalf, beginning December 1, 2001. There are three eligibility requirements. To be eligible, the child must: be the biological child of a woman Veteran who served in the Republic of Vietnam (RVN); have been conceived after the date the Veteran first served in the RVN during the Vietnam era; and have certain birth defects to be identified by the Secretary resulting in permanent physical or mental disability.

The law also limits the birth defects for which we may pay benefits. Do not grant benefits if the birth defect results from: a familial disorder; a birth-related injury; or a fetal or neonatal infirmity with well-established causes.

The specific birth defects qualifying for benefits will be established by regulation.

An application is required. The current Spina Bifida application VA Form 21-0304, is being modified to accommodate this class of beneficiaries. The Spina Bifida payment system is also being expanded to provide for payment of these benefits.

Health Coverage

The law allows health care covering the defects or any disability associated with the birth defects. This care may be provided directly or by contract. Vocational Rehabilitation: If achievement of a vocational goal is reasonably feasible, a program of vocational training provided by Vocational Rehabilitation and Employment is available to an eligible child. Monetary Allowance: The

law includes four levels of monetary allowance, each based on the level of disability of the eligible child. Current authorized payments are as follows and will be adjusted annually based on the cost of living. Children currently receiving Spina Bifida benefits with another qualifying birth defect will be paid the greater benefit.

Countable income: These benefits will not be considered income or resource under any law administered by the Secretary of VA or any other Federal or federally assisted program.

Population: The population of women who served in the RVN during the Vietnam War is believed to be less than 10,000. The VA anticipates that the number of qualifying children will be relatively small.

Effective Date: The effective date of the act is December 1, 2001.

Helpless Child Benefits

Except as provided in paragraphs (a) (2) and (3) of this section, the term "child" of the Veteran means an unmarried person who is a legitimate child, a child legally adopted before the age of 18 years, a stepchild who acquired that status before the age of 18 years and who is a member of the Veteran's household or was a member of the Veteran's household at the time of the Veteran's death, or an illegitimate child; and

- a. Who is under the age of 18 years; or
- b. Who, before reaching the age of 18 years, became permanently incapable of self-support; or
- c. Who, after reaching the age of 18 years and until completion of education or training (but not after reaching the age of 23 years) is pursuing a course of instruction at an approved educational institution. Subject to the provisions of paragraphs (c) and (e) of this section,

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the term "child" also includes a person who became permanently incapable of self-support before reaching the age of 18 years, who was a member of the Veteran's household at the time he or she became 18 years of age, and who was adopted by the Veteran, regardless of the age of such person at the time of adoption. (Authority: 38 U.S.C. 101(4)(a))

A child may be eligible for DIC if they are the surviving child of a military Service member who died in the line of duty or a Veteran whose death resulted from a service-connected injury or disease. Additionally, you must be:

- Unmarried AND
- Under age 18, or between the ages of 18 and 23 and attending school.*
Certain helpless adult children may be entitled to DIC.

EVIDENCE REQUIRED

Listed below are the evidence requirements for this benefit:

- The Service member died while on active duty, active duty for training, or inactive duty training, **OR**
- The Veteran died from an injury or disease deemed to be related to military service, **OR**
- The Veteran died from a non-service-related injury or disease, but was receiving, **OR** was entitled to receive, VA Compensation for service-connected disability that was rated as totally disabling
- For at least 10 years immediately before death, **OR**
- Since the Veteran's release from active duty and for at least five years immediately preceding death, **OR**

- For at least one year before death if the Veteran was a former prisoner of war who died after September 30, 1999
- Complete VA Form 21P-534ez, "Application for Dependency and Indemnity Compensation, Death Pension and/or Accrued Benefits by a Surviving Spouse or Child and mail to the Pension Management Center that serves your state, **OR**
- Work with an accredited representative or agent **OR**
- Go to a VA regional office and have a VA employee assist you. You can find your regional office on our Facility Locator page **OR**
- If the death was in service, your Military Casualty Assistance Officer will assist you in completing VA Form 21P-534a, "Application for Dependency and Indemnity Compensation, Death Pension and/or Accrued Benefits by a Surviving Spouse or Child" and mail to the Philadelphia Regional Office.

Accrued Benefits and Substitution

Accrued benefits are benefits that are due, but not paid prior to a Veteran's death. Examples include:

1. A claim or appeal for a recurring benefit was pending at the time of death, but all evidence needed for a favorable decision was in VA's possession.
2. A claim for a recurring benefit had been allowed, but the beneficiary died before award.

At the time of death, one or more benefit checks were not deposited or negotiated.

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How to apply

If the death is that of a surviving spouse, the accrued benefit is payable to the Veteran's children. However, accrued Dependent's Educational Assistance (DEA) is payable only as reimbursement on the expenses of last sickness and burial.

If the death is that of a child, the accrued benefit is payable to the surviving children of the Veteran. They must be entitled to death compensation, dependency and indemnity compensation, or death pension. There are two exceptions:

- If the deceased child was entitled to an apportioned share of the surviving spouse's award, the accrued benefit is payable only as a reimbursement. It can be used to reimburse expenses of the deceased child's last sickness or burial.
- If the deceased child was in receipt of death pension, compensation or DIC, a remaining child who has elected DEA benefits is entitled only to the unpaid benefits due prior to the commencement of DEA benefits.

The line of succession for accrued benefits is established by law. If a preferred beneficiary fails to file or prosecute a claim, payment is not permitted to a person with equal or lower preference. This also applies to a waiver of right to payment.

Reimbursement

If there is no entitled living person based on relationship, VA will reimburse the person who paid for or was responsible for the Veterans last illness and burial expenses. If payments were made from the deceased beneficiary's estate, the executor of the estate should file the claim.

The amount payable as reimbursement is limited to the actual expenses paid. It is also limited to the accrued benefits available.

Substitution of the claim

Substitution is a type of accrued benefit. If a claimant dies during a pending claim or appeal, someone eligible to receive accrued benefits can act as substitute to complete the claim. Choose a form below based on the following:

Relationship:

- VA Form 21P-601, "Application for Accrued Amounts Due a Deceased Beneficiary," VA Form 21P-534EZ, "Application for Dependency and Indemnity Compensation, Death Pension and Accrued Benefits,"
- VA Form 21P-535, "Application for Dependency and Indemnity Compensation by Parent(s) (Including Accrued Benefits and Death Compensation When Applicable)," VA Form 21P-0847, "Request for Substitution of Claimant Upon Death Claimant," Reimbursement
- VA Form 21P-601, "Application for Accrued Amounts Due a Deceased Beneficiary,"

VA must receive an accrued benefits claim within one year of:

- The Veteran's death and/or
- The date of notification to the Veteran

VA must receive a substitution claim within one year of the original claimant's death. If the substitute dies, the next substitute has one year from the original substitute's death to file a claim.

CHAPTER 8

BURIAL AND MEMORIAL BENEFITS



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BURIAL AND MEMORIAL BENEFITS

VA burial allowances are flat-rate monetary benefits that are generally paid at the maximum amount authorized by law for an eligible veteran's burial and funeral costs. A VA regulation change in 2014 simplified the program to pay eligible survivors quickly and efficiently. Eligible surviving spouses of record are paid automatically upon notification of a veteran's death, without the need to submit a claim. The VA may grant additional benefits, including the plot or interment allowance and transportation allowance, if it receives a claim for these benefits.

Who is eligible?

If the burial benefit has not been automatically paid to the surviving spouse, the VA will pay the first living person to file a claim of those listed below:

- The veteran's surviving spouse.
- The survivor of a legal union* between the deceased veteran and the survivor.
- The veteran's children, regardless of age.
- The veteran's parents or surviving parent.
- The executor or administrator of the estate of the deceased veteran.

*"Legal union" means a formal relationship between the decedent and the survivor existed on the date of the veteran's death, which was recognized under the law of the state in which the couple formalized the relationship and evident by the state's issuance of documentation memorializing the relationship.

The veteran must have been discharged under conditions other than dishonorable. In addition, at least one of the following conditions must be met:

- The veteran died as a result of a service connected disability.
- The veteran was receiving VA pension or compensation at the time of death.
- The veteran was entitled to receive VA pension or compensation, but decided to receive his or her full military retirement or disability pay.
- The veteran died while hospitalized by the VA, or while receiving care under VA contract at a non-VA facility.
- The veteran died while traveling under proper authorization and at VA expense to or from a specified place for the purpose of examination, treatment or care.
- The veteran had an original or reopened claim for VA compensation or pension pending at the time of death and would have been entitled to benefits from a date prior to the date of death.
- The veteran died on or after Oct. 9, 1996, while a patient at a VA-approved state nursing home.

How much does the VA Pay?

Service-Connected Death

If the veteran died on or after Sept. 1, 2001, the maximum service-connected burial allowance is \$2,000. If the veteran died before Sept. 11, 2001, the maximum service-connected burial allowance is \$1,500. If the veteran is buried in a VA national cemetery, the VA may reimburse some or all of the costs of transporting the deceased veteran's remains.

Non-Service-Connected Death

If the veteran died on or after Oct. 1, 2016, the VA will pay a \$300 burial allowance and \$749 for a plot. If the veteran died on or after Oct. 1, 2015, but before Oct. 1, 2016, the VA will pay a \$300 burial allowance and \$747 for a plot. If

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the veteran died on or after Oct. 1, 2014, but before Oct. 1, 2015, the VA will pay \$300 for burial allowance and \$745 for a plot.

Effective October 1, 2011, there are higher nonservice-connected death rates payable if the veteran was hospitalized by the VA at the time of his or her death.

- If the veteran died on or after Oct. 1, 2016, the VA will pay a \$749 burial allowance and \$749 for a plot.
- If the veteran died on or after Oct. 1, 2015, but before Oct. 1, 2016, the VA will pay a \$747 burial allowance and \$747 for a plot.
- If the veteran died on or after Oct. 1, 2014, but before Oct. 1, 2015, the VA will pay a \$745 burial allowance and \$745 for a plot.

If the death occurred while the veteran was properly hospitalized by the VA, or under VA contracted nursing home care, some or all of the costs for transporting the veteran's remains may be reimbursed.

Note: If the veteran dies while traveling at VA expense for the purpose of examination, treatment or care, the VA will pay burial and plot allowances and transportation expenses.

Unclaimed Remains

If a veteran dies and their remains are unclaimed, the entity responsible for the burial of the veteran would be entitled to a \$300 burial allowance. If the veteran is buried in a VA national cemetery, the VA may reimburse the cost of transporting the deceased veteran's remains. The VA may also reimburse for the cost of a plot.

Applying for burial benefits

You can apply by completing VA Form 21P-530 (Application for Burial Benefits). You should attach a copy of the veteran's military discharge document (DD Form 214 or equivalent) and a death certificate.

Allowance rates

An annual increase in burial and plot allowances for deaths occurring after Oct. 1, 2011, began in fiscal year 2013 based on the Consumer Price Index for the preceding 12-month period. For current allowance rates visit:

cem.va.gov

If you are claiming transportation expenses, please attach a receipt for the expenses paid. The VA has a pre-need burial eligibility. The VA implemented the pre-need burial eligibility determination program to assist anyone who would like to know if they are eligible for burial in a VA national cemetery. The VA is promoting pre-need eligibility determinations to encourage veterans and their eligible family members to plan in advance to use VA burial benefits that veterans have earned through their military service. Planning in advance for a veteran's or loved-one's final resting place can eliminate unnecessary delays and reduce stress on a family at a difficult time. Veteran families will have increased confidence that their loved ones are eligible for burial in a VA national cemetery at their time of need.

BURIAL FLAGS

A United States flag is provided, at no cost, to drape the casket or accompany the urn of a deceased veteran who served honorably in the U. S. armed forces. It is furnished to honor the memory of a veteran's military service to his or her country. The VA will furnish a burial flag for

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memorialization for an-other than dishonorably discharged:

- Veteran who served during wartime.
- Veteran who died on active duty after May 27, 1941.
- Veteran who served after Jan. 31, 1955.
- Peacetime veteran who was discharged or released before June 27, 1950.
- Certain persons who served in the organized military forces of the commonwealth of the Philippines while in service of the U.S. armed forces and who died on or after April 25, 1951.
- Certain former members of the selected reserves.

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. You may apply for the flag by completing VA Form 27–2008. A flag is also available to eligible survivors of service members 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.

- 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.
- An individual 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 the VA for the purchase of nongovernmental 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.

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- 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 Jan. 19, 1988, all American merchant seamen who were on active ocean-going service during the period of Dec. 7, 1941, through Aug. 15, 1945.
- Members of the Women's Army Auxiliary Corps serving 90 days or more before Oct. 1, 1943, 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 percent under VA standards in effect at time of determination) prior to Oct. 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 Medal of Honor.

A 1997 law bars certain people 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: arlingtoncemetery.mil

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.

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CHAPTER 9

WAIVERS



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WAIVERS

Veterans and their dependents who receive notice of a debt payable to the U.S. Department of Veterans Affairs have several options available. In accordance with 38 CFR §1.911(c) the debtor has the right to informally dispute the existence of the debt, and/or request a waiver of collection of the debt, to a hearing on the waiver request and to appeal the decision. These rights are to be exercised separately. AN INFORMAL DISPUTE means that the claimant writes to the U.S. Department of Veterans Affairs (VA) and questions whether he or she owes the debt or whether the amount is accurate. The VA will, as expeditiously as possible, review the accuracy of the debt determination. If the resolution is adverse to the claimant, he/she may then request a waiver of collection. The following is a chronological series of events that will occur when a debt is generated:

- First Demand Letter is issued - This letter advises the individual of the debt and provides all due process rights. Those rights are explained in detail on an enclosure entitled "Notice of Rights and Obligations". The letter also explains that DMC will work with the individual to establish a payment plan if they cannot pay the debt in full. DMC's toll-free number (1-800-827-0648) is provided as well as payment options. If the individual is drawing benefits, the letter advises that those benefits will be automatically offset unless the debt is liquidated. It also advises that if the individual wants to dispute the debt or request waiver, they should do so within 30 days to avoid offset of benefits. If they do not respond to the first letter, a second letter is automatically generated 30 days later.
- TOP Referral Notice is issued – This letter is issued 30 days after the

second collection letter if there is no favorable response from the debtor. It warns of referral to Treasury within 60 days if the debt is not paid in full or if a satisfactory payment arrangement has not been accomplished.

- Second Demand Letter is issued - This letter addresses the delinquency and advises the individual that DMC intends to report the unpaid debt to credit reporting agencies within 60 days if payment arrangements are not made. DMC updates the credit reporting agencies files on a monthly basis to reflect the current status of the account. The debt referral will remain on the credit file for seven years from date of origination even if paid in full or written off. The letter also informs the debtor that their account could be referred to the Department of Treasury for further collection. This could include offsets from tax refunds, social security benefits, and salary or retirement benefits under the Treasury Offset Program (TOP). DMC has weekly updates with Treasury that allow us to recall an account or reduce the balance, if necessary. Treasury charges a processing fee for each offset and the fee is added to the individual's indebtedness. Included under the same regulation governing the referral of accounts to the TOP Program is a program called Cross Servicing. Agencies are required to refer a debt over 180 days delinquent to Treasury for cross servicing. Treasury makes initial contact with the debtor and refers the debt to a number of private collection agencies (PCA) if they are unable to collect the debt. The private collection agencies charge substantial fees for their services. Once a debtor is referred to a private collection agency, the debtor

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must deal with the PCA, not DMC, to satisfy the balance of the debt.

5. Interest/Administrative Costs:

VA can charge interest and administrative costs on delinquent debts. A debt is considered delinquent if it remains unpaid over 30 days from DMC's first collection notice. Loan guaranty debts have been charged interest at the rate of 4% since the beginning of the program and continue to accrue interest at that rate. They do not accrue administrative costs. Compensation and pension debts do not accrue interest or administrative costs. Education debts (Chapter 34/35) accrue both interest and administrative costs. The interest rate charged on these debts is based on the U.S. Treasury borrowing rate and is set annually by the Secretary of Veterans Affairs. A debt established within a specific year will carry the interest rate from that year until paid in full. However, an interest rate change could occur as a result of a judgment obtained through litigation. Interest rates for education debts have been as high as 15.05% and as low as 3%.

Administrative costs are assessed on education accounts (CH 34/35) only. The cost is assessed monthly until the debt is paid in full. The cost figure is subject to change annually and is set by the Secretary of Veterans Affairs. Costs have been as low as \$.63 and as high as \$2.32. The current rate is \$2.32 per month. The cost may be avoided if a payment agreement is submitted and accepted by DMC within 30 days of the first demand letter. Payments must be kept current or the charge will be assessed. Payments are applied to administrative costs first, then interest and principle.

Time limits

TIME OF FILING TO PREVENT WITHHOLDING OF BENEFITS (Waiver):

Debt collection via offset will automatically begin unless the claimant makes a written

request for the administrative relief within 30 days of the date of notification of the debt by the VA. (To stop the VA from initially collecting from existing benefits).

TIME LIMIT FOR FILING REQUEST FOR WAIVER (other than home loan):

Within 180 days following the date of a notice of indebtedness issued on or after April 1, 1983, by the Department of Veterans Affairs to the debtor. The 180 day period may be extended if the individual requesting waiver demonstrated that, as a result of an error by either the Department of Veterans Affairs or the postal authorities, or due to other circumstances beyond the debtor's control, there was a delay in such individual's receipt of the notification of indebtedness beyond the time customarily required for mailing (including forwarding). If the requester does substantiate that there was such a delay in the receipt of the notice of indebtedness, the Chairperson shall direct that the 180 day period be computed from the date of the requester's actual receipt of the notice of indebtedness.

TIME LIMIT FOR FILING REQUEST FOR WAIVER OF LOAN GUARANTEE

A request for waiver of indebtedness under this section shall be made within one year after the date on which the debtor receives, by Certified Mail-Return Receipt Requested, written notice from VA of the indebtedness. If written notice of indebtedness is sent by means other than Certified Mail-Return Receipt Requested, then there is no time limit for filing a request for waiver of indebtedness under this section.

How to apply

In order to request a waiver of debt, the Veteran or claimant must apply in writing using VA Form 21 - 4138 and VA Form 5655 (Financial Statement). The request should be made sent to:

The U.S. Department of Veterans Affairs
Debt Management Center

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P.O. Box 11930
St. Paul, MN 55111
Phone: (800) 827-0648
FAX: (612) 970-5688
e-mail: dmc.ops@va.gov

- The request must specify what action is being requested, i.e.
 - a. I request a waiver of \$ _____, and / or.
 - b. I dispute the existence of the debt stated in VA letter dated _____.
- The request should be supported with statements and/or documentation to show why the claimant believes he should receive a waiver.
- If the claimant is alleging undue financial hardship, defeat of the purpose of the benefit, or change of position (Compromise offer or monthly repayment plan) a VA Form 5655 must be submitted in addition to the request.
- Additionally, the claimant may request a waiver based on administrative error. An administrative error is an error made by the VA in computing or calculating an award or benefit. This can exist when the VA had access to, or knew that information was available that would have, or could have affected the entitlement.

Compromise offers can be made at any time during the collection process. DMC's COWC reviews all compromise offers on DMC accounts unless the account is under the jurisdiction of District Counsel or U.S. Attorney. Those offices have separate compromise authority. Compromise offers are normally made as a lump sum offer on the unpaid balance of the debt. The offer must be in writing and must be accompanied by a

completed financial status report. There is no time limit on submitting a compromise offer. Also, subsequent offers may be submitted should an original offer be denied. Education entitlement will be charged for the amount written off by VA. If a loan guaranty debt is compromised, the amount compromised must be repaid in full to restore entitlement previously used.

