

The Veterans Self-help Guide on VA Claims



NATIONAL VETERANS LEGAL SERVICES PROGRAM

THE VETERAN'S SELF-HELP GUIDE ON VA CLAIMS

This *Self-Help Guide (Guide)* is intended to help you, with the help of your advocate, present a claim for disability benefits to the U.S. Department of Veterans Affairs (VA). The VA claims process is sometimes complicated and often confusing. No single publication can cover every situation or be 100 percent accurate in every instance. To give yourself the best chance of winning VA benefits, read this *Guide* to get an understanding of the VA benefits system, and get someone to help you, someone who will act in your behalf—an advocate or representative. You can get free representation through a network of advocates who work for national service organizations or for state or county offices of veterans' affairs. You don't have to be a member of a service organization to get free help from it.

Many states also provide various benefits to veterans. This *Guide* does not cover state veterans' benefits—only federal veterans' benefits. To obtain information about state veterans' benefits, contact your state or county department of veterans' affairs.

The VA provides many types of benefits (for example, education, health care, home loans, and insurance). This *Guide* focuses on the two kinds of disability benefits paid by the VA: service-connected compensation and non-service-connected pension. Veterans who are granted either disability compensa-

tion or pension get a check each month from the VA. Veterans who qualify for both disability compensation and pension are awarded whichever benefit will pay them more. (The law does not permit a veteran to receive both disability and pension benefits at the same time, so the VA will pay whichever benefit is higher in that particular case.)

This *Guide* does not cover everything about the VA's compensation and pension programs. It is a basic overview designed to help you help your advocate in your attempt to obtain VA compensation and pension benefits.

One of the first things you should check is that your discharge from service is a discharge that qualifies you for VA disability benefits. Almost always, discharges that are honorable or "under honorable conditions" (a general discharge) allow you to receive most VA disability benefits. Other types of discharges or upgraded discharges can create complicated situations with respect to VA benefits. This *Guide* assumes that you do have an honorable or general discharge and so are probably eligible, on that score at least, to receive VA disability benefits.

HOW IT WORKS: SERVICE-CONNECTED COMPENSATION

In general, service-connected compensation is available to veterans with physical and mental disabilities (which the VA often calls “conditions”) that were incurred during (acquired) or aggravated (made worse) by service. The VA should concede that a disability was incurred in or aggravated by service if you can show that:

- You have a current condition (disease or disability) that can be linked to an injury that happened during service or a disease you suffered from in service;
- You currently suffer from a disease whose symptoms began shortly after discharge (usually within one year), and the VA considers that disease to have begun in service;
- You have a condition that existed before service that became worse while you were in service (that is, worse than it would have become if you had not been in service);
- You have a disability that was caused or aggravated by another service-connected condition; or
- You suffer from a disability that may have begun many years after you were discharged but was caused by something that happened to you in service or something you were exposed to in service (for example, lung cancer caused by exposure to asbestos in service).

Also, in the following situations the VA should treat an injury or aggravation of an injury as if it were service-connected if:

- You have a disability or aggravation of a disability as the result of VA medical care or involvement in a VA vocational rehabilitation program;
- The loss, or loss of use of, one of a pair of organs (such as kidneys, lungs, eyes or ears) or extremities (such as a hand or foot) is service-connected and the other organ or extremity becomes disabled as the result of a non-service-connected condition.

Your disability does not have to be related to combat—it just has to be connected in some way to your time in service. For example, you can get compensation benefits for the residual effects of a gunshot wound received in combat, the residual effects of a leg injury that happened during basic training, and the residual effects of a knee injury acquired playing baseball while on authorized leave.

Compensation benefits are not need based. That means that a veteran’s income or assets does not affect the amount of money he or she receives from the VA for a service-connected disability.

*Compensation
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WHAT YOU MUST SHOW

In most cases, you will have to help your advocate persuade the VA of the following three things to establish entitlement to service-connected benefits:

- You currently have a physical or mental disability;
- Something happened in service (or shortly after discharge): for example, you contracted a disease that began in service; you suffered an injury in service; something happened to you in service that you think may be the cause of your current disability; you were treated for a chronic condition shortly after service; or a condition you had before you went into the service got worse while you were in; and
- There is a link between your disability and something that happened in service: that is, your current disability is, in some way, connected to a disease you contracted in service, an injury you received in service, an incident that happened in service; or the disability was created or aggravated by a service-connected condition.

Compensation benefits are based on the percentage of disability caused by the service-connected condition. The disability can be evaluated at anywhere from zero percent disabling to 100 percent disabling. The VA pays compensation benefits every month. You would not get any compensation from the VA for a disability evaluated zero percent disabling. In 1996, compensation payments for conditions evaluated as more disabling range, depending on severity, from \$91 per month to more than \$1,800 per month (for a 100 percent evaluation). In some cases the VA will pay more than the 100 percent disability rate for service connected conditions that cause very severe disabilities.

Compensation benefits are usually adjusted each year for the cost of living.

In general, if you have a service-connected condition that is evaluated as less than 100 percent disabling and it gets worse, you can apply to the VA for an increase. If the VA grants an increase in the evaluation for your service-connected disability, your compensation payment will go up.

YOU NEED A REPRESENTATIVE

The VA claims process is complicated, and there are many pitfalls. What you tell the VA can be held against you. Do not try to represent yourself before the VA--instead, use this *Guide* to help you select, and then to assist, an advocate who will represent you. The rules are too complicated to do it yourself. You can get free help from many veterans' service organizations, from a state or county department of veterans' affairs, and sometimes from a lawyer. However, it is in your best interest to understand the process of submitting a claim. Some advocates are more experienced or aggressive than others. If you read this *Guide* carefully, you will know what your advocate should be doing for you, and you will be better prepared to help him or her in gathering evidence and presenting your claim.

GETTING HELP – VETERANS' SERVICE ORGANIZATIONS

Free representation before a VA regional office, the Board of Veterans' Appeals, or, in some cases, the U.S. Court of Veterans Appeals may be available through a veterans' service organization. These organizations generally have local representatives, usually called service officers, who have offices in the VA's regional offices (although they do not work for the VA). To reach such a representative, locate the nearest regional office (look in the phone book under U.S. Government, Department of Veterans Affairs). Or look up a service organization in the phone book, or write to one of the national offices listed below.

