

## Compensation and Pension Claims

As a U.S Armed Forces veteran, you may have incurred a service-related injury or illness for which due compensation is merited; or you may seek pension, such as for unemployable status. The adjudication and disbursement of your Compensation & Pension claim is the responsibility of the Veterans Benefits Administration (VBA), of which the branch office at 1220 NW 3<sup>rd</sup> Avenue (the Edith Green/Wendell Wyatt building) has jurisdiction over Oregon and the Vancouver area of Washington.

Before initiating the claims process you should be aware of a few things. What exactly is it that you seek? If you wish to receive compensation for an injury incurred or exacerbated during qualifying service, you must be prepared to specify the event that caused that injury, and establish *continuity* for that injury via medical records (or even family testimonials) after discharge. You may also be asked to participate in a medical examination by VA physicians as part of the claims development process. It is quite important to note that, although both are under the umbrella of the United States Department of Veteran's Affairs, the VBA and the Veterans Administration Medical Centers (VAMC, for example VAMC Roseburg) are separate institutions. Finance and malpractice claims against VAMC are not received at the VBA, although compensatory claims as a result of malpractice are.

The Department of Veterans Affairs recognizes one agent that a veteran may grant *power of attorney* with regard to VBA claims. This attorney may be privately held, or may be a Veterans Service Organization from whom claims actions are undertaken on your behalf, free of charge. There is a clear advantage in granting an agent *power of attorney*, in that said agent comprehends the claims process and seeks to expedite it to your benefit, and the agent may have a face-to-face working relationship with the VBA. This is especially true with service organizations such as the Oregon Department of Veterans' Affairs, Disabled American Veterans, American Legion, VFW, etc. whose offices are physically located in the Edith Green/ Wendell Wyatt building alongside VBA. You may formalize *power of attorney* by completing VA Form 21-22, 'Appointment of Veterans Service Organization as Claimant's Representative' an by submitting it to the VBA. This POA may be revoked by you at any time and it does not extend beyond your VBA claims.

However we cannot stress how much easier a good service organization or private attorney can make the claims process.

Without being prompted by VBA correspondence (which arrives to your mailing address in the form of official letters), you should present a packet of what evidence and testimony you wish to be weighed in the decision, beyond your Service Medical Records and personnel records. **\*NOTES**  
**1)**if you have your SMR's with you it is **always** a good idea to make copies of the relevant information and send them in with your packet. **2)**if you have continuing medical problems always be sure to go to the VA hospital, tell them what is wrong with you and try to be seen by a doctor (even though the VAMC is very understaffed and you might not be seen, you will be marked in the computer system and this will help build a continued history of your medical problems since your release from service **3)**if filing a claim for PTSD one of the primary things you will need to do is fill out a PTSD Questionnaire which you should be able to receive from the VAMC or an accredited Veterans service organization.

Also if treated at a non- military/VA hospital after your discharge from service (for service connected problems) you will want to submit a notice referring to the clinic or hospital you were treated at. In this example you should write your testimonial explaining your treatment on VA Form 21-4138, 'Statement in Support of Claim', and submit VA Form 21-4142 'Authorization and Consent to Release Information to the Department of Veterans Affairs' so that your medical records are released to the VBA.

'Buddy statements' which bolster your testimony may also be submitted via a Form 21-4138. In addition, if there are any changes to your marital status or other dependency information since submitting the Form 21-526, please keep the VBA updated via a Form 21-686c (this way the VBA will add your new dependents and update your pay accordingly.)

You will receive the decision of the VBA regarding your claim as mailed correspondence (the actual time you receive your claim can vary greatly; it is the U.S government we're talking about here). The *rating decision* describes the outcome of your claim, the percentage of any awarded disability level and the reasons and basis for the decision. The *letter of notification* summarizes the rating

decision and clarifies that, should you be dissatisfied with the conclusions of the rating decision, you have one year from the date on the letter (not the date of decision itself) for VBA to receive a *notice of disagreement* in preparation of appeal.

### **The Appeals Process**

This is the more complicated phase of the claims process. Your notification letter has attached VA Form 4107, outlining the rights to appeal. You may within one year of the date-stamp submit any form of legal correspondence in which you declare your intent to appeal under the *notice of disagreement*. You must identify the specific issues of the rating decision you intend to appeal and at this point you should submit any further evidence in support of your appeal. If evidence is forthcoming, state so on your NOD.

Another item to state on your NOD will expedite the process considerably. First let us see the chain of events in the appeals process.

1. Veteran submits Notice of Disagreement
2. VBA Appeals Team responds within 60 days with a letter asking the veteran whether he desires the Decision Review Officer to examine his claim under the Traditional process or the De Novo Review process. **\*NOTE-** it is highly recommended you select the DRO process as this will allow a person to judge the merits of your claim on a less rigid basis than the traditional process which has very strict guidelines.
3. Upon receiving the veteran's election of process, the claims file awaits a DRO review. During this time the Appeals Team tries to procure any evidence it can and asks the veteran to do the same. There is theoretically a 90 day window until the DRO must review the claim, but multiple reviews at 90 day intervals are not uncommon when a claim's development is difficult.
4. Once the claim is ready for decision, the DRO creates a rating decision just as had been done in the initial decision. The difference is that the veteran also receives a Statement of the Case- a long document describing the claim history, reasoning and outcome. Should the vet remain

dissatisfied with the DRO decision, the veteran now must appeal to the Board of Veterans Appeals (BVA), via a VA Form 9 (and you thought there was less bullshit paper work once you got out). You will on this form specify whether you want a hearing with the BVA- because its based in Washington D.C, your choice is to attend a hearing in the capital, or await a traveling board which convenes at the Portland office, perhaps twice a year.

5. The BVA may decide the claim has not been correctly developed by the VBA and *remand* the case back to VBA. If not, a decision on the issues of the case will be made.

6. You may still appeal to the Court of Appeals should the decision of the BVA not satisfy your claim.

Note that the Appeals Team will wait 60 days to receive your decision on whether to elect the Traditional or De Novo Review process. If you have not specified any process they will treat your claim under the Traditional process. Again it is highly recommended that you select the De Novo Review process. By specifying the process you wish on your Notice of Disagreement, you avoid the lengthy period of part 2 above. In selecting the DRO process, you can also elect a hearing with that DRO, that will be conducted at the Portland Office, so that that you can be on record with statements that clarify and defend your claim. It is important to note that if you choose the DRO process with a hearing then you must physically show up to that hearing, whereas you can simply elect the DRO process and you will not be required to go into the VA office. It is your choice.

### **In Conclusion**

The above was simply an outline for the claims and appeals processes. They are just general guide lines as each claim has its own nuances, which must be dealt with. We certainly hope these guidelines are helpful to you. And remember that the claims process can often be long and frustrating but you owe to yourself to stick with it and try to get what is entitled to you for your service to this country.

**\*\*\*DISCLAIMER\*\*\* The above material is in no way sanctioned by the VBA or any other U.S government agency. It is simply**

the knowledge of the authors based on common knowledge, as well as theirs and others experiences.