Standards for Waiver Consideration

The VA is required by Law to consider specific elements when granting or denying requests for waivers. A finding of Fraud and Misrepresentation, or Bad Faith automatically precludes granting of a waiver. In order to determine that Fraud, Misrepresentation, or Bad Faith exists, the VA must prove a willful intent on the part of the claimant. The burden of such proof lies solely with the VA. If the VA cannot prove a willful intent, then it cannot establish Fraud, Misrepresentation, or Bad Faith. The standard Equity and Good Conscience, will be applied when the facts and circumstances in a particular case indicate a need for reasonableness and moderation in the exercise of the Government's rights. The decision reached should not be unduly favorable or adverse to either side. The phrase equity and good conscience means arriving at a fair decision between the obligor and the Government. In making this determination, consideration will be given to the following elements, which are not intended to be all inclusive:

- Fault of debtor: Where actions of the debtor contribute to creation of the debt.
- Balancing of faults: Weighing fault of debtor against Department of Veterans Affairs fault.
- Undue Financial Hardship. Collection will seriously impair the debtor's ability to discharge the responsibility to provide his/her family with the basic necessities of life. The debtor will be expected to

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accord a Government debt the same regard given any other debt. In determining whether collection of the debt would prevent the debtor from meeting necessities or the essential subsistence expenses, the following factors should be considered by the Committee members:

- Income from all sources of the debtor, spouse, and dependents
- (VA Form 5655);
 - The extent to which the assets of the debtor, spouse, and dependents are available to meet both collection and essential subsistence expenses;
 - Whether the essential subsistence expenses have been minimized to the greatest extent possible; and
 - The extent to which the debtor, spouse, and dependents have other exceptional expenses and debts that should be taken into Account and whether these expenses and debts have been minimized. In applying this element of undue financial hardship, Committees will look not only at the debtor's current financial situation, but also at the debtor's future financial situation for the next 3 to 5 years.
- Defeat the purpose. Whether withholding of benefits or recovery would nullify the objective for which benefits were intended.
- Unjust enrichment. Failure to make restitution would result in unfair gain to the claimant.
- Changing position to one's detriment. Reliance on Department of Veterans Affairs benefits results in relinquishment

of a valuable right or incurrence of a legal obligation.

- In applying this single standard for all areas of indebtedness, the following elements will be considered, any indication of which, if found, will preclude the granting of waiver:
 - Fraud or misrepresentation of a material fact (see 38 CFR§1.962(b)).
 - Bad faith. This term generally describes unfair or deceptive dealing by one who seeks to gain thereby at another's expense. Thus, a debtor's conduct in connection with a debt arising from participation in a VA benefits/services program exhibits bad faith if such conduct, although not undertaken with actual fraudulent intent, is undertaken with intent to seek an unfair advantage, with knowledge of the likely consequences, and results in a loss to the government.
 - Lack of good faith: Absence of an honest intention to abstain from taking unfair advantage of the holder and/or the Government.

The claimant must state these elements (appropriate ones), in their request, to support the waiver. Evidence to support each element must be provided by the claimant.

First Party Medical Debts

DMC supports VHA's debt collection efforts by offsetting delinquent first party medical debts from compensation and pension benefits. These debts consist mainly of means test co-payments and pharmacy co-payments. VHA previously sent three billing statements requesting payment. If the debtor did not

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respond, they would refer the debts to TOP for offset. DMC now matches these debts against the Compensation/Pension benefit system to determine if the debtor is drawing benefits that can be offset to liquidate the debt. If benefits are available, DMC contacts the debtor by mail to advise them of the potential offset action. They are advised to contact the medical facility that has the debt if they cannot afford to have

their benefits offset, and wish to make other payment arrangements. If DMC is not advised by the medical center to stop or reduce the offset, we offset the benefits and forward them to the appropriate medical facility for application.

CHAPTER 10

APPEALS



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APPEALS

VA Appeals Modernization

RAMP is part of VA's larger Appeals Modernization Program. On August 23, 2017, the President signed the Veterans Appeals Improvement and Modernization Act of 2017 (Appeals Modernization Act) into law, creating a new process that allows VA to improve the delivery of benefits and services to Veterans and their families. The Appeals Modernization Act establishes a new review process for VA claims that is timely, transparent and fair. Although the new Appeals Modernization Act process does not go into effect until February 2019, VA is giving eligible Veterans the opportunity to participate in two of the new review lanes early through RAMP. **To date, RAMP is no longer in effect.**

As the number of appeals filed with the VA increases, the average wait time for veterans to receive decisions increases exponentially. In order to try and rectify the clogged up system, President Trump signed into law the **Veterans Appeals Improvement and Modernization Act of 2017** which introduced the RAMP program. This Act revamps the entire VA disability benefits appeals process and will replace the current appeal system. The new appeals system is set to replace the current **"legacy"** system on February 19, 2019.

Any claims filed on or after February 19, 2019, will be worked under the new appeals system. If a veteran is currently have pending appeals in the legacy system and did not opt your appeals into the AMA program, they will continue to be worked under the legacy system. The plan is for the VA to work all of the legacy appeals until all appeals are under the new system, though this process could take years to complete. The VA will be conducting reviews of appeals in the legacy system and new system simultaneously. Under the new system, once a veteran receives a

decision, he or she still has one year from the date of the decision to appeal it. If the veteran decides to appeal the decision, he or she must choose between three appeal avenues or lanes: Higher Level Review, Supplemental Claim, or file a Notice of Disagreement (NOD) directly to the Board of Veterans Appeals.

Higher Level Review

To request a Higher-Level Review, fill out the Decision Review Request: Higher-Level Review (VA Form 20-0996).

Currently, there are two Regional Offices conducting Higher Level Reviews: Seattle and St. Petersburg. In the Higher Level Review lane, a more senior VA adjudicator (called Decision Review Officers in the Legacy system) will perform a de novo review of the file and make a decision based on the evidence already of record. De novo means that they will review the appeal without regard to prior decisions and make a decision based on their view of all of the evidence. In this lane, you are basically getting a different person to review the same evidence because you cannot submit new evidence in this lane. There is no duty by the VA to assist in gathering additional evidence or records; the decision is made based on the evidence in the record. This lane in the RAMP program could potentially be utilized for extremely blatant and obvious errors that could be easily rectified without the need for additional evidence.

Supplemental Lane

To file a Supplemental Claim, fill out the Decision Review Request: Supplemental Claim (VA Form 20-0995).

In the Supplemental Lane, new evidence is required to reopen a previously denied claim or file for an increased rating of a service-connected condition. The Supplemental Lane will be conducted at various Regional Offices

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throughout the United States. In this lane, new evidence is required to reopen a previously denied claim or file for an increased rating of a service-connected condition. The evidence must be “new and relevant” to the claim; “new” meaning not previously submitted or received by the VA and “relevant” meaning significant and related evidence to the issue you are claiming. For example, the new and relevant evidence could be evidence of symptoms warranting an increased rating or a nexus opinion for service connection. In the Supplemental Lane of the AMA program, the VA has a duty to assist the veteran in developing or finding evidence for their claim. For example, if you send correspondence stating that you have been receiving treatment at a specific facility and give details of the time period, providers, and other related issues, the VA has a duty to try and find these records for you. The more specific you are, the easier it will be for the VA to find the records. However, it may be better to get the records and send them to the VA as new and relevant evidence so that they will be added to your file.

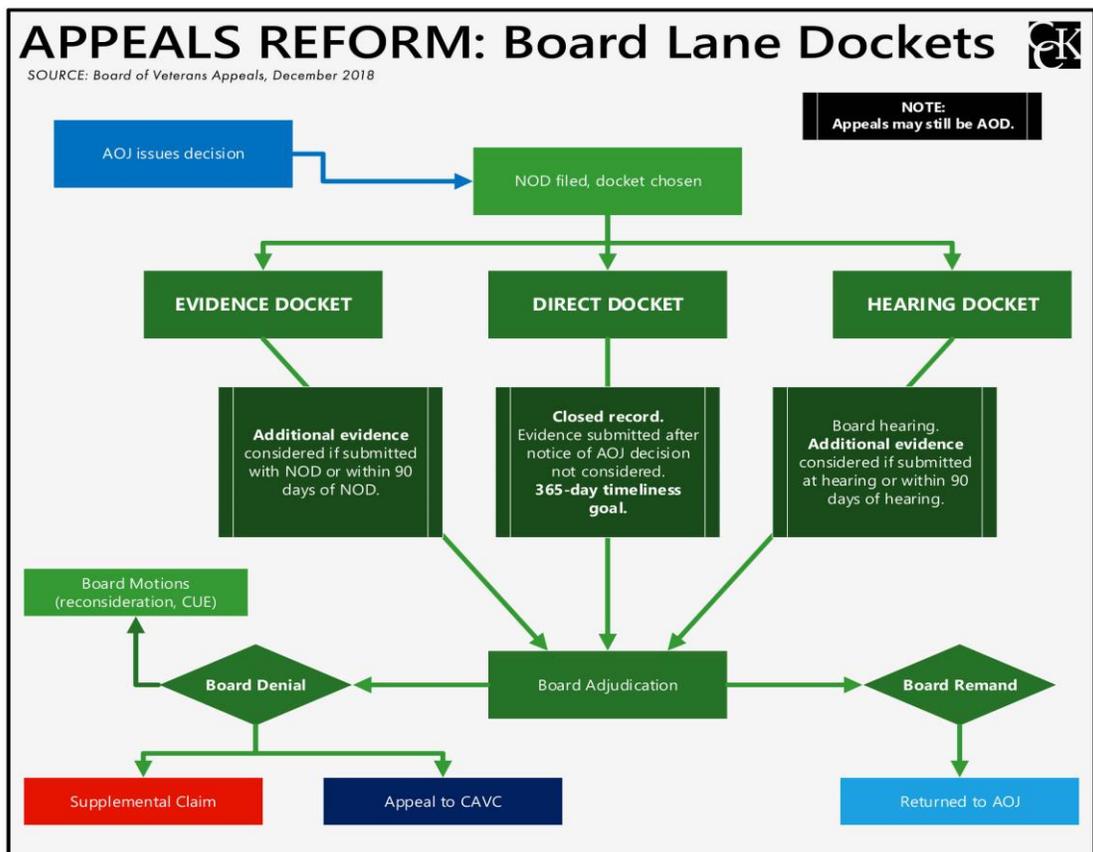
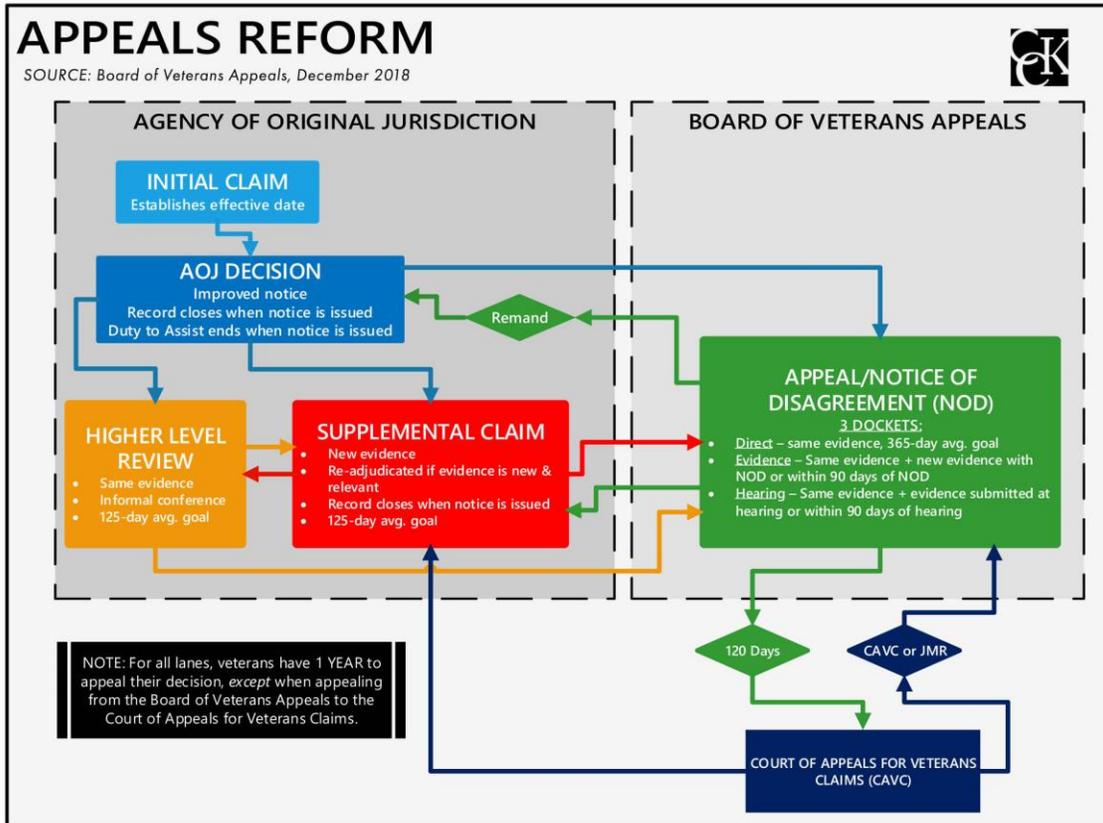
NOD Direct to the Board

In the legacy system, a veteran had to wait to get a rating decision and then appeal it with an NOD. Then the veteran had to wait to receive a Statement of the Case and then file a VA Form 9 to get in line for review at the Board. This process could take an average of at least 3+ years. The new program cuts out Statement of the Cases and VA Form 9s allowing veterans

the ability to appeal directly to the Board after receiving a rating decision. This could potentially save a lot of time for more complicated issues that would likely not get granted at the Regional Office, like non-presumptive Agent Orange conditions. If a veteran chooses to file an NOD directly to the Board, there are three review options to choose from:

- **Direct Review:** This lane will most likely be the fastest lane at the Board. It is a review by the Board based on the evidence of record at the time of the prior decision. This means that additional evidence cannot be filed and there is no request for a hearing. The Board makes a decision based solely on the evidence of record.
- **Evidence Submission:** This lane allows for submission of additional evidence but within 90 days of filing the NOD. There is no request for hearing so the Board makes their decision based on the evidence of record and any additional evidence filed within the 90 day period.
- **Hearing:** This lane will most likely be the slowest lane as additional evidence can be submitted and there is a request for hearing. This means that evidence can continue to be submitted until the Board schedules and conducts a hearing with the veteran.

THE NEW CLAIMS PROCESS



LEGACY APPEALS

Appeals and reconsideration

It should be noted that appeals can take an extremely long time to be complete. In some cases it can take a decade or longer. As service officers, we need to remind our fellow veterans and claimants that just because they do not agree with the decision, they should not immediately file a Notice of Disagreement (NOD), as this will take a long time for resolution. Some situations will require that we enter the appeals process, but in most cases, we have the option for reconsideration. Reconsideration means that, although a decision has been rendered, the claimant has additional evidence to be considered and is requesting a new decision based on all the evidence of record AND this new evidence be issued. If re-adjudication is requested, then the standard time frames for receiving a decision apply. The VA has a target of 125 days and is doing well in meeting this goal. Please keep in mind that a claimant may be upset and demand that a NOD be filed. Stay calm, let them know you understand and then explain the difference in time of the options; 125 days for reconsideration or possibly 10 years or longer in appeal status.

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 NOD. The 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. The claimant should 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 outpatient 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 with 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 claimant's 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 or she has not taken exception to them. The BVA will make a decision on all issues as stated in the SOC. 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 SOC, 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, an 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

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an interpretation of law of general application or for other good cause. Examples of good cause are:

- Terminal or serious illness.
- Extreme hardship that 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. 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 that 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 that the claimant may have overlooked and would be of advantage to his or her position. Because of this, and to assure clarity and understanding, questions 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 either:

- A VA regional office, before VA regional office personnel, or before a decision review officer.
- A VA regional office before a BVA member.
- A VA regional office before a BVA member using video teleconference.
- 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 VA 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 BVA's own motion. Reconsideration of an appellate decision shall be based on the evidence of record and evidence that has a bearing on the issue,

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submitted with the request for reconsideration. Where a claimant feels the BVA has made an error in their decision, it is absolutely essential, that contact is made with a service officer 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 Nov. 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 Nov. 18, 1988. CAVC does not have jurisdiction to hear appeals where the Notice of Disagreement was filed prior to Nov. 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, CAVC is empowered to review all legal and constitutional issues, including the validity of VA adjudication procedures and operations. The CAVC 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 that 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.

Review of BVA decisions

On Nov. 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 Nov. 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.

CHAPTER 11

MEDICAL BENEFITS



MEDICAL BENEFITS

The VA's nationwide health care system has expanded greatly over the past decade, with new locations being added to the system. Additionally, the 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, the 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 Reserve 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 Sept. 7, 1980, or entered active duty after Oct. 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 served prior to Sept. 7, 1980. Since there are a number of other exceptions to the minimum duty requirements, veterans are encouraged to apply so the VA may determine their enrollment eligibility.

ENROLLMENT PROCESS

Veterans may apply for VA health care benefits several ways:

- By completing an online or paper application, VA form 10-10EZ.
- By completing an application in person at any VA medical facility.
- By calling the VA toll-free at 855-574-7286 to complete the application over the phone. If a veteran is eligible for more than one enrollment Priority Group, the 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 to 8, with 1 being the highest priority for enrollment. Under the Medical Benefits Package, the same services are generally available to all enrolled veterans.

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Priority Group 1

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

Priority Group 2

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

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 percent or 20 percent.
- 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.”

Priority Group 5

- Non-service-connected veterans, and service connected veterans rated non-compensable (0 percent), whose annual income or net worth is not greater than VA financial thresholds.

- Veterans in receipt of VA pension benefits.
- Veterans eligible for Medicaid benefits.

Priority Group 6

- Compensable 0 percent 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 Jan. 9, 1962, and May 7, 1975.
- Veterans of the Persian Gulf War who served in the Southwest Asia theater of combat operations between Aug. 2, 1990, and Nov. 11, 1998.
- For five years after discharge, veterans who served in a theater of combat operations and were discharged from active duty on or after Jan. 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 Jan. 16, 2003, and who agreed to pay the applicable copayment.
- Effective June 15, 2009, do not exceed the VA Means Test thresholds or GMT income thresholds by more than 10 percent and who agree to pay the applicable copayment.

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Sub priority a: Non-compensable 0% service-connected veterans enrolled as of January 16, 2003 and who have remained enrolled since that date

Sub priority c: Non-service-connected veterans enrolled as of January 16, 2003 and who have remained enrolled since that date

Sub priority e: Non-compensable 0% service-connected veterans applying for enrollment after January 16, 2003

Sub priority g: Non-service-connected veterans applying for enrollment after January 16, 2003

Financial Assessment

A financial assessment is a means of collecting the Veteran's household income information which is used to determine whether a Veteran is eligible for enrollment and whether or not the Veteran would be required to pay copays for care or prescription medication. VA is required by law to collect this information.

There is no change in VA's long-standing policy to provide no-cost care to Veterans who cannot afford to pay for their care, Veterans with catastrophic medical conditions, Veterans with a disability rating of 50 percent or higher, or for conditions that are officially rated as "service-connected."

Veterans Required to Provide a Financial Assessment

Not all Veterans are required to provide their income information to VA when applying for enrollment. Only certain Veterans who do not have a VA-rated service connected disability, who do not receive a VA pension payment or have a special eligibility, such as a recently discharged Combat Veteran or a Purple Heart

recipient, must provide their gross household income (which includes spouse/partner and dependent children, if applicable) for the previous year when applying for enrollment for VA health care. This part of the application process is called an "income assessment or financial assessment" (also formerly called a means test) and is used to determine if these Veterans are eligible for enrollment and whether or not they have to pay copays for their health care or prescription medication.

Financial assessments are not required yearly

Enrolled Veterans are no longer required to provide their financial assessment on an annual basis if they had a current financial assessment on file as of March 24, 2014. This means Veterans can enjoy their VA health care benefits without worrying about having to submit updated income information to VA every year.

If the enrolled Veteran does not have a financial assessment on file as of March 24, 2014, the Veteran will be required to provide updated income information. Veterans may update their financial assessment when they visit their VA facility at their next appointment.

Income Updates from IRS and SSA

VA securely receives income information from the IRS and SSA to confirm Veterans' continued enrollment eligibility. VA will contact the Veteran (and spouse/partner and dependents, if applicable) only if the income information received from IRS and SSA indicates a change in the Veteran's eligibility or copay requirements. Veterans will still have access to care during the period of review should they do not agree with the information VA receives from IRS and SSA.