- American Legion, P.O. Box 1055, Indianapolis, IN 46206
- AmVets, 4647 Forbes Boulevard, Lanham, MD 20706-4380
- Catholic War Veterans, 441 North Lee Street, Alexandria, VA 22314
- Disabled American Veterans, P.O. Box 14301, Cincinnati, OH 45250

DON'T WAIT TO FILE

Do not wait until your disability really bothers you to file a claim for compensation benefits. If you have a disability that you think might be service-connected, see an advocate to help you file a claim. It is important to establish service connection, even for a condition with a noncompensable evaluation, at the earliest possible time. Here's why:

- If your condition gets worse, you can always file a claim for increase. The only thing the VA then has to decide is whether to pay you more money--not whether the condition should be service-connected.
- It will be easier to convince the VA of the truth of your statements the closer it is to your service.
- The more recent your service, the easier it is for you to obtain supporting statements from your fellow veterans, and your memory of what happened to you in service will usually be better.

- Establishing service connection for a disability rated even at zero percent is valuable. For example, once you have any service-connected disability you have potential entitlement to free medical care from the VA for any condition.

Even if you do not need the money now, or do not like to ask the government for money, you should consider filing to protect yourself in the future. You can always return the VA checks to the U.S. Treasury--in fact, some members of Congress do this.

*Don't wait until
your disability
really bothers
you*

- Jewish War Veterans, 1811 R Street, N.W., Washington, DC, 20009
- Military Order of the Purple Heart, 5413-C Backlick Road, Springfield, VA 22151
- Paralyzed Veterans of America, 801 18th Street, N.W., Washington, DC 20006
- Veterans of Foreign Wars, 406 West 34th Street, Kansas City, MO 64111
- Vietnam Veterans of America, 1224 M Street, N.W., Washington, DC 20005
- Non Commissioned Officers Association, 10635 IH 35 North, San Antonio, TX 78233

STATE AND COUNTY AGENCIES

Almost every state has a state department of veterans' affairs and many counties have county veterans' service offices that provide representation to veterans and their families. The staff of these offices may also be accredited by (that is, they can accept your power of attorney for) a national veterans' service organization. Some states offer financial assistance to veterans and their families.

LEGAL AID AND LEGAL SERVICES OFFICES

Free representation by lawyers or paralegals at legal aid or legal services offices in your county may be available if your income is low. Even if they cannot help directly, many such offices have copies of veterans' benefits resources prepared by NVLSP and may be willing to let you use them. You can locate the office nearest to you in your phone book or by contacting your local bar association or NVLSP.

WARNING

If you make initial contact with the VA yourself, do not be discouraged by a VA employee who tells you, over the phone or at a front desk, that you are not entitled to benefits. If this has happened to you, get an advocate immediately and instruct him or her to submit your claim in writing and insist on a written reply from the VA.

DO HELP YOUR ADVOCATE

Some veterans, especially veterans with financial need, may do better if they obtained pension benefits instead of compensation benefits. To keep things simple, the VA considers a claim for compensation to be also a claim for pension. Therefore, when you file a claim for compensation, if you can, give your representative enough information to let the advocate determine if a claim for pension should be pursued. Here are some of the most important things you can do to help your advocate present your claim--and to save time:

- Give the advocate a copy of your discharge papers (DD-214);
- Give your advocate copies of any service medical or private medical records you have;
- Give the advocate copies of any other service records you have;
- Make a list of all your dependents (including children in college) and give the advocate copies of their birth certificates and your marriage certificate;
- Give your advocate a written account of anything that happened to you in service that you think might have caused a current disability;

- Give your advocate a written history of your symptoms and treatment for any disability that you think might be connected to service;
- Give your advocate a written history of the people who observed your symptoms since your separation from service and where these people can be contacted;
- Tell your advocate if you have applied for, or receive, any other disability benefits, such as Social Security disability payments; and
- Provide a full account of all your income and all your assets (net worth) to help your advocate consider your possible entitlement to pension.

Keep copies of anything you send to your advocate. And don't wait to collect all these things before you contact an advocate--it's very important to get the process going.

WHAT IS NVLSP?

The National Veterans Legal Services Program (NVLSP) is an independent, nonpartisan, nonprofit policy and advocacy organization devoted to increasing national understanding of the plight of America's forgotten veterans and their families while working to support the interests of needy veterans. NVLSP achieves its mission through education, advocacy, and public policy programming and through active litigation. It is a tax-exempt charitable organization under Section 501(c)(3) of the Internal Revenue Code; all contributions are tax deductible to the full extent of the law. For more information, please write to NVLSP at 2001 S Street, N.W., Suite 610, Washington, DC 20009.

HOW IT WORKS: NON-SERVICE-CONNECTED PENSION

Non-service-connected pension is available to veterans who served during a period of war (as defined by Congress), who are permanently and totally disabled, and who have established need. Whether a condition is service connected is not a factor in deciding if you are entitled to pension. The VA will evaluate all your disabilities to determine if you are totally disabled and if your total disability is permanent (whether your level of disability is permanent is not a factor for compensation benefit purposes). If the VA decides that you are unable to perform substantial work, it will consider you to be totally disabled.

Pension benefits could range from about \$687 a month for a veteran without dependents or any other income to more than \$1,300 a month for a severely disabled veteran, with one dependent and no other income, in need of the personal attendance of another person (1996 figures). Pension benefits, which are paid every month, are usually adjusted each year for the cost of living. Almost all of your income is deducted from the maximum amount of pension you might be entitled to receive.

Generally, you must have had 90 continuous days of active duty, at least one day of which was during wartime, to have basic eligibility for pension. The following service dates are considered wartime service:

- Indian Wars: January 1, 1817, through December 31, 1898. The veteran must have served 30 days or more, or for the duration of such Indian War. Service must have been with the U.S. forces against Indian tribes or nations.
- Spanish-American War: April 21, 1898, through July 4, 1902, including the Philippine Insurrection and the Boxer Rebellion. Also included are those individuals engaged in the Moro Province hostilities through July 15, 1903.
- Mexican Border War: May 9, 1916, through April 5, 1917. The veteran must have served for one day or more in Mexico, on the borders thereof, or in the waters adjacent thereto.
- World War I: April 6, 1917, through November 11, 1918, extended to April 1, 1920, for those who served in the Soviet Union. Service after November 11, 1918, through July 2, 1921, qualifies for benefits purposes if active duty was performed for any period during the basic World War I period.
- World War II: December 7, 1941, through December 31, 1946, extended to July 25, 1947, where continuous with active duty on or before December 31, 1946.
- Korean Conflict: June 27, 1950, through January 31, 1955.
- Vietnam Era: August 5, 1964, through May 7, 1975.
- Persian Gulf War: August 2, 1990, through a date to be set by law or Presidential proclamation.

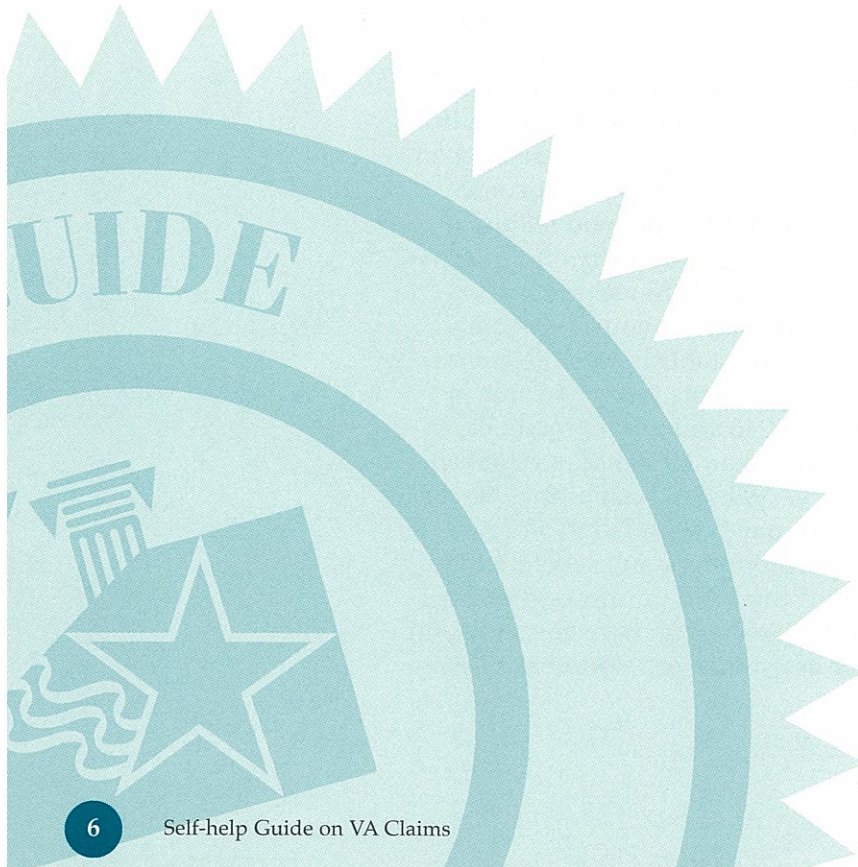
Unlike disability compensation, pension benefits are need based. Your income, combined with the income of your spouse and dependent children, averaged over twelve months, is deducted from the maximum pension amount. For example, any money you receive from Social Security disability or retirement payments would be deducted, dollar for dollar, from your VA pension benefits. Do not understate your income. The VA can match what you tell them against your Social Security and Internal Revenue Service (IRS) records. The VA will consider your income and your assets to establish need. A veteran without dependents whose income is less than \$8,246 and whose total net worth is less than \$50,000 can establish need for VA pension purposes (1996 figures). You may be entitled to a higher rate of pension if you are severely disabled and the VA determines that your disabilities make you housebound or in need of assistance from another person.

*Pension benefits
are need based*

DO HELP YOUR ADVOCATE

Here are some of the most important things you can do to help your advocate present your pension claim:

- Give the advocate a copy of your discharge papers (DD-214);
- Give your advocate copies of any medical records you have;
- Give the advocate copies of any other service records you have;
- Provide a full account of all your income, from any source, and of all your assets (net worth);
- Make a list of all your dependents (including children in college) and give the advocate copies of their birth certificates and your marriage certificate;
- Explain, in writing, why you think you are permanently and totally disabled, and when you think you became permanently and totally disabled; and
- Provide a written account of all your medical expenses that were not covered by insurance for the last 12 months and of the medical expenses (not covered by insurance) you expect to pay in the next 12 months.



BEFORE FILING A CLAIM

You should get a representative to help you present your claim to the VA. VA statutes, regulations, and procedures are very complicated and are frequently revised. You can lose part or all of the benefits you are entitled to if you do not understand the law and the rules that apply to your claim. You stand a very good chance of losing both time and money if you try to represent yourself.

CHOOSING A REPRESENTATIVE

Most veterans rely on one of the free advocates from a veterans' service organization or a free advocate from a state or county department of veterans' affairs for representation. You should begin by finding such an organization and requesting an advocate. If you meet certain income limits, you can also be represented for free by a legal aid or legal services attorney. Any other attorney can represent you but cannot charge you a fee until after the Board of Veterans' Appeals has denied your claim.

Most veterans choose to be represented by advocates called veterans' service officers (VSOs). VSOs are like cars, doctors, accountants, and lawyers--some are better than others. It is in your best interest to shop around for a knowledgeable VSO who has a reputation for spending time and energy on cases.

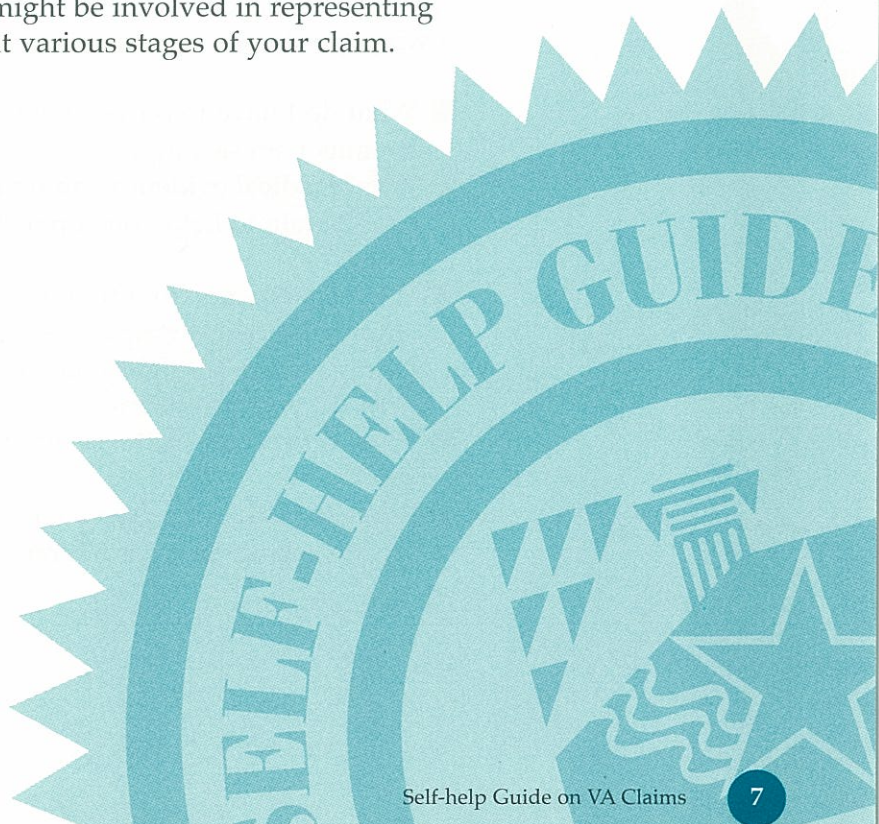
Many veterans, especially those who do not live near a VA regional office (RO), start their claims by talking to a county or state VSO who has an office near their home. Generally the county or state VSO should coordinate his or her efforts with the VSO whose office is at the VA's RO to help present your claim. Usually the county or state VSO will help you obtain evidence and respond to VA letters, and the VSO at the RO will prepare written arguments and represent you at a hearing. (VSOs who are located at the VA's regional offices do not work for the VA, but it is