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Exceptions

Veterans applying for enrollment must provide income information by using VA Form 1010EZ. This form is available online at <https://www.1010ez.med.va.gov/> and can also be obtained at any VA medical center, Veteran Service Office, or by contacting 1-877-222-VETS (8387), to have the form mailed.

Enrolled Veterans who are eligible because their household income is below the VA income limit (e.g., NSC and 0% SC Veterans without any special eligibility) will:

- Not be required to update their income on a yearly basis.
- Be required to complete a financial assessment at their next health care visit if they do not have a current financial assessment on file as of March 24, 2014.

Veterans Required to Provide Yearly Income Updates

Veterans who complete a financial assessment to determine their eligibility for cost-free medications or for Beneficiary Travel only are required to submit their income yearly.

Recent Combat Veterans

Combat Veterans who served in combat after the Gulf War or in combat against a hostile force after November 11, 1998, are eligible for free care for five years for any illness that may be related to their military service beginning on the date of the Veteran's discharge. These Veterans are now eligible for an additional year of eligibility based on the Clay Hunt Act. These Combat Veterans are not required to provide their income for care related to their service in the theater of operations; however, they may complete the financial assessment to

determine their eligibility for a higher priority status in the VA health care system, eligibility for beneficiary travel benefits, or for cost-free care for treatment not related to their military service.

Veterans Exposed to Agent Orange, Ionizing Radiation or Environmental Contaminants

Veterans who were exposed to Agent Orange in Vietnam, ionizing radiation, or exposed to environmental contaminants in the Persian Gulf receive free care for treatment related to their exposure. These Veterans are not required to provide their income; however, they may complete the financial assessment to determine if they are required to pay copays for care not related to their exposure.

Veterans who Decline to Provide Income Information

Veterans who decline to provide their income information and agree to pay copays for their care are not required to provide their income information; however, unless otherwise eligible (e.g. Compensable service-connected, former POW, Combat Veterans, served in the Republic of Vietnam, service during certain periods in Southwest Asia) the Veteran's enrollment may be denied based on the enrollment restriction.

Information from IRS and SSA

If the information received from IRS and SSA may result in a change in the Veteran's eligibility or copay requirement, VA will notify the Veteran and give the Veteran an opportunity to provide input. For more information about the income verification process, see the "Income Verification" section below.

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Changes to Income and Personal Information

VA encourages Veterans to continue to report changes in their income information, as well as their personal information, such as address, phone numbers, dependents, next of kin and health insurance, using VA Form 1010EZR available online or at their local medical center. These changes can be submitted at any time.

Income Verification

VA is required by law to verify Veterans' self-reported household income (including spouse/partner and dependents, if any) with the Internal Revenue Service (IRS) and Social Security Administration (SSA).

The Income Verification (IV) process is used to confirm the accuracy of Veterans eligibility for VA health care, copay status and enrollment priority group assignment. Because of the timeframe for taxpayers to report income to the IRS, the IV process typically begins in July of the following year of reported income. For example, income for the year 2015 is available from IRS/SSA in July of 2016.

Veterans Included in the Income Verification Process

VA does not verify all enrolled Veterans' income. Only Veterans who receive free medical care and/or medications based on their self-reported household income are included in the income verification process.

Income Verification Process

If a Veteran's income is below VA's income limits (see income limits table), but the income information received from the IRS/SSA indicates the Veteran's household income is above VA's income limits, the Veteran and

spouse/partner, if applicable, will be notified by letter and given an opportunity to verify or dispute this information.

If no response is received after 45 days, a reminder letter is mailed, offering the opportunity for the Veteran to verify or dispute the income reported by IRS/SSA and to submit additional deductible expenses, if any.

If no response is received within 75 days, it is assumed the IRS/SSA information is correct and a letter will be sent informing the Veteran his/her copay status will be changed and of their copay responsibility. This may also impact the Veteran's eligibility for enrollment. The Veteran will also receive information on how to appeal the decision.

When VA receives a response, an IV case manager will be assigned to work with the Veteran and/or the Veteran's representative. The IV case manager will provide assistance and guidance to the Veteran through the income verification process, and will assist the Veteran in identifying any authorized deductions that may reduce the Veterans' total gross household income below VA's income limits. It is our goal to work closely with the Veteran to resolve and close the income verification case within 75 days.

If after the review process the information does not reduce the Veteran's income below VA's income limits, a final letter is mailed to the Veteran explaining that the Veteran will be responsible for copays and required to pay copays for care received during the income year under review. The letter also contains information on how to appeal the decision.

Financial Hardship

VA has programs that may help if the Veteran is unable to pay the copay charges.

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2019 VA National and Priority Group 8 Relaxation Income Thresholds

Income Thresholds for Cost-Free Health Care, Medications and/or Beneficiary Travel Eligibility

Based on Income Year 2018						
Veteran with:	VA National Income Threshold	VA Priority Group 8 Relaxation Threshold	VA Housebound Threshold	VA Pension with Aid and Attendance Threshold	VA Pension Threshold	Medical Expense Deductible
0 dependents	\$33,832 or less	\$36,995 or less	\$16,540	\$22,577	\$13,535 or less	\$658
1 dependents	\$40,359 or less	\$44,395 or less	\$20,731	\$26,766	\$17,724 or less	\$862
2 dependents	\$42,872 or less	\$46,939 or less	\$23,044	\$29,079	\$20,037 or less	\$975
3 dependents	\$44,985 or less	\$49,484 or less	\$25,357	\$31,392	\$22,350 or less	\$1,087
4 dependents	\$47,298 or less	\$52,028 or less	\$27,870	\$33,705	\$24,663 or less	\$1,200
For each additional dependent add:	\$2,313	\$2,313	\$2,313	\$2,313	\$2,313	5% of the maximum allowable pension rate from the previous year
Child Earned Income Exclusion: \$12,200						

Effective January 1, 2019

Note: Some Veterans don't have to pay copays (they're "exempt") due to their disability rating, income level, or special eligibility factors.

Urgent care copay rates (Care for minor illnesses and injuries)

There's no limit to how many times you can use urgent care. To be eligible for urgent care benefits, including through our network of approved community providers, you must:

- Be enrolled in the VA health care system, **and**
- Have received care from us within the past 24 months (2 years)

- You won't have to pay any copay for a visit where you're only getting a flu shot, no matter your priority group.

Veterans Not Required to Make Copays

Some Veterans qualify for free healthcare and/or prescriptions based on special eligibility factors including but not limited to:

- Former Prisoner of War status
- In receipt of Medal of Honor (may take copay test to determine prescription copay status)
- 50% or more compensable VA service-connected disabilities (0-40%)

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compensable service- connected may take copay test to determine prescription copay status)

- Veterans deemed catastrophically disabled by a VA provider
- Services Exempt from Inpatient and Outpatient Copays
- Special registry examinations offered by VA to evaluate possible health risks associated with military service
- Counseling and care for military sexual trauma
- Compensation and Pension examinations.
- Care that is part of a VA research project
- Care related to a VA-rated service-connected disability
- Readjustment counseling and related mental health services
- Care for cancer of head or neck caused by nose or throat radium treatments received while in the military
- Individual or Group Smoking Cessation or Weight Reduction services
- Publicly announced VA public health initiatives, for example, health fairs
- Care potentially related to combat service for Veterans that served in a theater of combat operations after November 11, 1998.

Community Care

Veterans may be eligible for care through a provider in their local community depending on their health care needs or circumstances, and if they meet specific eligibility criteria. Even if a Veteran is eligible for community care, they

generally still have the option to receive care from a VA medical facility. In most cases, **Veterans must receive approval from VA** before receiving care from a community provider to avoid being billed for the care. VA staff members generally make all eligibility determinations for community care.

Eligibility

A Veteran's eligibility for community care depends on his/her individual health care needs or circumstances. **Please note the following about eligibility for community care:**

- Veterans must receive approval from VA prior to obtaining care from a community provider, in most circumstances.
- Veterans must either be enrolled in VA health care or be eligible for VA care without needing to enroll to be eligible for community care.
- Eligibility for community care will continue to be dependent upon a Veteran's individual health care needs or circumstances.
- VA staff members generally make all eligibility determinations.

There are six criteria that can qualify a Veteran to receive community care. Veterans only need to meet **one** of these to be eligible.

Emergency Medical Care

During a medical emergency, Veterans should immediately seek care at the nearest medical facility. A medical emergency is an injury, illness or symptom so severe that without immediate treatment, you believe your life or health is in danger. **If the veteran believes their life or health is in danger, they should call 911 or go to the nearest emergency department right away.**

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Veterans **do not** need to check with VA before calling for an ambulance or going to an emergency department. During a medical emergency, VA encourages all Veterans to seek immediate medical attention without delay. A claim for emergency care will never be denied based solely on VA not receiving notification prior to seeking care.

It is, however, important to promptly notify VA after receiving emergency care at a community emergency department. Notification should be made within 72 hours of admission to a community medical facility. This allows VA to assist the Veteran in coordinating necessary care or transfer, and helps to ensure that the administrative and clinical requirements for VA to pay for the care are met.

CATASTROPHICALLY DISABLED VETERANS

Veterans may be determined by the VA to be catastrophically disabled, 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.
- 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 Nov. 11, 1998, and have been

discharged under other than dishonorable conditions are defined as “Combat Veterans” by the 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, the 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, the VA reassesses the veteran’s eligibility and makes a new enrollment Priority Group determination.

VA HEALTH REGISTRIES

The VA maintains health registries related to environmental and occupational exposures of U.S. 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. The 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.

NURSING HOME CARE

The VA provides nursing home services to veterans through three national programs: VA owned and operated Community Living

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Centers (CLC), State Veterans Homes owned and operated by the state, 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 of Florida Veterans Homes are owned and operated by the state. The state petition the VA for grant dollars for a portion of the construction costs followed by a request for recognition as a state home. Once recognized, the VA pays a portion of the per diem if the state meets VA standards. The state 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, the 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 the VA to be aggravating a service-connected medical problem.
- Veterans whose service-connected disabilities have been rated at 100

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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 (for 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, non-compensable 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 onetime 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 re-entered 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 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 should refer to:

<https://www.va.gov/healthbenefits/vadip/>

Also eligible for the new benefits are spouses and dependent children who are reimbursed for most medical expenses under the 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. Copayments and other charges may apply.

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.
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, refer to 38 C.F.R. §§ 17.900–17.905.

Special eligibility for veterans participating in vocational rehabilitation

Veterans participating in the 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, refer 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 percent or more service connected disability.
- 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 percent are charged a pharmacy copayment for each 30-day supply. The VA will fill non-VA prescriptions for veterans who are in receipt of aid and attendance or house bound benefits. These veterans may contact, or have their non-VA physician contact, their local VA facility's pharmacy service for more information. Otherwise, the VA is not authorized to fill prescriptions unless they are written by a VA provider. This ensures the 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 the VA. If a non-VA physician has prescribed a medication that is not on the VA National Formulary, the VA physician may elect to rewrite 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

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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

The 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. The 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 Centers provide 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 posttraumatic 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

service members 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. The 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 veteran's coordinators are available at all VA facilities to assist women veterans seeking treatment and benefits.

FAMILY CAREGIVERS

The VA's Family Caregivers Program provides support and assistance to caregivers of post-9/11 veterans and service members 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

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nearest VA health care facility, by visiting caregiver.va.gov or by calling 855-260-3274.

BENEFICIARY TRANSPORTATION

Under the "Veterans Benefits and Services Act of 1988", Public Law 100-322, new travel provisions were implemented. Subject to a deductible:

a. Beneficiary travel payments shall be made to the following categories of VA beneficiaries:

- (1) A veteran or other person traveling in connection with treatment for a service-connected disability, subject to the deductible.

NOTE: Other person is defined to include a veteran's non-employee attendant; or, members of the immediate family, the legal guardian or an individual in whose household the veteran lives or intends to live when receiving counseling or mental health services in conjunction with the veteran's care.

- (2) A veteran with a service-connected disability rated at 30% or more, for treatment of any condition, subject to the deductible.
- (3) A veteran receiving VA pension benefits, subject to the deductible.
- (4) A veteran whose annual income (as determined under 38 U.S.C. 503) does not exceed the maximum annual rate of pension which would be payable if the veteran were eligible for pension, subject to the deductible.

- (5) A veteran or other person whose travel is medically required to be performed by a special mode of travel and who is unable to defray the expenses. The deductible does not apply.

- (6) A veteran whose travel is incident to a scheduled compensation and pension examination. The deductible does not apply.

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AMBULANCE TRAVEL

It cannot be emphasized too strongly that to avoid difficulties in reimbursement prior authorization for ambulance travel must be obtained. It is important to obtain the name of the person in the VA who authorized transportation. We are setting out below a short summary of the procedure to be followed.

When a veteran, his attending physician, or his representative contacts a VA clinic, or VA Medical Center, requesting emergency ambulance, the chief medical officer, or his designate, will get all information possible about the case, and after weighing the facts, make final decision on the necessity for ambulance service and grant such service unconditionally if warranted.

TRAVEL REIMBURSEMENT

Mileage is 41.5¢ per mile if residence is greater than 27 miles from the VA hospital. Mileage reimbursement is subject to a deductible of \$15.54(round-trip) for each visit, not to exceed \$46.62 per calendar month. Veterans who are required to make more than three round-trip visits per month will receive full reimbursement once the \$46.62 deductible cap is met.

Special modes

Medically indicated specialized modes of transportation--The VA shall pay the cost of specialized modes of transportation when a VA physician determines it is medically required; and, it is authorized before travel begins; and the veteran or other person is unable to defray the cost.

NOTE: Unable to defray the cost is defined to include veterans or other persons traveling in

connection with a service-connected disability, veterans who are service-connected 30% or more, veterans in receipt of VA pension, or whose annual income does not exceed the maximum annual rate of pension which would be payable if the veteran were eligible for pension. The deductible does not apply. Special mode includes ambulance, ambulette, air ambulance, wheelchair van, or other modes of transportation which are specially designed to transport certain types of medically disabled individuals. Special mode does not include public transportation such as a bus, subway, train, airplane, or privately-owned conveyance.

MEDICAL EMERGENCY

When delay in immediate transportation would be hazardous to the patient's health or life, a specialized mode of transportation may be authorized by a VA physician before eligibility is determined. Payment may be made to the provider of the transportation, subject to subsequently recovering the amount of the payment from the veteran if the veteran was determined to be ineligible.

INTERFACILITY TRANSFER

When necessary to transfer the inpatient from one health care institution (either VA or contract care facility) to another, provided both institutions furnish the individual with treatment at VA expense, or under VA auspices, and the transfer is necessary for the continuation of such treatment. Use of hired car, or a taxi is authorized, provided they are less expensive than other modes of travel.

NOTE: Eligibility criteria and deductibles do not apply. All care required for inpatients is the responsibility of the VA.

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TRICARE

(Civilian Health & Medical Program Uniformed Services)

The government shares with military families and military retirees and their dependents, the cost of health care from civilian hospitals and doctors. TRI-CARE is a health benefit program for all seven Uniformed Services: Army, Navy, Marine Corps, Air Force, Coast Guard, Public Health Service and National Oceanic and Atmospheric Administration. Claims for TRICARE benefits must be submitted on DD Form 2520 or TRICARE Form 500.

TRICARE

Tricare is the new Department of Defense managed care program which is designed to improve beneficiary access to care, assure affordable and high quality care, provide choice, and contain overall DOD costs.

Tricare offers a choice of three programs for the individual or family to elect. Each program has different out of pocket cost and benefits so each individual must select the program that will provide the greatest benefit.

- Tricare Prime - is an option which is similar to most civilian health maintenance organizations. Individuals can choose to enroll in Prime and select a personal primary care manager for themselves and each family member. In exchange for enrollment, the normal CHAMPUS deductible is eliminated. Members needing care pay a flat rate each time they visit a provider.
- Tricare standard - is an option where beneficiaries can choose their provider, within an establish network of providers. Using this option offers a 5% discount off the Standard rate.

Eligibility

TRICARE covers the following personnel:

- Husbands, wives, and unmarried children of active duty service members.
- Retirees, their husbands or wives and unmarried children.
- Un-remarried husbands and wives and unmarried children of active duty or retired service members who have died.
- Husbands, wives and unmarried children of reservists who are ordered to active duty for thirty days or longer.
- Un-remarried divorcees without other health coverage who were divorced after February 1, 1983, after at least twenty years of marriage to a service member who was on active duty during those twenty years.

NOTE: Tricare covers most health care that is medically necessary. In general, Tricare helps pay most doctor bills for inpatient and outpatient care, most hospital bills for semiprivate rooms, meals including special diets, diagnostic tests and treatment. It also covers medical supplies such as wheelchairs, artificial limbs and eyes.

For outpatient care there is a yearly deductible, unless enrolled in Tricare Prime, which must be paid by the beneficiary. After the deductible is met for each medical bill, active duty families pay twenty percent and all others pay twenty-five percent of a TRICARE allowable charge.

TRICARE/CHAMPVA FOR LIFE

Effective 2003, both TRICARE and CHAMPVA was extended to those individuals who are over the age of 65 and in receipt of Medicare. (and paying for Part B Medicare). However, there are some exceptions to that rule. Go to

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the respective web sites for TRICARE or CHAMPVA for specifics.

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CHAPTER 12

EDUCATIONAL BENEFITS



EDUCATIONAL BENEFITS

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 Sept. 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 percent to 90 percent:

- 90 percent: 30 total months (including service on active duty in entry-level and skill training).
- 80 percent: 24 total months (including service on active duty in entry-level and skill training).
- 70 percent: 18 total months (excluding service on active duty in entry-level and skill training).
- 60 percent: 12 total months (excluding service on active duty in entry-level and skill training).
- 50 percent: 6 total months (excluding service on active duty in entry-level and skill training).
- 40 percent: 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.

Forever GI Bill - Harry W. Colmery Veterans Educational Assistance Act of 2017

The President signed into law the Harry W. Colmery Veterans Educational Assistance Act also known as the "Forever GI Bill," which will bring significant changes to Veterans education benefits. The law is named after the American Legion national commander who wrote the original GI Bill language in 1944, and will allow more Veterans to use the GI Bill and more time to use it. Some of the changes will go into effect immediately, most will not. The majority of the changes enhance or expand education benefits for Veterans, Service members, Families and Survivors.

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Some new provisions that go into effect immediately include:

The 15-year time limitation to use Post-9/11 GI Bill benefits is eliminated for Veterans who left active duty on or after January 1, 2013, children who became eligible for the Fry Scholarship on or after January 1, 2013, and all Fry scholarship eligible spouses.

We are now authorized to restore benefits and provide relief to Veterans affected by school closures or disapprovals.

Reservists who had eligibility under the Reserve Educational Assistance Program (REAP) and lost it due to the program sunset provision will have that service credited toward the Post-9/11 GI Bill program. We are in the process of identifying the approximately 2,800 Reservists affected by this and will send them letters with instructions.

Certain work-study is permanently authorized; previously it had to be re-approved by Congress every few years.

Anyone eligible for GI Bill can use their benefits at an accredited independent study program at an area career and technical school, or a postsecondary vocational school providing postsecondary level education. There is no action for you to take here, as these programs will go through the normal course of approval by the appropriate State Approving Agency.

The VetSuccess on Campus program will be available to students across the country

VA will help Veterans to more clearly identify schools that offer them priority enrollment Please also review Florida Statute 1004.075 for priority enrollment at Florida public schools.

Some new provisions that go into effect on August 1, 2018:

The law expands the definition of “active duty” to include Reservists and Guard members ordered to active duty to receive authorized

medical care, or to be medically evaluated for disability, or complete a Department of Defense (DoD) health care study. The expansion applies to service on or after September 11, 2001. An individual may use this entitlement to pursue a course of education beginning on or after August 1, 2018.

Service members and honorably discharged Veterans who were awarded a Purple Heart on or after September 11, 2001, will be entitled to Post-9/11 GI Bill benefits for up to 36 months. This facet of the law closes a sort of “loophole” where Service members who may not have otherwise had enough time in for full Post-9/11 eligibility are now fully entitled. An individual may use this entitlement to pursue a course of education beginning on or after August 1, 2018. Please also see Florida Statute 1009.26 for public school tuition waiver benefits, up to a bachelor’s degree, for Florida Residents who received a Purple Heart, or combat decoration superior in precedence.