very convenient to have offices in the same place.)

VSOs are not representatives of the United States Department of Veterans Affairs. VSOs do not work for the VA. They work for a national service organization, a county, or a state.

Once you have found a representative, ask for help in filing a VA Form 21-22, "Appointment of Veterans Service Organization as Claimant's Representative." (Attorneys should use VA Form 22a.) This form is also called a *power of attorney*; you must sign one before the advocate can represent you. The power of attorney notifies the VA that the veterans' service organization is your official representative. Generally, the VA recognizes only one holder of a power of attorney at a time. You cannot have two service organizations representing you at the same time; each time you file a power of attorney, it cancels and replaces any earlier power of attorney. Unless you are dealing with an attorney, the power of attorney is not with the individual sitting across the desk from you, but with the organization that person works for. This means that several people from that organization might be involved in representing you at various stages of your claim.

You are likely to lose both time and money if you try to represent yourself



Most effective representatives have access to some or all of the following:

- Title 38 of the United States Code (the statutes that govern the VA);
- Title 38 of the Code of Federal Regulations (the regulations or rules designed to put into effect the statutes passed by Congress);
- *VA Manual M21-1: Adjudication Procedures* (VA internal rules that tell VA employees how to judge or adjudicate your claim); and
- Handbooks and manuals on VA law produced by major service organizations.

Many representatives also have access to publications produced by the authors of this Guide, specifically:

- *The Veterans Benefits Manual* (a comprehensive manual on VA law) and
- *The Veterans Advocate* (a bimonthly journal written for veterans' advocates).

ASK QUESTIONS

Ask your prospective representative if he or she has any or all of these resources. If they do not, you might want to look for another group to represent you. Also, you should ask the following questions:

- What do I have to prove to obtain the benefits I am seeking?
- What medical evidence and opinion can I obtain to help you support my claim?
- What statements from friends, employers, fellow employees, and family members might I obtain to help support my claim?
- What do you see as the issues in my case?
- What should I do if I get a letter from the VA asking for information?

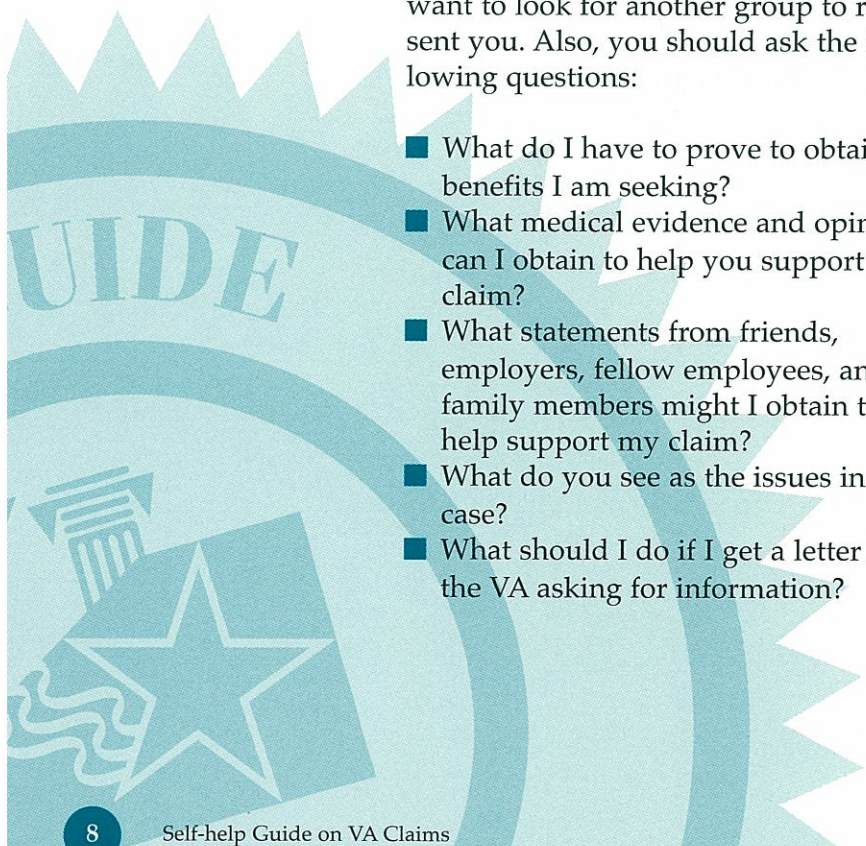
- When should I get an answer from the VA?
- If the VA denies my claim and I appeal, how long should that process take?
- Are there other VA benefits that I might be eligible for?
- Will you tell me if my claim has no chance of success and when I should drop my claim?

The answers to most of these questions will vary. However, an experienced advocate will explain that the VA claims process can take a very long time and there is no guarantee that you will win benefits quickly. An experienced advocate will also not hesitate to compare your service records and your supporting evidence with the evidence that is needed to support your claim and give you an honest answer about your chances of success.

BE AWARE OF LIMITS

Some organizations limit the extent of their representation. Most veterans' service organizations do not guarantee that they will represent you before the U.S. Court of Veterans Appeals. A few service organizations do not guarantee that they will represent you before the Board of Veterans' Appeals. Some service organizations will not accept your power of attorney if your case is far advanced or if another organization is representing you. To have the best chance of success, pick a good organization at the beginning of your claim, follow its advice, and stick with it.

*You can do your
case harm
without
realizing it*



WORKING WITH YOUR ADVOCATE

Since 1990, decisions of the U.S. Court of Veterans Appeals have helped veterans and advocates discover that some VA regional offices find it hard to apply the agency's own rules. Because some VA employees are undertrained and have trouble interpreting the Court's decisions, the ROs have enormous backlogs of claims. Reforms are coming, but it may be a while before any real improvement occurs. Any qualified advocate will be well aware of these problems and will be able to work the system much more effectively than you can alone. That is why this *Guide* emphasizes the importance of getting a qualified advocate and working with and through that advocate at every step of your claim. However, there are things you can do to help.

- Communicate regularly with your advocate. Ask the person you are working with when you should call to discuss your case.
- If the VA contacts you directly, for example, to request evidence for your claims, it is very important that you notify your advocate of the request and respond to the VA only as your advocate directs.
- If evidence that supports your claim (for example, a doctor's report or a statement from a friend) is sent to you directly, you can help your advocate by checking it over carefully to make sure that it is what you requested and that it is accurate and complete to the best of your knowledge. Then send it to your advocate, not to the VA. Some evidence that you think is helpful might be the very evidence that the VA uses to deny your claim. Rely on your advocate to identify this type of damaging evidence.
- Check with your advocate to make sure that evidence sent to the RO was received.
- Set up a file, in date order, of everything you send to your advocate, including information and correspondence that you want the advocate to forward to the VA and everything that the VA sends you. You and your representative might consider sending all correspondence to the VA by certified mail, return receipt requested, and keep copies of all return receipts.
- The VA may want to see documents that are irreplaceable or difficult to replace, such as your birth certificate, marriage license, or certain medical records. Usually the VA will accept a copy of these documents.
- If you decide to ask for a hearing, discuss your claim with your representative well in advance of the hearing. This will help you both prepare. You can suggest arguments and strategies, but in the end you should follow your advocate's advice. VA law is not easy to understand, and you can do your case harm without realizing it.

*Be honest
and follow the
advice of your
advocate*

WARNING

Veterans with service-connected conditions can file claims for increase in their service-connected disability evaluations. Before filing such a claim, however, be sure to check with your representative. In some cases you do not want to bring yourself to the attention of the VA. For example, although it is true that you can get more money for an increased evaluation for a service-connected disability, it is also true that the VA might determine that your condition has improved, not worsened, and reduce your evaluation, thereby reducing your monthly VA payment.

In some cases, you might want to wait before filing a claim for increase. If you have had the same evaluation for 20 years, your evaluation is protected—it cannot be reduced by the VA (unless the evaluation was based on fraud). For example, if your service-connected heart condition has been evaluated at no less than 70 percent for the past 20 years, the VA can never reduce it. Therefore, an experienced advocate might suggest that you wait a year or so before filing a claim for increase if you are close to “locking in” a percentage evaluation.

KNOW WHO YOU ARE DEALING WITH

Even if they are in government buildings, the offices of, and the people working for, national service organizations, county departments of veterans' affairs, and state departments of veterans' affairs are not the U.S. Department of Veterans Affairs (VA). Telling something to a person who works for the county, the state, or a national organization is not the same as telling the VA. Check with your advocate to be sure that the VA is receiving what you intend to send them.

When you first apply for VA benefits, the VA assigns a unique *claim number* to your claim so that it can be easily identified. This claim number, or *C-number* or *C-file number*, stays with you forever. The VA will include your claim number on any communication it sends to you. Put your C-number on any letter you send to your advocate that will eventually be sent to the VA.

The remainder of this Guide describes the steps you and your representative will take to file and, if necessary, to appeal your claim.

OVERVIEW OF VA CLAIMS SYSTEM

The VA has 58 regional offices (ROs); there is one or more in every state. The RO is where you will file your claim, and the RO gets the first crack at deciding it. Almost every RO has a specific group of VA workers who are responsible for judging claims for VA disability benefits. The ROs call this group the "adjudication division." Your claim will usually be judged by the adjudication division in the nearest RO.

You might not agree with the RO decision. In that case, you have the right to appeal to the Board of Veterans' Appeals (BVA) in Washington, D.C. The members of the BVA will review the evidence in your case and make another decision about your claim.

The VA cannot act as your opponent at the RO or BVA. If you file a plausible claim, one that the VA might possibly grant, the VA must help you obtain evidence to prove your claim, including giving you a medical examination. If the evidence concerning your claim is evenly balanced, the VA is required to resolve the benefit of the doubt in your favor.

As a result of a law passed in 1988, the Veterans' Judicial Review Act, you can now appeal to the U.S. Court of Veterans Appeals in Washington, D.C., if you disagree with the decision of the BVA. The VA is not your friend at the Court of Veterans Appeals. In fact, in most cases, the VA will oppose you at the Court--that is, VA lawyers will actively try to defeat your claim.

STEP 1: APPLYING FOR BENEFITS

In most cases, your advocate should notify the VA of the benefits you want as early as possible. It is not necessary to wait until you have the proper application form. A dated, handwritten note is enough to start your claim and to preserve the earliest possible *effective date* (the date from which the VA pays benefits) for your claim. Every day delayed can mean another day of benefits lost forever. If you were discharged less than one year ago, it is vital to apply before that first year is up--special rules apply to you.

Do not delay your application until you and your advocate have gathered every possible bit of evidence needed to win your claim. You will have time after you file your claim to collect and submit relevant evidence. If you are worried that the VA may decide your claim before you get all of your evidence in, your advocate can write to the RO to say that you wish to submit evidence before they decide your claim.

INFORMAL CLAIMS

If you open your claim by sending the VA a letter, be sure to date it, be sure to sign it, and be sure it says this: "I apply for service connection for [*identify your disability*], and any other benefits that I may be entitled to. Additional documentation will be submitted." The VA will consider this letter to be an informal claim, not only for compensation for the disability you mentioned, but also for any other condition for which you might be service connected, and even for pension benefits.

If you think you may just be entitled to pension, use the following sentences: "I apply for non-service-connected pension and for any other benefits that I may be entitled to. Additional documentation will be submitted."