Recipients of the Fry Scholarship and Purple Heart will be eligible for the Yellow Ribbon Program. This program provides assistance with tuition and fee charges not covered by the Post-9/11 GI Bill, such as charges over the annual cap for a private school or out-of-state charges. Institutions enter into an agreement with VA to pay uncovered charges (schools decide the amount), and VA matches the amount the school waives. An individual may use this entitlement to pursue a course of education beginning on or after August 1, 2018.

Those called to active duty under 12304, 12304(a), and 12304(b) orders on or after June 30, 2008 may have this service credited towards their Post-9/11 GI Bill eligibility. An individual may use this entitlement to pursue a course of education beginning on or after August 1, 2018.

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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, proportionately based on enrollment. Individuals on active duty do not receive a books and supplies stipend.

A one-time rural benefit payment of \$500 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 service members (officer or enlisted, active duty or selected reserve), on or after Aug. 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 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 service member 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 allows institutions of higher learning (degree-granting institutions) in the United States to enter voluntarily into an agreement with the 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 the VA will match the same amount as the institution not to exceed 50 percent 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 service members who die in the line of duty after Sept. 10, 2001. The benefit became effective Aug. 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

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independence in daily living to the extent consistent with the degree of disablement, lost by virtue of a handicap due to service-connected disability.

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 percent 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 the 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, 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 those services needed to improve the veteran's ability to function not only 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 that combine school and job training. Specialized courses such as restorative training, sheltered workshop, correspondence or training in the home are available when disability imposes limitations 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; 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.

Scope

The vocational rehabilitation program enables the VA to provide Chapter 31 trainees with a wide range of goods and services, to include medical and dental care, adjustment counseling, and 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 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 percent 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, outpatient 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

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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.

CHILDREN'S EDUCATION AND TRAINING BENEFITS

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

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; 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. The 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 claimant's 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 colleges, teachers colleges, normal schools, professional schools, scientific schools, technical colleges or universities, or any other approved schools which furnish education and training.

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The Chapter 35 program includes special restorative training to help overcome the effects of disabilities handicapping young people 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.

Non duplication 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 a 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; 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 Oct. 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, 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 or she has not received a secondary school diploma or an equivalent certificate, or 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 postsecondary educational programs on a halftime or more basis. No charge will be

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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 provides a job training counseling service program, an employment placement service program and a job training placement service program.

The State of Florida (please see Florida Statute 295.01) also offers Florida Residents the opportunity to apply for Scholarships for Children and Spouses of Deceased or Disabled Veterans. For complete eligibility requirements, application procedures and awarding details please go to www.floridastudentfinancialaid.org and then choose the 'Grants and Scholarships' link and then the 'Programs Offered' link. This scholarship may be received in addition to the Chapter 35 VA Education Benefit for Survivors and Dependents Educational Assistance.

State Approving Agency for Veterans Training (SAA)

The SAA is a Bureau similar to Claims and Field Services which is under the jurisdiction of The Director of Benefits & Assistance, a part of The Florida Department of Veterans Affairs. The SAA is charged with the function of approving and oversight of the following types of programs for Veterans and otherwise eligible dependents: College, Non-college, On-The-Job, and Apprenticeship programs, Correspondence courses License and

Certification exams and vocational Flight Training.

In addition, the SAA conducts periodic compliance survey visits, technical assistance visits, training, and investigations at schools and organizations, as requested by the U.S. Department of Veterans Affairs (VA) Education Liaison Representative's Office (ELR). Most active facilities are visited by the SAA on an annual basis.

The SAA employees are unable to resolve individual benefit payment problems. They are, however, able to intercede in behalf of Veterans and eligible dependents who seek the approval of programs of education/training not currently approved. You should encourage questions relative to the approval process be directed to the SAA.

RESOURCES

NATIONWIDE VA EDUCATION INFORMATION HELP LINE - The Department of Veterans Affairs (VA) has a toll-free telephone number for Veterans and dependents to get the latest information on VA education benefits. By dialing 1-888-GI BILL 1 (1-888-442-4551), Veterans, dependents, school officials, Veterans service officers and others can receive education benefits information, including detailed eligibility criteria and general background on VA programs.

VETERANS SHOULD UTILIZE THE VA SCHOOL CERTIFYING OFFICIAL AT ATTENDEE'S SCHOOL.

FREE EDUCATIONAL AND VOCATIONAL COUNSELING SERVICES (CH 36) ARE PROVIDED TO TRANSITIONING SERVICE MEMBERS WHO ARE:

Within six months prior to discharge from active duty

Within one year following discharge from active duty

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Current beneficiaries of educational assistance under Chapters 30, 31, 32, 33, 35, 1606, 1607

Veterans and qualified dependents who are eligible for and have entitlement to education assistance under Chapters 30, 31, 32, 33, 35, 1606, 1607, Please submit a VA 28-8832 form.

CHAPTER 13

LIFE INSURANCE



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LIFE INSURANCE

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 service members. Coverage can be extended for up to two years if the service member is totally disabled at separation. Coverage is automatic for most active-duty service members; 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 service members 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 service members with SGLI coverage. Spousal coverage may not exceed the service member's coverage. Dependent children are automatically covered at no charge.

VETERANS' GROUP LIFE INSURANCE (VGLI)

Service members 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: benefits.va.gov/insurance. 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.

Beneficiary and Option Designations

A properly completed, updated beneficiary and optional settlement selection is essential to making certain that an insured receives the full benefit from his or her Government life insurance. If an insured is uncertain as to his or her current beneficiary and option, this information may be obtained from the Insurance Center which maintains his or her records. Since a later designation supersedes all prior designations for the same policy (ies), an alternative is to simply submit a designation which reflects the insurer's current intentions.

The following factors should be kept in mind when completing a beneficiary and option selection:

- If it appears that the insured does not fully understand his or her actions or is not acting completely freely, a statement from the witness or another party who is present will assist VA in determining the designation's validity. The statement should accompany the

designation when submitted to VA, and should list all pertinent details, including the insurer's reason for making the beneficiary designation, if known. Lack of full understanding can be caused by mental illness, drugs or alcohol intoxication; other factors such as duress or undue influence can result in the insured not acting freely in making the designation.

- The latest revision of VA Form 29-336, Designation of Beneficiary Government Life Insurance, is dated Dec 2005. (This is the preferred method of changing Beneficiary).

- Principal and contingent beneficiaries should be clearly differentiated on the form. Where the insured lists multiple principal or contingent beneficiaries, their shares should be clearly shown and should always total "1".

- The pre-printed phrase "or to survivor(s)" means that the share of a beneficiary who predeceases the insured will be paid to the surviving beneficiaries. If this automatic distribution is not desired, the insured can cross it out. An alternative is to provide that the share of a deceased beneficiary should go to his or her "issue" (children). This is sometimes referred to as a "per stripes" distribution.

- If a beneficiary who is entitled to a lump sum payment survives the insured but dies before payment, the beneficiary's estate is entitled to the proceeds. To allow the proceeds to go to the contingent beneficiaries in a "common disaster" situation, rather than to the principal beneficiary's estate, the phrase "provided the principal beneficiary survives me for ___ days"

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may be added. Any number of days up to a maximum of 30 may be shown.

- The insured retains ownership of the policy (ies) and the right to change beneficiaries regardless of state court orders, property settlements, or divorce decrees to the contrary. Therefore, beneficiary designations should not contain language which attempts to restrict the insurer's right to change the beneficiary, or divest the insured from ownership of the insurance.
- If an insured is incompetent, his or her legal representative (guardian, conservator, etc.) may make a beneficiary designation on the insurer's behalf upon receipt of a court order specifically authorizing the designation. An alternative is to have the insured make the designation while he or she is lucid. This should be done in the presence of a physician who will verify in writing that the insured possessed the capacity to understand the nature and consequences of the action.
- If an insured, or claimant, must sign by a mark, two disinterested parties must witness the designation or claim.
- A beneficiary change cannot be made by Last Will and Testament. However, VA regulations permit an option selection for all Government life insurance policies to be made by Will.

All recently printed VA Forms 29-336 contain a pre-printed "1" in the option block. If the insured wants the beneficiary to receive monthly installments rather than a lump sum, the "1" must be crossed off and substituted by the desired option (2, 3, 4).

It is important to send death claim(s) to the Insurance Center to ensure prompt processing. Insurance claims should not be sent to the VA Regional Office which handles the Veteran's other records as this will delay processing.

In most cases the documents which are necessary to pay insurance awards are, for principal beneficiaries, Claim Form (VA Form 29-4125, Claim for One Sum Payment), and the insurer's death certificate (showing date and cause of death). Contingent beneficiary should file a Claim Form, Death certificates for the insured and principal beneficiary (ies).

If the claimant wants monthly payments, the necessary forms are a Claim Form (VA Form 29-4125k, Claims for Monthly Payments), death certificate(s) and the claimant's birth certificate (or other official proof of age) if a lifetime income option (3 or 4) is selected.

If the claimant is a minor or incompetent, the necessary forms are 1) a claim from the next-of-kin, personal representative (guardian, custodian, etc.) or logical person to receive payment for the minor or incompetent, 2) death certificate(s), 3) letters of guardianship, conservatorship, etc. (if any), and 4) address of minor or incompetent.

If the beneficiary is an estate, the necessary forms are 1) death certificates, and 2) a claim from the personal representative (executor or administrator) along with a copy of letters testamentary or letters of administration.

NOTE: If the named beneficiary predeceases, the insurance will pay to the Veteran's estate.

Or, in lieu of the above, other documents which will be used to settle the estate (such as a court order of distribution) along with claims from the entitled parties for the proper shares.

Or, in lieu of the above, a statement that there will be no administration of the estate. If available, VA Form 29-541, Certificate Showing Residence and Heirs of Deceased Veteran, should accompany the statement.

The following factors should be kept in mind when filing a death claim:

- a. An insurer's Last Will and Testament can be used as evidence that he or she intended a lump sum payment,

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regardless of when it was executed. The Will need not specifically mention USGLI or NSLI nor must it be probated.

b. If a beneficiary's name has changed from the designation by the insured (usually by marriage), the beneficiary should advise the Insurance Center of that fact in writing.

c. A beneficiary may assign all or a portion of his or her share of the insurance to a restricted class of the insurer's relatives. If an assignment is desired, the Insurance Center should be contacted for instructions.

d. If the award check is to be mailed to the claimant's bank account, the account number must be shown on the claim in addition to the name and address of the bank.

e. Most death awards are authorized by the Insurance Center within 10 days of receipt of the documents needed for payment.

f. A letter claiming the proceeds and showing a mailing address for the check may be used instead of a VA claim form. The claimant should be sure to show the insurance file number and sign the letter.

g. If the insured died on or after October 1, 1981, the beneficiary may select option 1 (lump sum) if the insured failed to select a settlement option.

15. For VMLI claims, the St. Paul VAROIC will need a copy of the insurer's death certificate, a certified copy of the deed showing the insider's ownership of the mortgaged property and the full name and address of the current mortgage holder. The VA will then provide the mortgage holder with necessary claim forms for completion. Upon return of the completed form, the claim will be processed for payment.

NOTE

One Beneficiary Designation applies to all of your policies unless you specify otherwise.

Make sure the distribution of shares equals 1.

Be sure to have your Beneficiary Designation witnessed.

A beneficiary change cannot be made by Last Will and Testament, but an option change can.

NO ONE can order the insured to change their beneficiary, including State courts or Divorce Courts.

As of March 1, 1999, the consolidation of the VA Insurance Center at St. Paul, MN into VAROIC Philadelphia, PA was completed. All National Service Life Insurance and Veterans Mortgage Life Insurance matters, claims and inquiries should now be directed to:

Department of Veterans Affairs
Regional Office and Insurance Center
P.O. Box (PLEASE SEE BOX BELOW)
Philadelphia, Pennsylvania 19101

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CHAPTER 13

HOME LOAN GUARANTY



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HOME LOAN GUARANTY

Eligibility

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

Korean War: (1) active duty after June 26, 1950, and prior to Feb. 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 Jan. 31, 1955, and prior to Aug. 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 Aug. 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 Feb. 28, 1961.

Post-Vietnam period: (1) active duty after May 7, 1975, and prior to Aug. 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 Sept. 8, 1980, (Oct. 16, 1981, for officers) and Aug. 1, 1990, veterans must generally complete 24 months of continuous active duty 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 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—Aug. 2, 1990, to a date to be determined—must generally complete 24 months of continuous active duty 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 Aug. 1, 1990, served at least 90 days and received an honorable discharge.

Active-duty personnel: Until the Gulf War era ends, people on active duty are eligible after serving 90 continuous days. The 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 the VA, borrowers do not need to make a down payment provided they have enough home loan entitlement. The VA will

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guarantee 25 percent 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 service member'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.

CERTIFICATE OF ELIGIBILITY

In addition to the periods of eligibility and conditions of service requirements, applicants must have a good credit rating, sufficient income and a valid Certificate of Eligibility (COE), and must 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: A COE is very easy to obtain using the eBenefits portal at ebenefits.va.gov. If you need any assistance, call the eBenefits Help Desk at 800-983-0937. Their hours are Monday through Friday, 8 a.m.–8 p.m. Eastern time.

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 the 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, the VA must determine that the death was due to a service-connected disability, a process that may take several months.

HOME LOAN LIMITS

The 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 the 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

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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. The VA evaluates these market trends and determines if interest rate reductions or increases are warranted. For current information about VA loan limits visit:

benefits.va.gov/homeloans/index.asp

Blue Water Navy Vietnam Veterans Act of 2019 Changes

PL 116-23 made changes to the VA Home Loan Program, specifically:

- VA-guaranteed home loans will no longer be limited to the Federal Housing Finance Agency (Federally-established) Confirming Loan Limits. Veterans will now be able to obtain a no-down payment home loan in all areas, regardless of loan amount.
- The law exempts Purple Heart recipients currently serving on active duty from the VA Home Loan funding fee.
- VA removed the loan limit for Native American Veterans seeking to build or purchase a home on Federal Trust Land.
- At this time, there is a temporary change to the VA Funding Fee, which is a congressionally mandated fee associated with the VA Home Loan. Veterans and service members will see a slight increase of 0.15 to 0.30% in their funding fee (currently for two years), while National Guard and Reserve members will see a slight decrease in their fee to align with the fee paid by 'Regular Military' borrowers (permanent). Veterans with service-connected disabilities, some

surviving spouses, and other potential borrowers are exempt from the VA loan funding fee and will not be impacted by this change.

CHAPTER 14

MILITARY AFFAIRS



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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 service member 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, the 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 (DRBs) are 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 DRBs may review any discharge except one resulting from a sentence by a general court-martial or physical disability.

The purpose of the DRBs is to determine whether the type of discharge is equitable and proper. They act to ensure 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 DRBs. The form must be properly completed

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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 DRB for Correction of Military Records by submitting DD Form 149. In addition to the personnel records of the applicant, the DRBs consider any evidence submitted, either with the application or at the time of a personal appearance before the DRBs. 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 a VSO/VCE 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 DRB 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 DRBs will entertain an application for re-hearing without requiring new evidence:

- If the applicant did not appear in person before the DRB at the initial review.
- 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 individuals on active duty, retired or discharged from the military who believe their records contain 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

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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. PDBR pertains only to service members who received 20 percent 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 Sept. 11, 2001, to Dec. 31, 2009. PDBRs characteristics and review process are as follows:

- 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 member's VA claims folder. While the board does not require the service member to allege an injustice, it is a summation should 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

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disability, that service member will be evaluated by his or her service's Disability Evaluation System (DES). A service member 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. Each branch of military service has its own separate locations for PEB processing. 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. 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, Texas, and Fort Belvoir, Va.

DISABILITY RETIREMENT

The Correction Boards consider applications to change an administrative discharge to one of disability retirement. The boards' 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 service member 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 percent 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 percent is required 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 percent.

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

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DISCHARGE WITH SEVERANCE PAY

If the disability is less than 30 percent, the service member 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 service members will receive severance pay calculated for three years of service. If the service member 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).

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.

- 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 re-enlistment 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 re-enlistment 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 re-enlistment at a time of discharge but did not intend to re-enlist. An alphabetical suffix used with RE-2 shows that approval for re-enlistment must be obtained from higher headquarters. The Air Force uses RE-2 to show that the individual is barred from re-enlistment because of non-waiverable disqualifications.

RE-3: The Army, Navy, Marine Corps and Coast Guard use RE-3 to show that the individual is not eligible to re-enlist without a waiver because of a disqualifying factor or factors. Individuals with an RE-3 code may be re-enlisted, 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 re-enlistment but can, depending on the needs

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of the Air Force, re-enlist 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 re-enlistment because of non-waiverable disqualifications. An RE-4 assigned by the Air Force means the individual is not eligible for re-enlistment without a waiver.

Change of RE codes

A 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 a 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 a 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 a 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, those assigned a waiverable RE-code for cause (inaptitude, unsuitability, lost time, court-martial, conviction, etc.) must wait at least two years before becoming eligible to apply for re-enlistment. The two-year waiting period permits the individual to demonstrate

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that the circumstances that caused the RE-code to be assigned no longer exist and to show there is no reason to believe they will recur.

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 Jan. 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 percent 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 CRDP 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 percent 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.

MISCELLANEOUS VETERAN PROGRAMS

Veterans' employment

Employment is a dominant concern for most veterans making their transition to civilian life, and we 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 Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA) is a federal law intended to ensure that those who serve or have served in the armed forces, Reserve, National Guard or other "uniformed services":

1. Are not disadvantaged in their civilian careers because of their service.
2. Are promptly re-employed in their civilian jobs upon their return from duty.
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 re-employment rights going back to the Selective Training and Service Act of 1940. USERRA's immediate predecessor was commonly referred to as the

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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 re-employment rights for the past

50 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 those having claims under USERRA, including federal and Postal Service employees.

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:

[archives.gov/veterans/replace-medals.html](https://www.archives.gov/veterans/replace-medals.html)
[archives.gov/veterans/military-service-records/index.html](https://www.archives.gov/veterans/military-service-records/index.html)

Commissary privileges and facility access

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 percent by reason of individual unemployability. Surviving spouses of service-connected veterans who were evaluated by the VA as 100 percent 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 percent under Paragraph 29 or 30 of the rating schedule (hospital, convalescent or surgical rating). Those eligible will be provided with a VA letter certifying their eligibility, which should be presented to the nearest military installation that issues ID cards.

Starting Jan. 1, 2020, all service-connected Veterans, Purple Heart recipients, former prisoners of war (POW), and individuals approved and designated as the primary family caregivers of eligible Veterans under the Department of Veterans Affairs Program of Comprehensive Assistance for Family Caregivers (PCAFC) can use commissaries, exchanges, and morale, welfare and recreation (MWR) retail facilities, in-person and online.

Eligibility

- Veterans
 - Purple Heart recipients
 - Former prisoners of war
 - Veterans with 0-90% service-connected disability ratings

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- Medal of Honor recipients and Veterans with 100% service-connected disability ratings are already eligible under existing DOD policy.
- Caregivers
 - On Jan. 1, individuals approved and designated as the primary family caregiver of an eligible veteran under the PCAFC will be eligible for these privileges.

Required credentials.

- Veterans
 - On Jan. 1, Veterans eligible solely under this act who are eligible to obtain a Veteran Health Identification Card must use this credential for in-person installation and privilege access. The card must display the Veteran's eligibility status (i.e., PURPLE HEART, FORMER POW or SERVICE CONNECTED).
 - Veterans eligible solely under this act who are not enrolled in or are not eligible to enroll in VA health care, or who are enrolled in VA health care, but do not possess a Veteran Health Identification Card will not have access to DoD and Coast Guard installations for in-person commissary, exchange, and MWR retail privileges, but will have full access to online exchanges and American Forces Travel.
 - Medal of Honor recipients and Veterans with 100% service-connected disability ratings are eligible for DoD credentials under DoD policy.
- Caregivers
 - Eligible caregivers will receive an eligibility letter from VA's Office of Community Care.

Admission to federal parks

A free, lifetime pass - available to U.S. citizens or permanent residents of the United States that have been medically determined to have a **permanent disability** (does not have to be a 100% disability) - that provides admittance to more than 2,000 recreation sites managed by five Federal agencies.

At many sites the Access Pass provides the pass owner a discount on Expanded Amenity Fees (such as camping, swimming, boat launching, and guided tours).

The Access Pass may be issued to U.S. citizens or permanent residents of any age that have been medically determined to have a permanent disability (does not have to be a 100% disability) that severely limits one or more major life activities.

A permanent disability is a permanent physical, mental, or sensory impairment that substantially limits one or more major life activities, such as caring for oneself, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.

The disability requirements for the Access Pass are not based on percentage of disability. To qualify for the Pass the disability must be permanent and limit one or more major life activities.

Some examples of acceptable documentation include:

- Statement by a licensed physician (**Statement must include: that the individual has a PERMANENT disability, that it limits one or more aspects of their daily life, and the nature of those limitations.**)
- Document issued by Federal agency such as the Veteran's Administration,

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- Social Security Disability Income, or Supplemental Security Income;
- Document issued by a State agency such as a vocational rehabilitation agency.

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CHAPTER 15

STATE OF FLORIDA VETERANS' BENEFITS



**STATE OF FLORIDA VETERANS AND
SURVIVORS BENEFITS
IDENTIFICATION CARD**

Upon request, a card will be issued by the FDVA to a Veteran who is a permanent resident of the state and who is determined by the VA or the Department of Defense (DOD) to have a 100% service-connected, permanent and total disability rating for compensation. There are neither fees nor renewal requirements (Amended by Ch. 97-14, effective 7/1/97). This card may be used by the Veteran as proof of eligibility for any state benefit, except Exemption of Homesteads. FS 295.17

EXEMPTION OF HOMESTEADS

Any real estate that is owned and used as a homestead by a Veteran who was honorably discharged with a service-connected total and permanent disability and for whom a letter from the United States Government or United States Department of Veterans Affairs or its predecessor has been issued certifying that the Veteran is totally and permanently disabled is exempt from taxation (not education taxes), if the Veteran is a permanent resident of this state on January 1 of the tax year for which exemption is being claimed or was a permanent resident of this state on January 1 of the year the Veteran died.

a. The production by a Veteran or the spouse or surviving spouse of a letter of total and permanent disability from the United States Government or United States Department of Veterans Affairs or its predecessor before the property appraiser of the county in which property of the Veteran lies is prima facie evidence of the fact that the Veteran or the surviving spouse is entitled to the exemption.

b. If the totally and permanently disabled Veteran predeceases his or her spouse and if, upon the death of the Veteran, the spouse holds the legal or beneficial title to the

homestead and permanently resides thereon as specified in s. 196.031, the exemption from taxation carries over to the benefit of the Veteran's spouse until such time as he or she remarries or sells or otherwise disposes of the property. If the spouse sells the property, an exemption not to exceed the amount granted from the most recent ad valorem tax roll may be transferred to his or her new residence, as long as it is used as his or her primary residence and he or she does not remarry.

(1) Any real estate that is owned and used as a homestead by the surviving spouse of a Veteran who died from service-connected causes while on active duty as a member of the United States Armed Forces and for whom a letter from the United States Government or United States Department of Veterans Affairs or its predecessor has been issued certifying that the Veteran died from service-connected causes while on active duty, is exempt from taxation if the Veteran was a permanent resident of this state on January 1 of the year in which the Veteran died.

(2) The production by the surviving spouse of a letter that was issued as required under paragraph (1) and that attests the Veteran's death while on active duty is prima facie evidence of the fact that the surviving spouse is entitled to an exemption under paragraph (1).

(3) The tax exemption that applies under paragraph 2 to the Veteran carries over to the benefit of the Veteran's surviving spouse as long as the spouse holds the legal or beneficial title to the homestead, permanently resides thereon as specified in s. 196.031, and does not remarry. If the surviving spouse sells the property, an exemption not to exceed the amount granted from the most recent ad valorem

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tax roll may be transferred to his or her new residence as long as it is used as his or her primary residence and he or she does not remarry. FS 196.081

c. Veterans who are paraplegic, hemiplegic, are permanently and totally disabled, must use a wheelchair for mobility, or are legally blind are exempt from real estate taxation if gross annual household income does not exceed the adjusted maximum allowed. The Veteran must be a resident of the State of Florida to qualify. A certificate of such disability from two licensed doctors of this state or from the VA or an award letter from the Social Security Administration to the property appraiser is prima facie evidence of entitlement to such exemption.

d. Veterans with service-connected disabilities of 10% or more shall be entitled to a \$5,000.00 property tax exemption. To qualify for homestead exemption a Veteran must be a bonafide resident of the state. FS 196.24

NOTE: SB 550 - The primary effect of the bill is to extend the current \$5,000 homestead property tax exemption for partially disabled Veterans to their surviving spouses. This is similar to the full exemption currently available to the surviving spouses of totally and permanently disabled Veterans. Upon the death of the Veteran, the benefit will carry over to the un-remarried spouse who had been married to the deceased Veteran for five or more years. If the spouse sells the property, an exemption not to exceed the amount granted in the most recent ad valorem tax roll may be transferred to his or her new residence so long as it is used as his or her primary residence.

e. Every person who is entitled to homestead exemption in this state and who is serving in any branch of the Armed Forces of the United States may file a claim for homestead exemption. Servicemen unable to file in person may file through next of kin or

duly authorized representatives. FS 196.071

NOTE: AGO OPINION:

Section 196.081(4), Florida Statutes, does not require that homestead property be owned by a Veteran at the time of his or her death from service-connected causes while on active duty, but requires that the Veteran be a permanent resident of Florida on January 1 of the year in which he or she died.

HUNTING AND FISHING LICENSE

A state hunting and fishing license shall be issued for a period of five years, upon request, to any resident of the state, who is permanently and totally disabled and currently certified by a licensed physician of this state or the VA, or has been issued a valid identification card by the FDVA. FS 372.562 (1)(a).

No license shall be required for military service personnel who are Florida residents while they are home on leave for periods of 30 days or less. FS 372.57 (1) (c).

A fresh, saltwater fishing license must be issued, without license fee, to any resident who is certified to be totally and permanently disabled by the United States Department of Veterans Affairs or its predecessor, or by any branch of the United States Armed Forces, or who holds a valid ID card issued by the Department of Veterans' Affairs pursuant to s. 295.17, upon proof of same. Any license issued under this paragraph after January 1, 1997, expires after 5 years. Upon request, the license shall be reissued for a 5-year period and shall be reissued every 5 years thereafter.

NOTE: The Florida Fish and Wildlife Conservation Commission (FWC) offers a Military Gold Sportsman's License to active duty and retired military that are stationed in Florida or have lived in the state for six months and claim Florida as their primary residence. The reduced-fee annual license (\$20) offers the same privileges as the traditional Gold

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Sportsman's License (\$83.50). It includes hunting, saltwater fishing and freshwater fishing licenses and wildlife management area, archery, muzzle-loading gun, turkey, Florida waterfowl, snook and crawfish permits.

The Military Gold Sportsman's Licenses are only available at tax collectors' offices. Those wishing to purchase one must show their military ID cards plus a Florida driver's license or orders showing they are stationed in Florida.

More information about hunting and fishing in Florida is available at: <http://myfwc.com/>

CERTIFICATION OF DISCHARGE OR SEPARATION

The Clerk of the Circuit Court shall record, without cost to the Veteran, certificates of discharge or separation from the Armed Forces of the United States.

DISABLED VETERAN MOTOR VEHICLE LICENSE PLATE

A motor vehicle license plate will be issued for use on any motor vehicle owned or leased by a disabled Veteran who has been a continuous resident of Florida for the last five years or has established a domicile as provided by FS 222.17(1) or (2) and (3), upon application accompanied by proof that:

- (1) The vehicle was acquired through financial assistance from the VA or
- (2) The Veteran has been determined by the VA to have a service-connected disability of 100% rating for compensation, or
- (3) The Veteran has been determined to have a service-connected disability of 100% and is in receipt of disability retirement pay from any branch of the uniformed Armed Forces. A plate fee is charged.
- (4) No state agency, county, municipality, or agency thereof shall exact any fee for parking on the public streets or highways or in any metered parking space or handicapped parking space of the driver of a vehicle which

displays a "DV" license pursuant to 320.084, FS 316.1964

(5) "DV" License Plates with "wheelchair emblem" are available for those Veterans permanently confined to a wheelchair and who qualify for the basic "DV" License Plate.

AWARD OF STANDARD HIGH SCHOOL DIPLOMAS TO HONORABLE DISCHARGED VETERANS

In 2013, the Legislature passed legislation that states the Commissioner of Education may award a standard high school diploma to an honorably discharged Veteran who has not completed high school graduation requirements. Section 1003.4286, Florida Statutes, provides for the award of a standard high school diploma to eligible Veterans who meet the following criteria:

Left a public or non-public school located in any state prior to graduation and entered the armed forces of the United States.

Is a current resident of the state of Florida, or was previously enrolled in any high school in this state, or was a resident of the state of Florida at the time of death.

Is honorably discharged from the armed forces of the United States as verified by the Department of Veterans Affairs.

The Florida Department of Education may send a standard Florida high school diploma upon receiving a completed application along with your DD Form 214 or other honorable discharge documentation. Also, family members who would like to apply for a diploma posthumously may do so. The Florida Departments of Education and Veterans Affairs will work together to assist Veterans with the application process for their diplomas.

For program information Veterans should contact: Carol Hall at Carol.Hall@fldoe.org with the Division of Career and Adult Education, Florida Department of Education, 325 West

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Gaines Street, Room 714, Tallahassee, Florida 32399-0400, or by calling 850-245-0446.

Veterans High School Diploma Application

This information can be found at the Florida Dept. of Education web link of: <http://www.fldoe.org/workforce/Veteran-diploma.asp>.

EX-POW MOTOR VEHICLE LICENSE PLATE

A motor vehicle license plate will be issued upon application and proof of eligibility, for use on any motor vehicle not used for hire or commercial use, owned by a Veteran who is a resident of Florida and was held as a prisoner of war and was a citizen of the U.S. at such time as the Armed Forces were engaged in combat and was a member of the U.S. Armed Forces or the Armed Forces of a nation allied with the U.S. A plate fee is charged. This plate is transferable to the un-remarried spouse of the EX-POW upon the death of the Veteran. FS 320.089(2)

MOTOR VEHICLE LICENSE PLATE, EX-POW, NON CITIZEN POW, NATIONAL GUARD OR RESERVE MEMBER, SURVIVORS OF PEARL HARBOR, PURPLE-HEART MEDAL RECIPIENTS AND MEDAL OF HONOR RECIPIENTS

1) Each owner or lessee of an automobile for private use, who is a resident of the state and is a former prisoner of war, or their un-remarried surviving spouse, shall, upon application and proof of eligibility, be issued a license plate stamped with the words "EX-POW". Plates are tax exempt, administrative fees apply. FS 320.089(2)

2) Each owner or lessee of an automobile for private use, who is a resident of the state and served as a member of the armed forces of the United States or the armed forces of a nation allied with the United States and was held as a prisoner of war (or was not a citizen of the U.S. at the time held), or their un-remarried surviving spouse may, upon

application and proof of eligibility be issued a special plate, with payment of the license tax and administrative fees. FS 320.089(2)(a) and (b)

3) Each owner or lessee of an automobile for private use, who is a resident of the state and an active member of the Florida National Guard, the Armed Forces Reserve, or a survivor of Pearl Harbor shall upon application and proof of eligibility be issued a special plate, with payment of the license tax and administrative fees. FS 320.089(1)

4) Each owner or lessee of an automobile for private use, who is a resident of the state and has been awarded the Purple Heart Medal, may, upon application and proof of eligibility, be issued a special plate. Taxes and administrative fees are charged. FS 320.089(1)

5) Each owner or lessee of an automobile for private use, who is a resident of the state and has been awarded the United States Congressional Medal of Honor, may, upon application and proof of eligibility, be issued a special plate. A plate fee is charged. FS 320.0893

DRIVER'S LICENSE

Any Veteran discharged under conditions other than dishonorable from the Armed Forces who has been issued a valid identification card by the FDVA, in accordance with the provisions of FS 295.17 or who has been determined by the VA or DOD to have a 100% total and permanent service-connected disability and is qualified to obtain a Driver's License under this chapter is exempt from all fees required by this section. Other fees may apply. FS 322.21(7)

10. HANDICAPPED TOLL PERMIT - Any handicapped person who has a valid driver's license, who operates a vehicle specially equipped for use by the handicapped, and who is certified by a licensed physician or by the VA Adjudication Officer as being physically disabled and having permanent impairments which

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impair the person's ability to deposit coins in toll baskets shall be allowed to pass free through all toll gates. A vehicle window sticker will be issued. FS 338.155(3)

SCHOLARSHIPS FOR CHILDREN AND SPOUSES OF DECEASED OR DISABLED FLORIDA VETERANS

Florida provides educational opportunities for dependent children of a deceased or totally and permanently disabled Veterans of the U.S. Armed Forces through the Scholarships for Children and Spouses of Deceased or Disabled Veterans (CSDDV). The parent Veteran must have been a Florida resident for one year prior to their date of death or disability. Students who qualify, receive monetary benefits which cover their costs of tuition and registration at any eligible state or private post-secondary educational institution in Florida. NOTE: The 2006 Florida Legislature amended Section 295.01, 295.02, 295.03, and 295.05, Florida Statutes, and Scholarships for Children of Deceased or Disabled Veterans. This program expands eligibility to eligible spouses to receive the cost equivalent to public tuition and fees at an eligible Florida postsecondary institution effective 7/01/06. Dependent children of a Florida Veteran whose death or disability occurred in any of the actions specified next are exempt from the one year residency requirement for the CDDV participation however, still must meet residency requirements for student financial aid. (FS 295.01 and 295.0185) Actions are: The Iranian Rescue Mission (Operation Eagle Claw) or the Lebanon and Grenada military arenas or in the crash of a military transport airplane in Gander, Newfoundland on December 12, 1985, or the attack on the USS Starke on May 17, 1987, Operation Just Cause, Operation Desert Shield/Desert Storm, Enduring Freedom; Operation Iraqi Freedom, was classified as POW or MIA during the Korean Conflict or Vietnam Era and has not returned alive or remains have not been recovered. Either parent

of the dependent children must meet residency requirements of the state.

PREFERENCE IN APPOINTMENT AND RETENTION

The state and its political subdivisions shall give preference in appointment and retention in covered government positions to eligible Veterans with wartime service who separated under honorable conditions, or who is disabled with a compensable service-connected disability, as well as to the eligible spouse or un-remarried Veteran's widow or widower. FS 295.07. A Veteran who has served in a campaign or expedition for which a qualifying campaign badge or expeditionary medal has been authorized (including any Armed Forces Expeditionary Medal or the Global War on Terrorism Expeditionary Medal) is eligible for preference pursuant to Section 295.07. Chapter 2007-51, effective July 1, 2007, restores preference eligibility for those individuals previously not eligible pursuant to Chapter 295.101. Chapter 2007-51 repeals s 295.101. A position that is announced as being open to employees only, to be filled by the reassignment, transfer, promotion or demotion of an employee is not covered for the purpose of Chapter 295. Promotion preference is governed by Chapter 295.09. A preference eligible person may file a complaint with the FDVA when a non-preferred applicant is selected over an equally-qualified Veteran.

OCCUPATIONS LICENSE TAXES

A wartime Veteran who is disabled from performing manual labor and his/her un-remarried widow/widower shall be exempt from a sum not to exceed \$50. This exemption is applicable to Veterans and to their surviving spouses. Veteran's widow or widower must be a bonafide resident of Florida.

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DISABLED VETERANS EXEMPTION FROM CERTAIN LICENSE OR PERMIT FEES

No totally and permanently disabled Veteran who is a resident of Florida shall be required to pay license or permit fees to any county or municipality in order to make certain improvements to assist with his or her disability on any mobile home owned by the Veteran and used as his/her residence. Improvements are limited to ramps, widening of doors, and similar improvements for the purpose of making the mobile home habitable for Veterans confined to wheelchairs.

COUNTY VETERAN SERVICE OFFICERS

Veteran assistance is available through a statewide network of county Veteran Service Officers employed by local Boards of County Commissioners. All services are provided free of charge. For complete information on Veterans' programs, entitlements, and referral services, Veterans should call their County Veteran Service Office listed under county offices in the local telephone directory, or this department at (727) 319-7440.

"FLORIDA SALUTES VETERANS" LICENSE PLATES

This distinctive license plate is for use by all Florida residents. The purpose of the plate is to pay tribute to Florida Veterans and provide funds for construction, operation, and maintenance of domiciliary and nursing homes for Veterans in Florida. The usual \$15.00 "Vanity" tag expense is charged. Questions concerning the issuance of the new license plate should be addressed to the license agency in your county. FS 320.08058(4). Joining the "Florida Salutes Veterans" and the U.S. Marine Corps



License plates already available are the new plates for the Army, Air Force, Navy, and the Coast Guard:



VETERANS' DOMICILIARY HOME OF FLORIDA

Domiciliary Home care will be provided to Veterans discharged under honorable conditions at the Veterans' Domiciliary Home of Florida on Sycamore Lane in Lake City, Florida. The Veterans admitted must be able to feed

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and clothe themselves, be residents of the State for one year prior to admission have limited financial resources and not owe money to the Department for services rendered during any previous stay at any Department facility. Current information is available through the office of the Home Administrator in Lake City, your County Veteran Service Office, or any of the FDVA offices listed in this brochure.

VETERANS' NURSING HOMES OF FLORIDA

Persons interested in residency must be referred through a VA Medical Center. Candidates will be Veterans discharged under honorable conditions, be a resident of Florida for a minimum of one year immediately prior to applying for admission, must require long-term care in a skilled nursing facility, and not owe money to the Department for services rendered during any previous stay at any Department facility. For admission information contact the nearest County Veterans Service Office or FDVA Service Office. Veterans with service-connected disabilities or Veterans unable to afford nursing home care will be considered first for residency. You are welcome to contact the Director of Social Services for additional information. Tours are available any time.

19. State universities & community colleges to waive tuition for Recipient of Purple Heart or other combat decoration superior in precedence Enacted by the Legislature of the State of Florida, effective July 1, 2006, FS 1009.26 Subsection (9) is added to section 1009.26, Fee waivers.— and requires state universities & community colleges to waive tuition for Recipient of Purple Heart or other combat decoration superior in precedence who fulfills specified criteria; provides percentage cap on number of required credit hours for which tuition waiver may be received.

Subsection (9) is added to section 1009.26, Florida Statutes, to read:

(9) A state university or community college shall waive undergraduate tuition for each

recipient of a Purple Heart or another combat decoration superior in precedence who:

(a) Is enrolled as a full-time, part-time, or summer-school student in an undergraduate program that terminates in a degree or certificate; (b) Is currently, and was at the time of the military action that resulted in the awarding of the Purple Heart or other combat decoration superior in precedence, a resident of this state; and (c) Submits to the state university or the community college the DD-214 form issued at the time of separation from service as documentation that the student has received a Purple Heart or another combat decoration superior in precedence.

NOTE: On November 7, 2006, Florida voters overwhelmingly approved constitutional Amendment 7, which, as an additive benefit, provides a discount from the amount of ad valorem tax on the homestead of a partially disabled Veteran who is age 65 or older, who was a Florida resident at the time of entering military service, who provides evidence that identifies a combat-related disability, and who was honorably discharged; to specify the percentage of the discount as equal to the percentage of the Veteran's service-connected disability.

When did Amendment 7 take effect?

Amendment 7 took effect December 7, 2006, for the tax year beginning in January 2007. It is self-executing, and does not require implementing legislation.

How many Veterans are affected by this Amendment?

We estimate between 20,000 and 25,000 Florida Veterans are currently eligible to apply.