FORMAL APPLICATION

If this is your first claim for VA compensation or pension benefits, once the VA receives your informal claim, it will eventually send you a formal application, VA Form 21-526, "Application for Compensation and Pension." You have one year from the date on which the VA sends you the formal application in which to complete the application and return it to the VA. If you make this deadline, the effective date of your claim will be the date on which the VA received your informal claim. If you do not make this deadline--if you do not return the completed VA Form 21-526 until after the year is up--then the effective date of your claim will be the date on which the VA receives your VA Form 21-526. The effective date is the date from which benefits start--so, it's to your advantage to return the Form 21-526 within the year.

When you complete your formal application on VA Form 21-526, be honest and follow the advice of your advocate. If you are not certain about a specific date or fact, do not complete that section. Explain your difficulty to your advocate and the advocate will tell you how to refresh your memory.

It is not reasonable for the VA or anyone else to expect you to remember exactly what happened to you in service many years ago--but guessing at answers might hurt your claim. You have the right to review your service records and any other records in your VA file before completing your application.

Never send any written document directly to the VA. Send any response to the VA to your representative so your advocate can review this evidence before it is submitted to the VA.

You have the right to review your VA file

STEP 2: GETTING MEDICAL REPORTS

The VA may schedule you for a medical examination by a doctor at a VA hospital in connection with your compensation or pension claim. (In connection with claims for pension, the VA will accept a private medical report finding you totally and permanently unemployable if the report is comprehensive.)

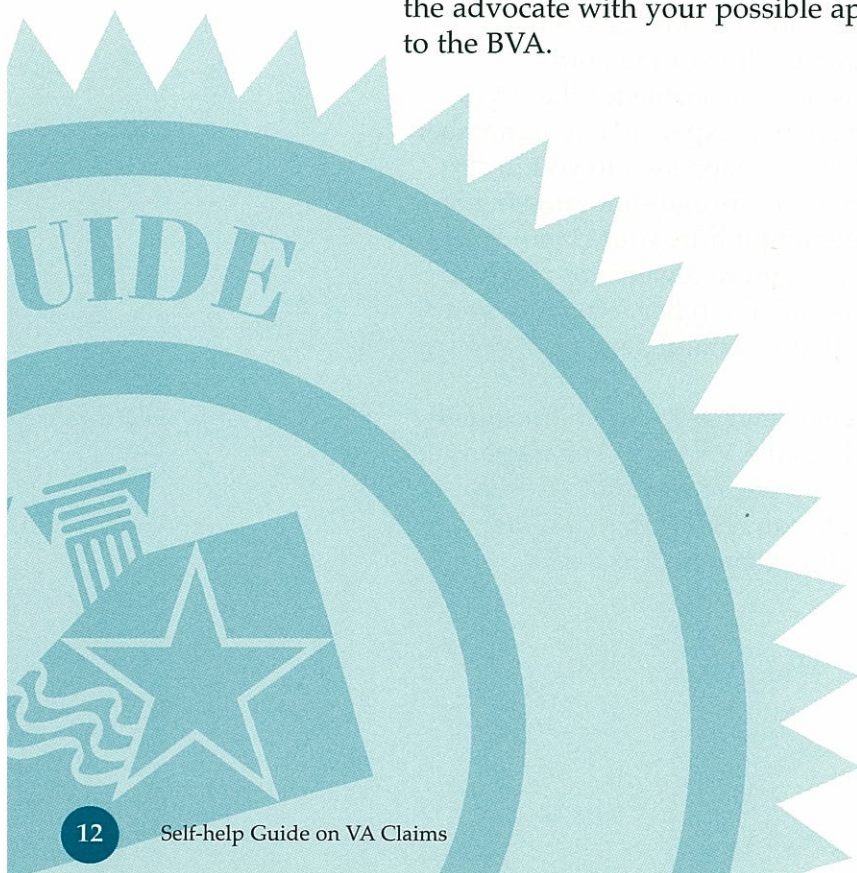
The VA will usually insist on a VA examination in connection with claims for compensation. The VA doctor is required to do certain things. For example, the VA's regulations require that an examining doctor give as full a report of your condition as possible, basing his or her conclusions on a knowledge of your complete medical history. To do that, the examining doctor should have access to the records in your claims folder.

At the examination, ask the VA examiner if he or she had access to your claims file. If the answer is no, report this to your advocate at once. Also, if you feel that the VA's examining doctor did not conduct the examination properly, tell your advocate immediately. This may help the advocate get the RO to schedule a new examination or help the advocate with your possible appeal to the BVA.

Remember that the VA examiner is not paid to be on your side or to be your friend. The VA examiner is not acting as your doctor. He or she has been ordered to examine you so that the VA regional office can determine if you are entitled to benefits. The examiner is not against you, either--but he or she is more like an insurance company doctor than your private physician. Be honest, but think first about what you say to the VA examiner.

Keep in mind that the VA may reimburse some of the cost of travel to a VA examination. Your advocate will help you apply for reimbursement once your examination has been done. However, the VA will not reimburse the cost of seeing your own private physician. If you decide to get a private medical opinion in support of your claim, you will do so at your own expense.

*The VA examiner
is not acting as
your doctor*



STEP 3: GETTING EVIDENCE

Some claims are relatively simple. For example, you should not have much trouble winning compensation benefits for the residual effects of a gunshot wound or a broken leg suffered in service. Other claims are more complicated and must be supported by medical records and expert medical opinion created after service. For example, if you think that your service-connected back condition caused a problem in your left leg, or that the injury you suffered in service caused your current arthritis, you need a statement from a *medical expert* to support your theory.

The things you and your advocate can submit to the VA to support your claim include VA and private medical records, service medical records, and statements about your symptoms from you, your family, and your friends (including your friends from service). Collecting evidence is time-consuming, but it is essential--and good evidence is the key to winning a claim. Many veterans do not understand this process and become very frustrated. For example, suppose you suffered a blow to your back in service and have a back condition today, many years after service; unless you can show that the blow is linked to the condition, the VA will not--and should not--pay you compensation benefits. Your medical opinion and your advocate's medical opinion have no value to the VA because neither of you is a medical expert. If the VA is to take your claim seriously, you need the opinion of a medical expert that your current back condition is linked to your injury in service. Getting this kind of information early in the course of your VA claim can save you years--no exaggeration--of claims processing time. An experienced advocate will be able to identify such evidence issues right away.