Where do I apply?

Eligible Veterans should apply at their county property appraiser's office.

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What is the deadline to submit my documents to the county property appraiser?

Application deadline is March 1 annually.

Will I lose any of my existing benefits as a result of Amendment 7?

No. Amendment 7 does not remove any existing benefits Florida's Veterans have earned by virtue of their military service. The Florida Legislature intended this constitutional amendment to be an additive benefit to the myriad of state resources available to Veterans, many of whom are elderly and on fixed incomes. Amendment 7 is intended to be a discount on taxes owed after all other ad valorem exemptions are computed.

Can you provide some examples?

1. Those Veterans currently exempt from paying any homestead taxes who are rated service-connected, 100% permanent and total disability, continue to be exempt.
2. Eligible, resident Veterans of all ages with a VA-certified service-connected disability of 10% or greater will continue to be entitled to a \$5,000 homestead property tax exemption.
3. Those disabled Veterans with a 10% - 90% disability rating who meet the requirements of Amendment 7 will see their property taxes further reduced.

What are the requirements for the discount?

According to the Amendment, the requirements for the discount are:

1. Proof of age 65 years or older;
2. Proof of Florida residency at the time of entering military service;
3. Official letter from the U. S. Department of Veterans Affairs (USDVA) stating the percentage of the Veteran's service-connected disability;

4. Evidence that reasonably identifies a combat-related disability; and

5. Documentation of the Veteran's honorable discharge.

What is combat-related?

The Department of Defense has defined Combat-Related for a special pay program for certain retirees. These definitions are useful when evaluating a Veteran's USDVA letter in order to determine if any of their Service-Connected disabilities can be construed as Combat-Related.

Combat-Related is not a term used by the U. S. Department of Veterans Affairs; rather, the department determines whether or not a disability is Service-Connected. This is the determination that will be seen in the USDVA letter that Veterans provide.

Can you explain the difference between combat-related and service-connected disability?

Although the Amendment requires the Veteran's disability be combat-related in order to qualify, the total service-connected rating percentage is used to determine discount even though one or more combat disabilities may be only part of their total compensable disabilities.

What documents do Veterans need to provide to claim the discount?

Veterans discharged after Jan. 1, 1950, should be able to provide two documents which would qualify eligible applicants in most cases. These documents are:

- 1) DD Form 214 - Certificate of Release or Discharge from Active Duty will satisfy the following requirements above: #1 (Date of Birth), #2 (Home of Record at Time of Entry), and #5 (Character of Service). Additionally, #4 may be satisfied if the applicant was awarded the Purple Heart for combat wound(s).

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2) Service-Connected Rating Decision (Disability) Letter from USDVA will satisfy requirement #3 (Rating Decision), and may satisfy requirement #4 (under the headings of Evidence, Reasons for Decision, and/or Associated Claims).

These two documents alone should qualify most eligible applicants; however, there may be other documents which could support the applicant. Veterans discharged prior to 1950 may present different discharge documents. Other Veterans may be in the process of requesting a copy of their DD-214 and may not have received it by March 1. In such cases, government-issued identification cards, other proof of Florida residency at time of military entry (i.e. high school diploma dated close to military orders), an honorable discharge certificate, or other documents may assist in determining eligibility.

In cases where neither the DD Form 214 or the Rating Decision Letter satisfy requirement #4 regarding evidence of a combat disability, other documents such as award citations (decoration associated with combat, documents mentioning a combat injury), or documentation from the Department of Defense for Combat Related Special Compensation for retirees, may be useful for property appraisers to consider.

What if the county property appraiser denies my request for a discount?

The county property appraiser must notify the applicant in writing of the reasons for the denial, and the Veteran may reapply.

If I receive the discount, do I have to reapply every year?

Yes, at this time. However, the Legislature may, by general law, waive the annual application requirement in subsequent years.

Will I continue to receive the property tax discount if my Veteran spouse has died?

No, the discount only applies to the Veteran.

NOTE: For Florida Benefits-ONLY- May 28, 1998, Chapter 98-121, Laws of Florida, amended the period of war for the Vietnam conflict back to February 28, 1961. NOTE: The law does not require an in country assignment to qualify.

MILITARY DISCOUNTS AT FLORIDA STATE PARKS

Effective July 1, 2010, honorably discharged Veterans, active-duty service and reserve members will receive a 25 percent discount on the purchase of a Florida State Park annual pass. The discount provides a savings of \$15 on an individual annual pass and \$30 on a family annual pass, which allows up to eight people in a group to access most of Florida's 160 state parks. In addition, honorably discharged Veterans who have service connected disabilities, and surviving spouses of military Veterans who have fallen in combat, will receive a lifetime family annual entrance pass at no charge.

The discounted Florida State Parks Annual Entrance Pass is only available for purchase at any Florida State Park staffed ranger station. The free annual pass can only be obtained at a staffed ranger station.

Created in 1935 by the Florida Legislature, Florida's state parks have grown from eight to 160 parks over the last 75 years, and are overseen by the Department of Environmental Protection (DEP), Florida Park Service.

Today, the Florida Park Service manages more than 700,000 acres of Florida's natural environment, including 100 miles of beaches, eight National Historic Landmarks and 39 sites on the National Register of Historic Places. Florida State Parks has been recognized by the National Recreation and Park Association as the nation's first and only two-time Gold

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Medal winner for the nation's best park service. The Florida Parks Information Center may be reached at (850)-245-2157.

“V” FOR VETERANS DESIGNATION ON DRIVER LICENSE

As of July 11, 2011, Veterans who live in Florida can add a Veteran designation to their driver license or identification card. The Veteran designation is simply a blue "V" on the bottom right corner of the card.

To add the “V” to a license or ID card, Veterans can visit any Florida driver license office, to include those operated by county tax collectors. Requirements: 1) present a discharge document which shows an honorable discharge from active duty; 2) pay a one-time \$1 fee, in addition to the replacement or renewal fee; 3) visit www.GatherGoGet.com to ensure you have all other documents.

The Florida Department of Highway Safety and Motor Vehicles now accepts several discharge documents, to include the NGB-22, the National Guard equivalent of the DD-214.

The Florida Veterans Property Tax Amendment, called Amendment 2, was on the November 6, 2012 state ballot in Florida as a legislatively-referred constitutional amendment where it was approved. The measure allows for property tax discounts for disabled Veterans. This bill explicitly extends the rights to ad valorem tax discounts, made available in 2010 to all Veterans who were residents of Florida prior to their service, to all combat-disabled Veterans currently living in Florida whether they were residents prior to their service or not. The amendment will take effect January 1, 2013. DR-501DV, Application for Homestead Tax Discount, Veterans Age 65 and Older with a Combat-Related Disability, is the Form used to apply for the discount. The DR-501DV Application for Homestead Tax Discount should be submitted to the property appraiser in the county where the Veteran's homestead property is located.

Amendment 9, also known as the Florida Property Tax Exemption for Surviving Spouses, was on the November 6, 2012, state ballot in Florida as a legislatively-referred constitutional amendment where it was approved. Amendment 9 authorizes the legislature to totally or partially exempt surviving spouses of military Veterans or first responders who died in the line of duty from paying property taxes. The amendment authorizes the Legislature to totally exempt or partially exempt such surviving spouse's homestead property from ad valorem taxation. The amendment defines a first responder as a law enforcement officer, a correctional officer, a firefighter, an emergency medical technician, or a paramedic. This amendment shall take effect January 1, 2013. DR-501DV, Original Application for Homestead and Related Tax Exemptions, is the Form used to apply for the discount under Amendment 9, through your local Property Appraisers Office.

New Recreational Hunting and Fishing License Exemption. The Florida Fish and Wildlife Conservation Commission (FWC) on Thursday, Sept. 5, implemented a new recreational hunting and fishing license exemption for disabled Veterans, active and reserve duty military personnel, immediate family members of these Veterans and military personnel and assistants during special events designed for the enjoyment or rehabilitation of participating military personnel and disabled Veterans.

This effort to help disabled Veterans and those serving in the military came about during the 2013 legislative session, when the Commission requested and the Legislature and Governor approved the new license exemption. The Commission was directed to craft rules to implement the law.

“Our disabled Veterans and military have given so much to us that we wanted to give something to them, by allowing them to participate in fishing or hunting events without

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having to buy a license and/or permit,” Chairman Richard Corbett said. Event organizers apply for the permit to exempt their qualifying participants. To qualify for the exemption, special events must be designed to provide rehabilitation or enjoyment to participating disabled Veterans or active or reserve duty military personnel in any branch

of the U.S. Armed Forces, U.S. Coast Guard or Florida National Guard. Immediate family members (parents, spouses and children) of participating disabled Veterans and military personnel and one designated assistant for each disabled Veteran are included in each event’s license and permit exemptions.

CHAPTER 16

VETERANS' PREFERENCE



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VETERANS' PREFERENCE

EMPLOYMENT/RETENTION/PROMOTION HISTORY

Throughout our history, America's war Veterans has usually received some form of recognition for their military service. To this end, it became the policy of the Florida Legislature to provide preference and priority in the hiring practices of this state and its political subdivisions.

Florida laws relating to Veterans, commonly referred to as Veterans' preference, were enacted to provide selected military Veterans with an employment advantage in recognition of their sacrifices for the nation, and also as some small compensation for having deferred their education and civilian careers.

Veterans' preference in Florida evolved after World War II with the passing in 1949 of Florida Statutes 295.06 and 295.07 which gave "preference in civil service, merit system and other competitive examinations" and "preference in appointment, reinstatement and reemployment" respectively. Additional sections of Chapter 295 defined who would receive preference and how the benefit was to be administered. The Florida statute closely followed the passage of similar federal legislation.

Federal 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 (10-point preference eligible) and nondisabled (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 Sept. 11, 2001, and ending on a future date prescribed by presidential proclamation or law.
2. Between Aug. 2, 1990, and Jan. 2, 1992.
3. 180 or more consecutive days, any part of which occurred after Jan. 31, 1955, and before Oct. 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 **10-point preference eligible** if he or she served at any time and either:

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

Florida preference

Many people believe that anyone who served in the military is eligible for Veterans' preference or that only those who served in the Armed Forces are eligible for Veterans' preference in public employment. Neither is

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quite true. Therefore, we will refer to those who are eligible as preference eligible. In addition, the Veterans' preference law covers state government and all its political subdivisions, including counties, municipalities, special districts, public universities and community colleges. However, certain positions are excluded from the law subject to review by an administrative body, the Public Employees Relations Commission (PERC). In addition, Veterans' preference is only available to Florida residents.

There are seven Veterans' preference categories. Effective July 1, 2014, several new groups of individuals are eligible for Veterans' Preference. The groups now eligible for Veterans' Preference (VP) are as follows:

1. Disabled Veterans who have served on active duty in any branch of the Armed Forces and who presently have an existing service-connected disability which is compensable under public laws administered by the DVA or are receiving compensation, disability retirement benefits, or pension by reason of public laws administered by the DVA and the Department of Defense.

2. The spouse of a Veteran:

a) Who has a total and permanent service-connected disability and who, because of this disability, cannot qualify for employment; or

b) Who is missing in action, captured in line of duty by a hostile force, or detained or interned in line of duty by a foreign government or power.

3. A Veteran of any war, who has served at least one day during that war time period as defined in subsection

1.01 (14) or who has been awarded a campaign or expeditionary medal. Active duty for training shall not be allowed for eligibility under this paragraph.

4. The un-remarried widow or widower of a Veteran who died of a service-connected disability.

5. The mother, father, legal guardian, or un-remarried widow or widower of a service member who died as a result of military service under combat-related conditions as verified by the U.S. Department of Defense.

6. A Veteran as defined in section 1.01m (14) Florida Statutes. "Active Duty for Training" may not be allowed under this paragraph. The term "Veteran" is defined as a person who served in the active military, naval, or air service and who was discharged or released therefrom under honorable conditions only or who later received an upgraded discharge under honorable conditions

7. A current member of any reserve component of the U.S. Armed Forces or the Florida National Guard.

The Global War on Terrorism Expeditionary Medal also qualifies for Veterans' preference consideration. Chapter 2003-42, Laws of Florida. Active duty for training is not covered for Veterans' preference purposes. F.S. 295.07.

Numerically based appointments

Numerically based personnel systems utilize an examination or scored system as the sole criteria for selection. Employment preferences, where numerically based examinations are used as a tool for selection, consist of adding 10 points to the score of disabled Veterans and spouses of disabled or missing Veterans and 5 points to the score of other preference eligible applicants. Where the highest possible examination score is other than 100, then 10 percent or 5 percent shall be added to the applicants respective score to give the preference eligible applicant the equivalent of 10 points or 5 points on a scale of 100.

Persons eligible to receive a 10-point preference where service-connected

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disabilities have been rated by the DVA or the Department of Defense to be 30 percent or more shall be placed at the top of the appropriate register or employment list in the rank order of their augmented ratings. In a numerically based appointment scheme, placement at the top of the register or employment list requires that absolute preference be given to the Veteran, and he or she therefore must be given the job. However, certain classes of positions are exempt from absolute preference for Veterans with a 30 percent or more disability rating. Absolute preference will not apply to positions when a numerically based selection process is not used. .

Non-numerically based appointments: In all covered positions from which an examination is not used to determine the qualifications for employment, preference in appointment and employment shall be given to eligible applicants provided they possess the minimum qualifications necessary for the discharge of the duties involved. Preference in appointment and employment in a non-numerically based system requires that a preferred applicant be given special consideration at each step of the employment selection process but does not require the employment of a preferred applicant over a non-preferred applicant who is the most qualified person for the position. For non-numerically based positions, military retirees are to be given special consideration at each step of the selection process, but also do not have to be hired over more qualified non-Veterans.

Reinstatement

When an employee in a covered position leaves employment of the state or its political subdivisions for the purpose of serving in the Armed Forces of the United States and is separated there from with an honorable discharge, the state or its political subdivision must reinstate or reemploy such persons under the following conditions:

Reinstatement or reemployment is made to the same or to an equivalent position.

Reinstatement or reemployment is made within one year of the date of separation from the military service or, in the case of extended active duty, within one year of the date of discharge or separation subsequent to the extension.

Persons reinstated or reemployed under this law shall be awarded preference in promotion, and shall be promoted ahead of all other employees who are as well or less qualified for the position. Eligibility for preference in promotion shall apply only to a Veteran's first promotion after reinstatement or reemployment, without exception.

Preference in retention

In a reduction-in-force, each employee is in direct competition with all other employees engaged in similar work, in the same pay grade, and serving under similar conditions. Among competing employees, the order of separation is determined by type of appointment, Veterans' preference, length of employment, and performance ratings.

In all covered positions where layoffs are necessitated, special consideration in the retention of employees shall be given to those preference eligible persons included under the law. In the event that a point system is not utilized by the covered employer, the employer must demonstrate how special consideration was afforded in the retention process.

Commencement of preference in appointment

A Veterans' preference claim must be indicated by the applicant on the employment application form. The Veterans' preference claim is placed in the employee's personnel file upon appointment to the position.

Veterans' preference in perpetuity: A person eligible for Veterans' preference in appointment (defined at s. 295.07, FS) does not forfeit

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employment preference eligibility once that Veteran or eligible spouse of the Veteran has been employed by a state agency or any political subdivision of this state (HB 699). Effective July 1, 2007, HB 699 also restores Veterans' preference in employment for all categories of protected individuals previously employed by a state agency or any political subdivision of this state.

Enforcement of preference; administrative review

An applicant for Veterans' preference who believes he or she was not afforded employment preference may file a complaint with FDVA:

The complaint must be filed within 60 calendar days of the applicant receiving notice of the hiring decision made by the employing agency or within three months of the date the application is filed with the employer if no notice is given. Because the employer is not required to provide notice of non-selection to the applicant, it is the responsibility of the preferred applicant to maintain contact with the employer to determine if the position has been filled. In a complaint action, if the preference eligible applicant is not satisfied with the department's findings or the employer's proposed action to resolve the complaint is unsatisfactory, the applicant has the right to petition the Public Employees Relations Commission for a hearing. The Florida Department of Veterans' Affairs, however, does not provide legal assistance in the appeal process.

In the event the Veteran prevails in his/her Veterans' preference complaint and appeal to the Public Employees Relations Commission, the Commission may issue an order to compensate the Veteran for loss of wages, reasonable attorney fees and costs incurred in having to appeal to the Commission. Attorney fees and costs are capped at \$10,000 per case.

In the event that the Florida Department of Veterans' Affairs finds that a Veterans' preference complaint lacks merit and the Public Employees Relations Commission determines that there is a complete lack of a justifiable issue of fact or law, the case may be dismissed without holding a hearing.

There is no specific form to file a complaint. The complaint should be typed or legibly written and provide sufficient details concerning the employer, position and Veteran status so the department can initiate appropriate action.

Further information

Individuals interested in working for the State of Florida or any public employer in the state should contact the Human Resources (HR) department or the personnel office of the employer for assistance. Also, the local One Stop Center/Work Force Board and The Agency for Workforce Innovation (AWI), can provide preference eligible applicants with information on local and state employment opportunities.

Career One Stop – www.careeronestop.org

Hire Vets First – www.hirevetsfirst.gov

Jobs for Vets - www.jobsforvetsalpha.org

Job Central - www.jobcentral.com

Recruit Military - www.RecruitMilitary.com

Monster.com - www.monster.com

USA Jobs - www.usajobs.gov

Simply Hired - www.simplyhired.com

Indeed.com - www.indeed.com

Hot Jobs - www.hotjobs.com

Military Stars - www.militarystars.com

Job A Lot - www.jobalot.com

RetirementJobs.com - www.retirementjobs.com

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The Veterans' Preference Administrator for The Florida Department of Veterans' Affairs is Ms. Victoria Jarrett, phone number (727) 518-3202 extension 5511 and e-mail: jarrettv@fdva.state.fl.us

APPENDIX SUPPLEMENT



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VA FORMS

NOTE: These forms SHOULD be accessed at the VA Forms Web site for the most up-to-date forms.