Once the RO receives your claim, it should determine whether or not there is a chance you will be granted benefits. If the RO finds that your claim is possible, (has a chance--*is well grounded*), then the VA is required by law to help you in gathering evidence. That does not mean you should rely entirely on the VA. Your advocate should attempt to obtain medical reports from any private doctor, therapist, or hospital that treated you for your disabilities after service.

Private medical records should be first sent to your advocate, not to the VA. Your advocate should review these reports before sending them to the VA to see if they support your claim. You are not obligated to send medical records that do not support your claim to the VA, unless they are specifically requested by the VA.

Provide your advocate with a written list of all the VA medical hospitals or clinics that treated you after service, because the VA may not know about your treatment in various VA medical centers or clinics. These records should be sent directly to the advocate so that your representative can determine if they should be submitted to the RO.

If you have just filed your first VA claim, your claim file at the VA is likely to have in it only what your advocate has sent (and possibly your service records). If you filed some time ago and sent the VA some information to act on--such as a list of all doctors, hospitals, clinics, and therapists that have treated you--or if this is a claim for increase or a reopened claim, you might want to find out what information the VA actually has.

Good evidence is the key to winning a claim

You can find out what information the VA has because you have the right to one free copy of your entire VA claim file (*C-file*). Even if you think you have already obtained all the evidence you need to support your claim, you should exercise this right so that you and your representative will know what records the VA already has and what decisions the VA has already made. Getting a copy of your C-file will also give you and your representative the opportunity to make sure the VA's records are accurate.

To obtain a free copy of your claim file, simply send a letter to the VA that says: "I am exercising my rights under the Privacy Act to obtain a free copy of all my VA records." The letter should be sent to the RO that is holding your C-file (usually the one where you filed your claim). When you receive the copy, go through it and see if any information is missing. If evidence is missing, send another copy to the RO.

VA MEDICAL RECORDS

You may be surprised to find that some medical records from the VA itself are not in the claims file. The VA's ROs and medical centers (VAMCs) are two separate sections of the VA. Your representative must tell the RO if you were treated at a VA medical center or VA clinic, just as if these had been private facilities, because the VA does not automatically put those records in your claim file. VA regional office staff will not always know that you were treated at a VA medical center unless you tell them. If you are having trouble obtaining what you think are helpful VA or other federal government medical records, have your advocate send a letter to the RO listing where, when, and for what you were treated.

ANSWERING VA REQUESTS FOR EVIDENCE

When you answer a VA request for evidence, through your advocate, be certain to explain completely what it is you are sending them. If the VA asks for documents it already has, your representative should tell the VA that evidence has already been submitted. If you and your representative cannot get all the evidence the VA requests, your representative should explain why you cannot get the evidence and why there is already enough evidence to support your case.

These responses are extremely important. The VA has a *duty to assist you* in obtaining the information it requests. If the VA requests information you cannot obtain, have your advocate tell them as much as you can about it. Once you tell the VA where evidence might be found, the VA must try to obtain copies. If you do not give the VA this information, even if it is only a description, the VA does not have to give you nearly as much help.

MILITARY PERSONNEL RECORDS

Your military personnel records are also important to your claim. For example, you can use a copy of your DD-214 to establish your status as an eligible veteran. Records of awards of combat medals and of military occupational specialties can be used to corroborate a claim that a current disability was incurred in combat, which can be helpful in some types of claims. It may therefore be well worth your while to obtain a copy of your military personnel records.

To obtain one free copy of your military personnel records, your representative should send a letter requesting the copy to the National Personnel Records Center (NPRC) in St. Louis (National Personnel Records Center (Military Personnel Records), 9700 Page Boulevard, St. Louis, MO 63132). Your advocate should have access to forms that will make this request easier. The NPRC may tell you that your military personnel records are not available, probably because your records were among the hundreds of thousands that were destroyed or damaged by a fire at the NPRC in 1973. However, there are other places to look for records that can help you establish your claim. For example, the National Archives and Records Administration may have records of military units or military hospital records, as well as personnel records relating to soldiers from your unit. Your representative can file a National Archives Form 13075, "Questionnaire about Military Service." The information the claimant provides on the Form 13075 will be used by the NPRC to reconstruct lost, destroyed, or difficult-to-find military records.

Your representative can also ask the VA to help reconstruct your records. To ensure that the VA makes a thorough job of this, give your representative enough information to send the VA a letter that details your military experi-

ences relating to your in-service disease or injury. The letter should give dates and location of service, the name you used in service, the name of your unit, the names and ranks of commanding officers and fellow soldiers, and a detailed description of any accident, injury, disease, or treatment you had in service that relates to your present disability.

MILITARY MEDICAL RECORDS

Your military medical records (the VA calls them *service medical records*, or SMRs) may establish that you were first treated for a problem linked to your current disability in a military hospital or clinic while you were in service. The VA should have a copy of your SMRs and you are entitled to have a copy.

Your advocate can also ask for copies of specific service treatment records. For example, if you were seen at sick call or treated as an in-patient or out-patient at a military hospital, state that fact in section #2 of the Standard Form 180, "Request Pertaining to Military Records." Include the name of the hospital, location, and unit you were with at time of treatment, the type of treatment you received, and, if possible, the date, month, and year of that treatment. If you provide sufficiently detailed information, you will probably get help with your request. If you do not provide detailed information regarding your medical treatment history, the NPRC will usually only provide you with a copy of your induction and discharge physicals and your DD-214. Other parts of your records may show assignment to light duty or contain a medical profile (a medical statement limiting your duties during service); both can be proof of a medical problem.