Miscellaneous VA Forms - NO PREFIX

- 9 Appeal to Board of Veterans Appeals
- 22 Application for Accreditation as Service Organization Representative
- 21a Application for Accreditation as a Claims Agent or Attorney
- 572 Request for Change of Address/Cancellation of Direct Deposit
- 3232 General Information Request
- 3288 Request for and Consent to Release Information from Claimant's Records
- 4107VHA Your Rights to Appeal Our Decision
- 5281 Application for Refund of Educational Contribution
- 5655 Financial Status Report

VHA Forms - 10 PREFIX

- 10-0408 VHA Fisher House Application
- 10-10d Application for CHAMPVA Benefits
- 10-10EZ Application For Extended Care Services
- 10-10EZ Application for Health Benefits
- 10-10EZR Health Benefits Renewal Form
- 10-583 Claim for Payment of Cost of Unauthorized Medical Services
- 10-1394 Application for Adaptive Equipment - Motor Vehicle
- 10-5345 Request For and Authorization To Release Medical Records

- 10-7055 Application for Voluntary Service
- 10-7959A CHAMPVA Claim Form
- 10-8678 Application for Annual Clothing Allowance

General VBA Forms - 20 PREFIX

- 20-572 Request for Change of Address/Cancellation of Direct Deposit
- 20-8800 Request for VA Forms and Publications

Compensation and Pension Forms - 21 PREFIX

- 21-22 Appointment of Veterans Service Organization as Claimant's Representative
- 21-22a Appointment of Individual As Claimant's Representative
- 21-121 Application for Burial Allowance & Accrued Amounts, Payable as Reimbursement
- 21-509 Statement of Dependency of Parent(s)
- 21-524 Statement of Person Claiming to have stood in Relation of Parent
- 21-526EZ Application for Disability Compensation and Related Compensation Benefits
- 21-526b Veteran's Supplemental Claim
- 21-526c Pre-Discharge Compensation Claim
- 21-527EZ Application for Pension
- 21-530 Application for Burial Benefits
- 21-534EZ Application for Dependency and Indemnity Compensation, Death Pension and/or Accrued Benefits

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21-534a	Application for Dependency and Indemnity Compensation by a Surviving Spouse or Child - IN-SERVICE DEATH ONLY (Sent to Philadelphia w/ DD Form 1300, Rpt of Casualty)	21-0512S-1	Section 306 Eligibility Verification Report (Surviving Spouse) 2S
21-535	Application for Dependency and Indemnity Compensation by Parents	21-0512V-1	Section 306 Eligibility Verification Report (Veteran) 2V
21-601	Application for Accrued Amounts due a Deceased Beneficiary	21-0513-1	Old Law and Section 306 Eligibility Verification Report (Children Only) 3
21-651	Election of Compensation in Lieu of Retired Pay or Waiver of Retired Pay to Secure Compensation or Pension from VA	21-0514-1	DIC Parent's Eligibility Verification Report 4
21-674	Request for Approval of School Attendance	21-0516-1	Improved Pension Eligibility Verification Report (Veteran with or without Spouse) 6
21-674b	School Attendance Report	21-0517-1	Improved Pension Eligibility Verification Report (Veterans with Children) 7
21-686c	Declaration of Status of Dependents	21-0518-1	Improved Pension Eligibility Verification Report (Surviving Spouse with No Children) 8
21-0304	Application for Spina Bifida Benefits	21-0519C-1	Improved Pension Eligibility Verification Report (Child or children)
21-0307	Award Attachment for Certain Children with Disabilities Born of Vietnam Veterans 2/25/2002	21-0519S-1	Improved Pension EVR (Surviving Spouse with Children)
21-0501	Veterans Benefits Timetable	21-0571	Application for Exclusion of Children's Income
21-0506	Due Process Rights	21-0779	Request for Nursing Home Info in Connection with Claim for Aid and Attendance
21-0510	Eligibility Report Instructions	21-0781	Statement in Support of claim for SC Post-Traumatic Stress Disorder (PTSD)
21-0511S-1	Old Law EVR (Surviving Spouse)	21-0781a	Statement in Support of claim for SC for PTSD Secondary to Personal Trauma
21-0511V-1	Old Law Eligibility Verification Report (Veteran) 1V	21-0845	Authorization to Disclose Personal Information to a Third Party
		21-1775	Statement of Disappearance

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22-8873 Supp Info for Change of Program or Reenrollment After Unsatisfactory Attendance

22-8889 Application for Educational Assistance Test Program Benefits

Finance and Budget Forms - 24 Prefix

24-0296 Direct Deposit Enrollment

24-5281 Application for Refund of Education Contributions

Home Loan Guaranty Forms - 26 PREFIX

26-0285 VA Transmittal List

26-0286 VA Loan Summary Sheet

26-1817 Request for Determination of L.G. Eligibility - Unmarried Surviving Spouses

26-1880 Request for A Certificate of Eligibility

26-4555 Veterans' Application in Acquiring Specially Adapted Housing or Special Home Adaptation Grant

26-4555c Veterans Supplemental Application for Assistance in Acquiring Specially Adapted Housing

26-8261a Request for Certificate of Veteran Status

27 PREFIX

27-8944 Instructions for Applying for Aid and Attendance or Housebound Benefits

Vocational Rehabilitation & Employment Forms - 28 PREFIX

28-0588 Notice of Special Benefits for the Service Disabled

28-1900 Disabled Veterans Application for Vocational Rehabilitation (Ch. 31)

28-1902 Counseling Record - Personal Information

28-8832 Veterans Application for Counseling

28-8890 Important Information About Vocational Rehabilitation (Attachment to VA Form 28-1900)

28-8966 Vocational Training Application for VA Pensioners (Ch. 15, Title 38, U.S.C.)

VA Life Insurance - 29 PREFIX

29-0532-1 VA Matic Authorization

29-178 Requests for Insurance Status - Government Life Insurance

29-336 Designation of Beneficiary - Government Life Insurance

29-352 Application for Reinstatement (Insurance Lapsed More Than 6 Months) Govt Life Ins/TDIP

29-353 Application for Reinstatement (Nonmedical Comparative Health Statement) Gov't Life Ins/TDIP

29-357 Claims for Disability Insurance Benefits - Government Life Insurance

29-538 Assignment - Government Life Insurance Benefits

29-586 Certification of Change or Correction of Name - Government Life Insurance

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29-888 Insurance Deduction Authorization (For Deduction from Benefit Payments)

29-0152 Application for Conversion - Government Life Insurance

29-1546 Application for Cash Surrender Value or Policy Loan

29-1549 Application for Change of Permanent Plan (Medical) (Change to a policy with a lower reserve value)

29-4125 Claim for One Sum Payment - Government Life Insurance All Prefixes

29-4125a Claim for Monthly Payments - National Service Life Insurance

29-4125k Claim for Monthly Payments - United States Government Life Insurance (USGLI)

29-4364 Application for Service-Disabled Veterans Life Insurance (RH)

40 PREFIX

40-1330 Application for Standard Government Headstone or Marker for Installation in a Private or Local Cemetery

STANDARD FORMS

SF-95 Claim for Damage, Injury, or Death

SF-180 Request Pertaining to Military Records

SF-233 Power of Attorney by Individual to a Bank for the Collection of Checks Drawn on the United States Treasury

DD FORMS & SERVICEMAN'S & VETERANS GROUP LIFE INSURANCE

DD-149 Application for Correction of Military Record Under the Provisions of Title 10,U.S.C., Section 1552

DD-293 Application for the Review of Discharge or Dismissal from the Armed Forces of the United States

DD-1172 Application for Uniformed Services Identification Card DEERS Enrollment

DD-1884 Survivor Benefit Plan - Application for Annuity

DD-2168 Application for Discharge of Member or Survivor of Member of Group Certified to Have Performed Active Duty with the Armed Forces of the United States

SGLV-8283 (SGLI or VGLI) Claim for Death Benefits

SGLV-8285 Request for Insurance

SGLV-8713 Application for SGLI - Retired Reservists

SGLV-8714 Application for VGLI

SGLV-8721 Beneficiary Designation - VGLI or SGLI

Definitions of VA Terms and Medical Terms

VA and VBA Terms

1. VBA: Veterans Benefits Administration
2. VHA: Veterans Health Administration
3. DMA or NCS: Department of Memorial Affairs, or National Cemetery Service
4. VSC: Veterans Service Center
5. VARO or RO: VA Regional Office
6. VACO: VA Central Office
7. BVA: Board of Veterans Appeals, or Blinded Veterans Association

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8. CAVC: Court of Appeals for Veterans Claims
9. DRO: Decision Review Officer
10. RVSR: Rating Veteran Service Representative
11. TRIP: Training, Responsibility, Involvement and Preparation of Claims

5. PRN:____ as often as necessary; as needed

Compensation and Pension Terms

1. SC: Service Connected
2. NSC: Non-service Connected
3. P&T: Permanent and Total
4. SCD: Service Connected Disability
5. IVAP: Income for VA Pension Purposes
6. MAPR: Maximum Annual Rate of Pension
7. UME: Unusual Medical Expenses
8. PTSD: Post Traumatic Stress Disorder
9. SMR or SMR's: Service Medical Records
10. IU: Individual Unemployability also referred to as Code 18

Computer Terms

1. MAP-D: Modern Award Processing-Development
2. BIRLS: Beneficiary Identification Records Location Screen
3. COVERS: Consolidated Veterans Records System
4. BDN: Benefit Delivery Network
5. PIES: Personnel Information Exchange System
6. WIPP: Work in Progress
7. AMIE or CAPRI: Automated Medical Information Exchange, C&P Records Interchange
8. SEP: Stakeholder Enterprise Portal
9. VBMS: Veterans Benefits Management System
10. VACOLS: Veterans Appeals Control and Locator System

Medical Terms

1. ASHD:___ Atherosclerotic Heart Disease
2. CA:_____ Cancer
3. HT:___ Hypertension
4. R/O:___ Rule Out

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PUBLIC TELEPHONE NUMBERS AND ADDRESSES FOR VA FACILITIES

NATIONAL CEMETERIES

BUSHNELL - FLORIDA NATL CEMETERY, 6502 SW 102 AVE, BUSHNELL, FL (33513) (OPEN).....352 793-7740
PENSACOLA - BARRANCAS NATL CEMETERY, NAVAL AIR STATION (32508) (OPEN).....850 452-3357/4196
ST. AUGUSTINE NATL CEMETERY, 104 MARINE STREET (32084) (CLOSED - TELEPHONE ANSWERED BY FLORIDA NATIONAL CEMETERY).....904 793-7740
ST PETERSBURG - BAY PINES NATIONAL CEMETERY, 10000 BAY PINES BLVD N (PO BOX 447, 33504) (OPEN FOR CREMATED REMAINS ONLY).....727-398-9426
SOUTH FLORIDA VA NATL CEMETERY (CASKETED & CREMATED REMAINS) LAKE WORTH.... (561) 649-6489
JACKSONVILLE VA NATIONAL CEMETERY For Burial Arrangements, call ... (904) 766-5222
SARASOTA VA NATIONAL CEMETERY For Burial Arrangements, call(941) 861-9840

VA AMBULATORY CARE CLINICS

BOCA RATON - 901 MEADOWS ROAD, BOCA RATON (33433)..... 561-416-8995
BROOKSVILLE - 14540 CORTEZ BLVD, SUITE 200 (34613).....352-597-8287
BROWARD COUNTY VA CLINIC.....305-575-7000
CITRUS COUNTY - 2804 W. Marc Knighton Ct., Suite A, Lecanto (34461).....352-746-8000
CLEARWATER - OAK BROOK PLAZA, 2465 MCMULLEN-BOOTH RD (33719).....727-797-3789
DAYTONA BEACH - 551 NATIONAL HEALTH CARE DR., DAYTONA BEACH (32114)..... 386-323-7500
DEL RAY BEACH - 4800 LINTON BLVD STE F-111 (33445).....561-495-1973
ELLENTON - 4333 NORTH US HIGHWAY 301 (34222).....941-721-0649
FT LAUDERDALE - 5599 NORTH DIXIE HWY, OAKLAND PARK (33334).....1-888-497-4647* or 954-771-2101
FORT MYERS - 3033 WINKLER AVENUE EXTENSION (33916).....1-888-513-0045* or 239-939-3939
FORT PIERCE - 727 NORTH US 1 (34950).....772-595-5150
HOMESTEAD - 950 KROME AVE., SUITE 401, (HOMESTEAD) (33030)305-248-1875
JACKSONVILLE - METHODIST PROF BLDG, 1833 BLVD (32206).....904-232-2751
KEY LARGO - 105662 OVERSEAS HIGHWAY (33037).....305-451-0164
KEY WEST - 1300 DOUGLAS CIRCLE, BLDG L-15, KEY WEST (33040).....305-293-4863
LAKELAND - 3240 SOUTH FLORIDA AVENUE (33803).....863-701-2470
NAPLES - 2685 HORSESHOE DR SUITE 101 (34104).....941-659-9188
NEW PORT RICHEY - 9912 LITTLE RD (34654)1-877-353-1107* or 727-869-4100
PORT CHARLOTTE - 4161 TAMiami TRAIL, UNIT 4, PORT CHARLOTTE (33952).....941-235-2710
OCALA - 1515 E SILVER SPRINGS BLVD (34470).....352-369-3320
ORLANDO - VA HEALTH CARE CTR, 5201 RAYMOND ST. (32803).....1 800 922-7521* or 407 629-1599
PANAMA CITY - COASTAL SYSTEMS STATION, 6703 HIGHWAY 98 BLDG 387 (32407-7001).....850-235-5101
PENSACOLA - 790 VETERANS' WAY (32507).....1 800 897-8977* or 850 476-1100
SANFORD - 209 SAN CARLOS AVE (32771).....407-323-5999
SARASOTA VA PRIMARY CARE CLINIC, 4000 SAWYER ROAD, SARASOTA (34233).....941 927-8422
ST PETERSBURG - 3420 8TH AVE SOUTH (33711).....727-322-1304
STUART - 3501 S E WILLOUGHBY BLVD., STUART (34997).....772-288-0304
TALLAHASSEE - 1607 ST. JAMES COURT (32308).....1 800 541-8387* or 904 878-0191
VIERA - 2900 VETERANS WAY (32940).....407-637-3788
ZEPHYRHILLS - 6937 MEDICAL VIEW LANE, ZEPHYRHILLS (33541).....813-780-2550

VA MEDICAL CENTERS

BAY PINES (NURSING HOME, DOMICILIARY) -
10000 BAY PINES BLVD NORTH (ALT U.S. 19) (33504).....1-888-820-0230* or 727-398-6661
MAILING ADDRESS - PO BOX 5005, BAY PINES FL 33744
MAIL-OUT PHARMACY - VA MEDICAL CENTER, MAIL-OUT PHARMACY - 119B,
POST OFFICE BOX 5001, BAY PINES, FL 33744
BILOXI, MISSISSIPPI (NURSING HOME) - PASS ROAD, 39531.....1 800 296-8872* - 228-523-5000
GAINESVILLE (Nursing Home) - 1601 Archer Road (32602)1 800 324-8387* or 352-376-1611
LAKE CITY (NURSING HOME) - 801 SOUTH MARION STREET (32055)....1 800 308-8387* or 904 755-3016
MIAMI (NURSING HOME) - 1201 NW 16TH STREET (33125).....1-888-276-1785* or 305 324-4455
MONTGOMERY, ALABAMA - 215 PERRY HILL ROAD (36109).....334 272-4670
WEST PALM BEACH (NURSING HOME) - 7305 N. MILITARY TRAIL (33410).1 800 972-8262* or 561 882-8262
TAMPA (NURSING HOME) - 13000 BRUCE B. DOWNS BLVD (NORTH 30TH STREET) (33612)
MAIN HOSPITAL.....1 888-811-0107* (813-972-2000)
TELEPHONE CARE LINE.....1-888-811-0107* (813-903-3650)
PHARMACY REFILL.....1-888-281-5463* (813-903-4885)

(*) This toll free number may not be valid for all calling areas in Florida. We should give the caller both numbers.

VETERANS CLAIMS EXAMINER TRAINING GUIDE

ADDITIONAL QUICK REFERENCE TELEPHONE NUMBERS

SUBJECT	OFFICE AND/OR WEB SITE	TEL NO.
AR BALANCE (HOME LOAN)	FINANCE DIVISION	1-800-827-1000 EXT 5966
AGENT ORANGE INFORMATION	www.vba.va.gov/bln/21/benefits/herbicide/index.htm	1-800-749-8387
APPEALS MANAGEMENT CENTER	APPEALS MANAGEMENT CENTER PUBLIC CONT	1-866-258-0341
ARLINGTON NATIONAL CEMETERY	www.arlingtoncemetery.org	703-697-2131
BOARD OF VETERANS APPEALS	www.va.gov/vbs/bva/	202-565-5436
CHAMPVA	VA HEALTH ADMINISTRATION CENTER www.va.gov/hac/	1-800-733-8387
CIVIL SERVICE RETIRED PAY	OFFICE OF PERSONNEL MGMT www.opm.gov/retire/	1-888-767-6738
COURT OF APPEALS/VETS CLAIMS	http://www.vetapp.uscourts.gov/	202-501-5970
CRSC - AIR FORCE	https://www.dmdc.osd.mil/crsc/	1-866-229-7074
CRSC - ARMY	https://www.dmdc.osd.mil/crsc/	1-866-281-3254
CRSC - NAVY/MARINE CORPS	https://www.dmdc.osd.mil/crsc/	1-877-366-2772
DEBIT CARDS (ELECTRONIC BENEFITS TRANSFER)	CITIBANK CUSTOMER SERVICE	1-888-356-3281
DEERS	http://www.tricare.osd.mil/deers/default.cfm	1-800-538-9552
DIRECT DEPOSIT	VA EFT INFORMATION HOTLINE	1-877-838-2778
EDUCATION CLAIMS	REGIONAL PROCESSING OFFICE - ATLANTA	1-888-442-4551
EDU VERIFICATIONS OF PURSUIT	https://www.gibill.va.gov/wave/	1-877-823-2378
FLORIDA STATE BENEFITS	FL DEPT VETS AFFS www.floridavets.org/	1-800-827-1000 EXT 7440
FRAUD, WASTE, AND ABUSE	VA INSPECTOR GENERAL	1-800-488-8244
GULF WAR VETERANS HOTLINE	www.va.gov/health/environ/persgulf.htm	1-800-749-8387
HEADSTONES AND MARKERS	OFF MEMORIAL PROGRAMS www.cem.va.gov/hm.htm	1-800-697-6947
HEALTH CARE	VA HEALTH BENEFITS SERVICE CENTER	1-877-222-8387
HEALTH CARE OVERSEAS	FOREIGN MEDICAL PROG www.va.gov/hac/fmp/fmp.html	303-331-7590
HEALTH ELIGIBILITY CENTER	ATLANTA, GA	1-800-929-8387
HEPATITIS C	HEP C ALERT	1-877-435-7443
INFORMATION	FEDERAL INFORMATION CTR http://www.firstgov.gov/	1-800-688-9889
INSURANCE - SERVICEMEN'S AND VETERAN'S GROUP LIFE	OFFICE OF SERVICEMEN'S GROUP LIFE INSURANCE	1-800-419-1473
INSURANCE, VA	VA INSURANCE CENTER www.insurance.va.gov/	1-800-669-8477
INSURANCE - FAX FOR LOAN APPS	VA INSURANCE CENTER	215-381-3524
LOAN GUARANTY CERTIFICATES OF ELIGIBILITY	ELIGIBILITY CENTER - WINSTON-SALEM www.homeloans.va.gov/	1-888-244-6711
LOAN GUARANTY HELPLINE	http://www.vba.va.gov/ro/south/spete/RLC/index.htm	1-800-827-1000 X 7500
VA FINANCIAL MORTGAGE COUNSELOR	http://www1.va.gov/opa/pressrel/pressrelease.cfm?id=1514	1-877-827-3702
MAMMOGRAPHY HOTLINE	VHA MAMMOGRAPHY OFFICE	1-888-492-7844
MILITARY RECORDS	NPRC www.archives.gov/facilities/mo/st_louis.html	314-801-0800
NATIONAL SUICIDE PREVENTION HOTLINE	http://www.mentalhealth.va.gov/	1-800-273-8255
NATIONAL CEMETERY	BARRANCAS (NAVAL AIR STATION, PENSACOLA)	850-453-4108
NATIONAL CEMETERIES	BAY PINES, BUSHNELL, ST AUGUSTINE	352-793-7740
OVERPAYMENTS	DEBT MANAGEMENT CENTER, ST PAUL	1-800-827-0648
PENSION - EVR PROCESSING	PENSION MAINTENANCE CENTER	1-877-294-6380
PROP MANAGEMENT (VA REPOS)	OCWEN FINANCIAL CORP www.ocwen.com	1-800-523-9479
RETIRED PAY, MILITARY (EXC CG)	DFAS RETIRED PAY CTR www.dfas.mil/money/retired/	1-800-321-1080
RETIRED PAY, COAST GUARD	CG HR SVC & INFO CTR www.uscg.mil/hq/hrsic/	1-800-772-8724
RETIRED PAY, REPORTING DEATH	DFAS CASUALTY OFFICE	1-800-269-5170
SBP INFO LINE	DFAS DENVER CENTER	1-800-321-1080

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SEC PRINCIPAL'S TELEPHONE UNIT	VA CENTRAL OFFICE	202-273-5674
SMALL BUSINESS	SMALL BUSINESS ADMIN www.sba.gov/VETS/	1-800-827-5722
SMALL BUSINESS	VA CTR FOR VETS ENTERPRISE www.vetbiz.va.gov	1-866-584-2344
SOCIAL SECURITY	www.ssa.gov	1-800-772-1213
SPINA BIFIDA	VA HEALTH ADMINISTRATION CENTER www.va.gov/hac	1-888-820-1756
Telecommunications Device For The Deaf	VARO CHICAGO	1-800-826-4833
TRICARE	www.tricare.osd.mil	1-800-444-5445
VA CENTRAL OFFICE	www.va.gov	202-273-5400
WORK STUDY	WORK STUDY OFFICE	1-800-827-1000 EXT 5951

TOLL-FREE TELEPHONE NUMBER DIRECTORY

FLORIDA

ATTORNEY'S REFERRAL SERVICE (8:30 AM - 5:00 PM MON-FRI).....	1 800 - 342 - 8011
CANCER INFORMATION CENTER (9:00 AM - 4:30 PM MON-FRI).....	1 800 - 422 - 6237
CHILD/ADULT ABUSE (24 HRS/DAY, 7 DAYS WEEK).....	1 800 - 342 - 9152
DEPARTMENT OF COMMERCE (INFORMATION ON HOW TO START A BUSINESS) (8:00 AM - 5:00 PM).....	1 800 - 342 -0771
DEPARTMENT OF NATURAL RESOURCES (RESOURCE ALTER, WHERE TO REPORT VIOLATIONS) (24 HRS/DAY, 7 DAYS/WEEK).....	1 800 - 342- 1821
DEPARTMENT OF PROFESSION REGULATION (8:00 AM - 5:00 PM, MON-FRI).....	1 800 - 342 - 7940
DIVISION OF BLIND SERVICES (8:00 AM - 5:00 PM, MON-FRI).....	1 800 - 342 -1828
DIVISION OF CONSUMER SERVICES (7:45 AM - 4:30 PM, MON-FRI).....	1 800 - 342 - 2176
DIVISION OF FLORIDA LAND SALES, CONDOMINIUMS, AND MOBILE HOMES (8:00 - 5:00 PM, MON-FRI).....	1 800 - 342 - 8081
EDUCATION INFORMATION CENTER (8:00 AM - 5:00 PM, MON-FRI).....	1 800 - 342 - 9271
FLORIDA DENTAL ASSOCIATION (8:30 AM - 4:30 PM, MON-FRI).....	1 800 - 282 - 9117
GAME AND FRESH WATER FISH COMMISSION (24 HRS/DAY, 7 DAYS/WEEK).....	1 800 - 342 - 1676
HEALTH AND REHABILITATIVE SERVICES (24 HRS/DAY, 7 DAYS/WEEK).....	1 800 - 342 - 0825
HOSPITAL COST CONTAINMENT BOARD (8:00 AM - 5:00 PM, MON-FRI).....	1 800 - 342 - 0828
LIBRARY FOR THE BLIND AND PHYSICALLY HANDICAPPED (8:00 AM - 5:00 PM, MON-FRI).....	1 800 - 342 - 5627
NURSING HOME OMBUDSMAN (24 HRS/DAY, 7 DAYS/WEEK).....	1 800 - 342 - 0825
PUBLIC SERVICE COMMISSION (7:45 AM - 4:30 PM, MON-FRI).....	1 800 - 342 - 3552
WORKERS' COMPENSATION (8:00 AM - 5:00 PM, MON-FRI).....	1 800 - 342 - 1741

NATIONAL

AUTO SAFETY HOTLINE (8:00 AM - 4:00 PM, MON-FRI).....	1 800 424 - 9393
CANCER HOTLINE (9:00 AM - 10:00 PM, MON-FRI, 10:00 AM - 6:00 PM, SAT).....	1 800 638 - 6694
CONSERVATION AND RENEWABLE ENERGY INQUIRY AND REFERRAL SERVICE (9:00 AM - 5:00 PM, MON-FRI).....	1 800 - 523 - 2929
CONSUMER PRODUCT SAFETY COMMISSION (8:30 AM - 5:00 PM, MON-FRI)....	1 800 638 - 2772
CRIME INSURANCE (8:30 AM - 5:00 PM, MON-FRI).....	1 800 - 638 - 8780
DEFENSE CENTERS OF EXCELLENCE FOR PSYCHOLOGICAL HEALTH AND TRAUMATIC BRAIN INJURY (DCoE) resources@dcoeoutreach.org (24 HRS OUTREACH PROGRAM)..	1 (866) 966 - 1020
FEDERAL FLOOD INSURANCE (8:00 AM - 8:00 PM, MON-FRI).....	1 800 - 638 - 6620
HEALTH CARE AND BENEFITS HOTLINE FOR WOMEN VETERANS	1 855-VA-WOMEN

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INTERNAL REVENUE SERVICE (8:00 AM - 5:00 PM, MON-FRI).....1 800 - 829 - 1040
MEDICAL SECOND OPINION HOTLINE (8:00 A M - 12:00 PM, 7 DAYS/WEEK).....1 800 - 638-6833
NATIONAL ASBESTOS VICTIMS LEGAL ACTION ORGANIZATION COMMITTEE....1 800 - 395-9565
NATIONAL HIGHWAY TRAFFIC SAFETY ADMIN. (8:00 AM-4:00 PM, MON-FRI).....1 800 - 424-9393
NATIONAL RUNAWAY SWITCHBOARD (24 HRS/DAY, 7 DAYS/WEEK)..... 1 800 - 621-4000
VA MEDICAL CENTER NATIONAL HOTLINE FOR HOMELESS VETERANS, (7x24)...1-877- 424 – 3838

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Facilities in Florida

Veterans Health Administration - VISN Offices

Station ID	Facility	Address	Phone
485	VISN 8: VA Sunshine Healthcare Network	140 Fountain Parkway, Ste. 600 St. Petersburg, FL 33716	727-575-8069
Veterans Health Administration - VISN 8: VA Sunshine Healthcare Network			
Station ID	Facility	Address	Phone
573	North Florida/South Georgia Veterans Health System	1601 S.W. Archer Road Gainesville, FL 32608	352-376-1611
516	C.W. Bill Young VA Medical Center	10000 Bay Pines Blvd Bay Pines, FL 33744 Mailing Address: P.O.Box 5005 Bay Pines, FL 33744	727-398-6661 Or 727-398-6661
673	James A. Haley Veterans' Hospital	13000 Bruce B. Downs Tampa, FL 33637	813-972-2000
673	James A. Haley Veterans' Hospital Primary Care Annex	13515 Lake Terrace Lane Tampa, FL 33637	813-998-8000
573A4	Lake City VAMC, NF/SGVHS	619 S. Marion Avenue Lake City, FL 32025-5808	386-755-3016 Or 800-308-8387
573	Malcom Randall VAMC, NF/SGVHS	1601 S.W. Archer Road Gainesville, FL 32608-1197	352-376-1611 Or 800-324-8387
546	Miami VA Healthcare System	1201 N.W. 16th St. Miami, FL 33125	305-575-7000 Or 888-276-1785
675	Orlando VA Medical Center	13800 Veterans Way Orlando, FL 32827 Mailing Address: 5201 Raymond Street Orlando, FL 32803	407-631-1000
548	West Palm Beach VAMC	7305 N. Military Trail West Palm Beach, FL 33410-6400	561-422-8262 Or 561-422-8262
573BY	Jacksonville OPC	1536 N Jefferson St Jacksonville, FL 32209	877-870-5048 Or 904-475-5800
33040	Lake Baldwin OPC	5201 Raymond Street Orlando, FL 32803	407-631-1000
516BZ	Lee County VA Healthcare Center	2489 Diplomat Parkway East Cape Coral, FL 33909	239-652-1800
673BZ	New Port Richey OPC	9912 Little Road New Port Richey, FL 34654	727-869-4100
573BY	Southpoint Clinic	6900 Southpoint Dr North Jacksonville, FL 32209	904-470-6900
573GF	Tallahassee OPC	1607 St James Ct Tallahassee, FL 32308	800-541-8387 Or 850-878-0191
573GI	The Villages OPC	8900 SE 165th Mulberry Ln. The Villages, FL 32162	877-649-0024 Or 352-674-5000
675GA	Viera OPC	2900 Veterans Way Viera, FL 32940	321-637-3788 Or 321-637-3788
675GB	William V. Chappell, Jr., VA OPC	551 National Health Care Drive Daytona Beach, FL 32114	386-323-7500
548	St Lucie County PTSD Clinical Team (PCT) Outpatient Program	126 SW Chamber Court Port St Lucie, FL 34986	772-878-7876
548GD	Boca Raton CBOC	901 Meadows Road Boca Raton, FL 33433	561-416-8995
516GD	Bradenton Community-Based Outpatient Clinic	5520 S.R. 64 Suite 101 Bradenton, FL 34208	941-721-0649
673GC	Brooksville CBOC	14540 Cortez Blvd., Suite 108 Brooksville, FL 34613	352-597-8287

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675	Clermont CBOC	805 Oakley Seaver Drive Clermont, FL 34711	352-536-8200 352-536-8200	Or
3333	Crossroads Annex	925 South Semoran Blvd Suite 114 Winter Park, FL 32792	866-998-4365	
546GH	Deerfield Beach VA Community Based Outpatient Clinic	2100 S.W. 10th St. Deerfield Beach, FL 33442	954-570-5572	
548GB	Delray Beach CBOC	4800 Linton Blvd., Building E, Suite 300 Delray Beach, FL 33445	561-495-1973	
548GA	Fort Pierce CBOC	1901 South 25th Street, Suite 103 Ft. Pierce, FL 34947	772-595-5150	
546GA	Healthcare for Homeless Veterans	1492 W. Flagler St., Suite 101 Miami, FL 33135	305-541-5864	
546	Healthcare for Homeless Veterans	1492 Flagler St Miami, FL 33135	305-541-5864	
546	Hollywood VA Community Based Outpatient Clinic	3702 Washington St., Suite 201 Hollywood, FL 33021	954-986-1811	
546GC	Homestead VA Community Based Outpatient Clinic	950 Krome Ave., Suite 401 Homestead, FL 33030	305-248-0874	
546GE	Key Largo VA Community Based Outpatient Clinic	105662 Overseas Highway Key Largo, FL 33037	305-451-0164	
546GB	Key West VA Outpatient Clinic	1300 Douglas Circle, Building L-15 Key West, FL 33040	305-293-4863	
675GC	Kissimmee CBOC	2285 North Central Avenue Kissimmee, FL 34741	407-518-5004	
673GB	Lakeland CBOC	4237 South Pipkin Rd Lakeland, FL 33811	863-701-2470	
573GG	Lecanto CBOC	2804 W. Marc Knighton Ct., Suite A Lecanto, FL 34461	352-746-8000	
675GE	Leesburg Community Based Outpatient Clinic	711 W. Main Street Leesburg, FL 34748	352-435-4000	
573GK	Marianna CBOC	4970 Highway 90 Marianna, FL 32446	850-718-5620	
516GF	Naples Community-Based Outpatient Clinic	2685 Horseshoe Drive South - Suite 101 Naples, FL 34104	239-659-9188	
573GD	Ocala CBOC	1515 Silver Springs Blvd. Ocala, FL 34470	352-369-3320	
548GF	Okeechobee CBOC	1201 N. Parrot Avenue Okeechobee, FL 34972	863-824-3232	
675GD	Orange City CBOC	2583 South Volusia Ave (17-92), Suite 300 Orange City, FL 32763	386-456-2080 386-456-2080	Or
573GL	Palatka CBOC	400 North State Road 19, Suite 48 Palatka, FL 32177	386-329-8800	
516GC	Palm Harbor Community-Based Outpatient Clinic	35209 US Highway 19 North Palm Harbor, FL 34684	727-734-5276	
546GD	Pembroke Pines VA Community Based Outpatient Clinic	7369 W. Sheridan St., Suite 102 Hollywood, FL 33024	954-894-1668	
573GN	Perry CBOC	1224 N. Peacock Ave. Perry, FL 32347	850-223-8387	
516GE	Port Charlotte Community-Based Outpatient Clinic	4161 Tamiami Trail Suite 401 & Suite 602 (Annex Bldg) Port Charlotte, FL 33952	941-235-2710	
573GE	Saint Augustine CBOC	195 Southpark Blvd. St. Augustine, FL 32086	904-829-0814 866-401-8387	Or
516GA	Sarasota Community-Based Outpatient Clinic	5682 Bee Ridge Road, Suite 100 Sarasota, FL 34233	941-371-3349	
516GH	Sebring Community-Based Outpatient Clinic	5901 U.S. Highway 27 South Sebring, FL 33870	863-471-6227	
548	St Lucie CBOC	128 SW Chamber Court Port Saint Lucie, FL 34986	772-344-9288	
516GB	St. Petersburg Community-Based Outpatient Clinic	840 Dr. MLK Jr. Street N St. Petersburg, FL 33705	727-502-1700	
548GC	Stuart CBOC	3501 S E Willoughby Boulevard Stuart, FL 34997	772-288-0304	
548GE	Vero Beach CBOC	372 17th Street Vero Beach, FL 32960	772-299-4623	
546	William Bill Kling VA Clinic	9800 W. Commercial Blvd. Sunrise, FL 33351	954-475-5500	

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673GF	Zephyrhills CBOC	6937 Medical View Ln Zephyrhills, FL 33541	813-780-2550	
0339V	Clearwater Vet Center	29259 US Hwy 19 North Clearwater, FL 33761	727-549-3600 877-927-8387	Or
675GF	Clermont Vet Center	1655 East Highway 50, Suite 102 Clermont, FL 34711	352-536-6701 877-927-8387	Or
0341V	Daytona Beach Vet Center	1620 Mason Ave., Suite C Daytona Beach, FL 32117	386-366-6600 877-927-8387	Or
0311V	Fort Lauderdale Vet Center	3666 W. Oakland Park Blvd. Lauderdale Lakes, FL 33311	954-356-7926 877-927-8387	Or
0330V	Fort Myers Vet Center	4110 Center Pointe Drive, Unit 204 Ft. Myers, FL 33916	239-652-1861 877-927-8387	Or
0331V	Gainesville Vet Center	105 NW 75th Street, Suite #2 Gainesville, FL 32607	352-331-1408 877-927-8387	Or
0305V	Jacksonville Vet Center	300 East State St., Suite J Jacksonville, FL 32202	904-232-3621 877-927-8387	Or
0337V	Jupiter Vet Center	6650 W. Indiantown Rd., Suite 120 Jupiter, FL 33458	561-422-1220 877-927-8387	Or
03101V	Key Largo Vet Center Outstation	105662 Overseas Hwy. Key Largo, FL 33037	305-451-0164 877-927-8387	Or
0340V	Lakeland Vet Center	1370 Ariana St. Lakeland, FL 33803	863-284-0841 877-927-8387	Or
0332V	Melbourne Vet Center	2098 Sarno Road Melbourne, FL 32935	321-254-3410 877-927-8387	Or
0310V	Miami Vet Center	8280 NW 27th St Suite 511 Miami, FL 33122	305-718-3712 877-927-8387	Or
0348V	Naples Vet Center	2705 Horseshoe Dr. South, Suite #204 Naples, FL 34104	239-403-2377 877-927-8387	Or
0344	Ocala Vet Center	3300 SW 34th Avenue, Suite 140 Ocala, FL 34474	352-237-1947 877-927-8387	Or
0314V	Orlando Vet Center	5575 S. Semoran Blvd., Suite #30 Orlando, FL 32822	407-857-2800 877-927-8387	Or
0326V	Palm Beach Vet Center	4996 10th Ave North, Suite 6 Greenacres, FL 33463	561-422-1201 877-927-8387	Or
0338V	Pasco County Vet Center	5139 Deer Park Drive New Port Richey, FL 34653	727-372-1854 877-927-8387	Or
0336V	Pompano Beach Vet Center	2300 West Sample Road, Suite 102 Pompano, FL 33073	954-984-1669 877-927-8387	Or
0300V	RCS 3A Vet Center Regional Office	450 Carillon Parkway, Suite 150 St. Petersburg, FL 33716	727-398-9343 877-927-8387	Or
0320V	Sarasota Vet Center	4801 Swift Rd. Suite A Sarasota, FL 34231	941-927-8285 877-927-8387	Or
0301V	St. Petersburg Vet Center	6798 Crosswinds Drive, Bldg A St. Petersburg, FL 33710	727-549-3633 877-927-8387	Or
0325V	Tallahassee Vet Center	548 Bradford Road Tallahassee, FL 32303	850-942-8810 877-927-8387	Or
0318V	Tampa Vet Center	Fountain Oaks Business Plaza; 3637 W. Waters Ave., Suite 600 Tampa, FL 33614-2783	813-228-2621 877-927-8387	Or

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Veterans Health Administration - VISN 16: South Central VA Health Care Network

Station ID	Facility	Address	Phone
520-GC	Eglin CBOC	100 Veterans Way Eglin AFB, FL 32542	866-520-7359
520BZ	Joint Ambulatory Care Center	790 Veterans Way Pensacola, FL 32507	850-912-2000
520GB	Panama City Outpatient Clinic	Naval Support Activity, Bldg 387 101 Vernon Avenue Panama City Beach, FL 32407	850-636-7000 888-231-5047
0744v	Bay County Vet Center	3109 Minnesota Ave, Suite 101 Panama City, FL 32405	850-522-6102 877-927-8387
0743V	Okaloosa County Vet Center	6 11th Avenue, Suite G 1 Shalimar, FL 32579	850-651-1000 877-927-8387
0742V	Pensacola Vet Center	4504 Twin Oaks Drive Pensacola, FL 32506	850-456-5886 877-927-8387

Veterans Benefits Administration - Southeast District

Station ID	Facility	Address	Phone
317	St. Petersburg Regional Benefit Office	9500 Bay Pines Boulevard St. Petersburg, FL 33708 Mailing Address: P.O. Box 1437 St. Pete, FL 33731	800-827-1000
317	Intake Site At Corry Station	VA Joint Ambulatory Care Center Pensacola, FL 32507	
317	Intake Site At Eglin Air Force Base	Airman & Family Readiness Support Center Fort Walton Beach, FL 32542	
317	Intake Site At Hurlburt Field	Airman & Family Readiness Center Hurlburt Field, FL 32544	
317	Intake Site At Key West Coast Guard	NAS Key West & USCG Group Key West Key West, FL 33040	
317	Intake Site At MacDill Air Force Base	Base Hospital 2nd Floor, Room C 277 Tampa, FL 33621	
317	Intake Site At Mayport Naval Station	Branch Medical Clinic Mayport, FL 32228	
317	Intake Site At NAS Jacksonville	Department of Veterans Affairs Jacksonville, FL 32217	
317	Intake Site At NAS Key West	NAS Key West & USCG Group Key West Key West, FL 33040	
317	Intake Site At NAS Pensacola	Fleet and Family Support Center Pensacola, FL	
317	Intake Site At NAS Whiting Field	Fleet & Family Support Center Milton, FL	
317	Intake Site At Naval Hospital Pensacola	Pensacola, FL	
317	Intake Site At Naval Support Activity-Panama City	Fleet & Family Support Center Panama City, FL 32407	
317	Intake Site At Patrick Air Force Base	VA Office of Public Contact Viera, FL 32940	
317	Intake Site At Tyndall Air Force Base	325 FSS/FSFR Tyndall AFB, FL	
317	Intake Site At US Southern Command	US Army Garrison-Miami Southern Command Family Support Center Doral, FL	
317	St. Petersburg Regional Loan Center	9500 Bay Pines Boulevard St. Petersburg, FL 33708 Mailing Address: P.O. Box 1437 St. Petersburg, FL 33731	800-827-1000
828	Barrancas National Cemetery	Naval Air Station, 1 Cemetery Road Pensacola, FL 32508	850-453-4108
830	Bay Pines National Cemetery	10000 Bay Pines Boulevard North St. Petersburg, FL 33708 Mailing Address: P.O. Box 477 Bay Pines, FL 33744	727-319-6479

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934	Cape Canaveral National Cemetery	5525 U.S. Highway 1 Mims, FL 32754	321-383-2638
911	Florida National Cemetery	6502 S.W. 102nd Avenue Bushnell, FL 33513	352-793-7740
928	Jacksonville National Cemetery	4083 Lannie Road Jacksonville, FL 32218	904-766-5222
931	Sarasota National Cemetery	9810 State Road 72 Sarasota, FL 34241	877-861-9840 Or 941-922-7200
924	South Florida National Cemetery	6501 S. State Road 7 Lake Worth, FL 33449	561-649-6489
875	St. Augustine National Cemetery	104 Marine Street St. Augustine, FL 32084	904-766-5222
937	Tallahassee National Cemetery	5015 Apalachee Parkway Tallahassee, FL 32311	850-402-8941