Records should be sent directly to the advocate

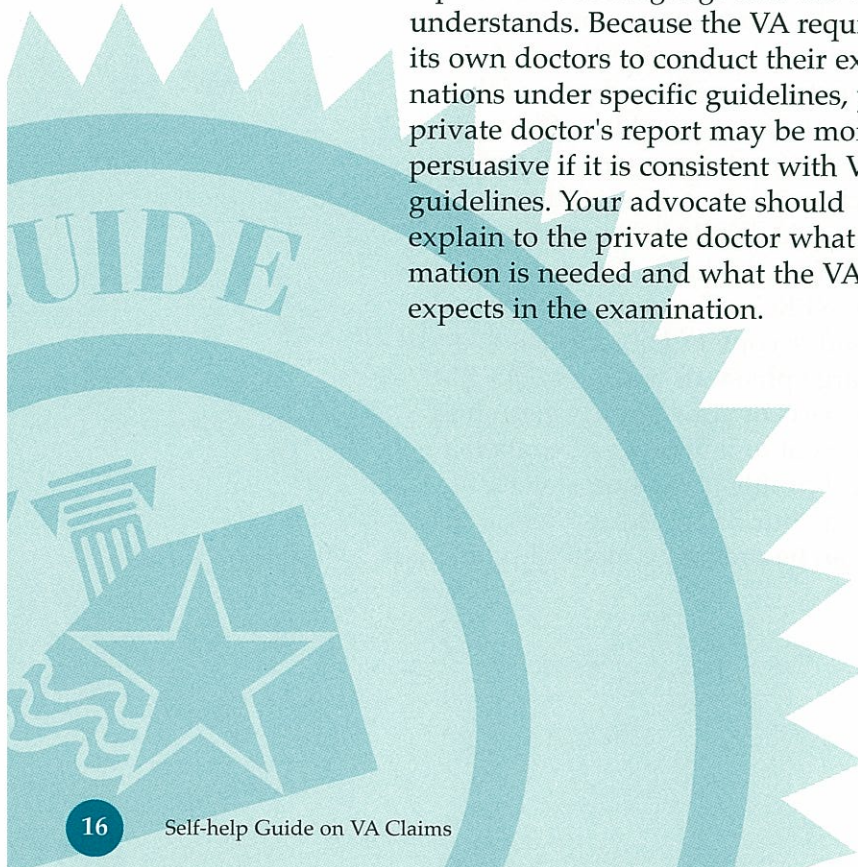
If something seems to be missing from your military medical records, your advocate should write to the VA, explaining what you were treated for, when, and where. You can also try to locate this missing information by sending the same information to the NPRC in a letter.

PRIVATE MEDICAL RECORDS

Some of your best evidence may come from private medical records. In that case, your representative should submit either copies of private treatment records or a statement from your private physician in support of your claim. Your advocate will usually have you sign a release-of-information form so that the doctor can send your medical information to your representative. You may want to supplement the evidence contained in your VA treatment records with a private doctor's assessment. Remember, though, that the VA will not reimburse you for the expense of a private consultation. Your advocate is the best judge of whether you should incur this expense.

If you do decide on a private consultation, be sure that the doctor's report will use language that the VA understands. Because the VA requires its own doctors to conduct their examinations under specific guidelines, your private doctor's report may be more persuasive if it is consistent with VA guidelines. Your advocate should explain to the private doctor what information is needed and what the VA expects in the examination.

*Your best
evidence may
come from
private medical
records*



STEP 4: ORGANIZE AND PRESENT YOUR ARGUMENT

Your advocate is in charge of presenting your evidence and relevant arguments to the VA in support of your claim. The advocate is responsible for screening your supporting evidence and submitting only evidence that will support your claim, unless the evidence was specifically requested by the VA.

In addition to what your advocate submits to the VA in writing, you may want a hearing at the RO. A hearing gives you and your representative the opportunity to answer the VA's questions about your claim. A hearing is also an excellent opportunity to emphasize the significant points contained in your evidence and to submit additional supporting evidence. You have a right to a hearing both before and after the VA makes its initial decision. Most veterans who ask for a hearing choose to have a hearing after the initial decision on their claim.

YOU CAN APPEAL

There are three possible unfavorable outcomes of an application for service-connected disability benefits. First, the RO may decide that your disability is not service connected. Second, even if the RO decides to service connect your disability, you still may be awarded an evaluation of your disability that is lower than you think fair. Third, you may object to the date from which the VA decides you should be paid (the effective date). In any of these three cases, you have the right to appeal the RO's decision to the VA's Board of Veterans' Appeals (BVA).

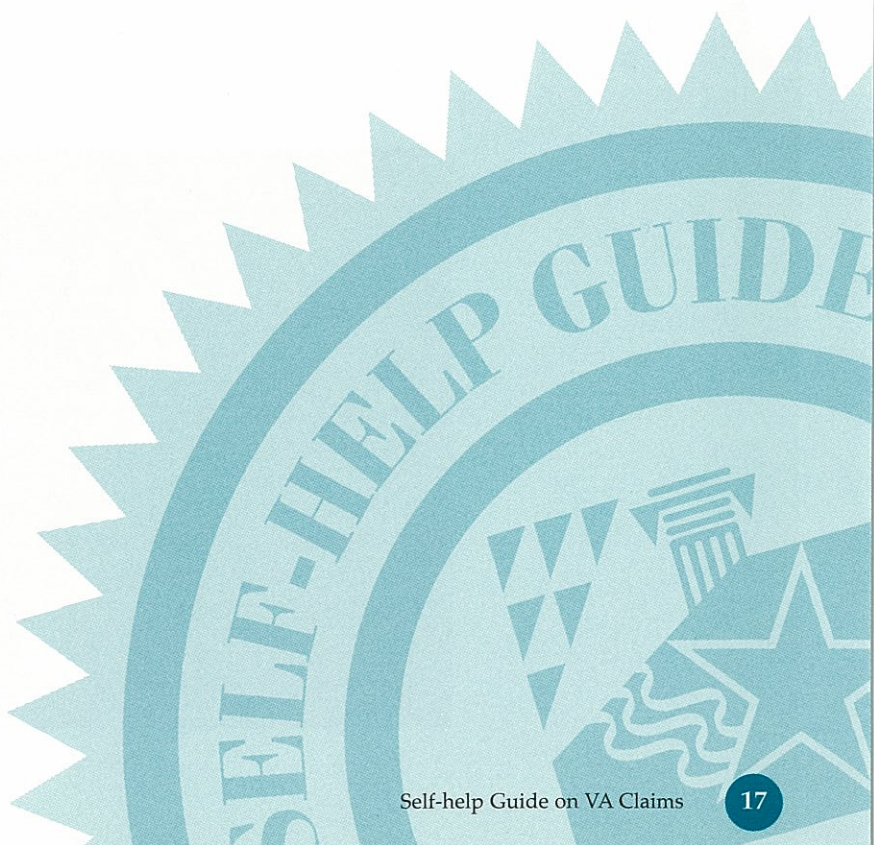
If you believe the RO decision did not give you all that you are entitled to, your advocate should promptly do two things: help you file a *notice of disagreement* (NOD) and request a copy of the rating decision. The notice of disagreement is very important—it is the first step in any appeal you might wish to make. The rating decision may dupli-

cate some information in the notice letter and other documents the VA sends you, but its greater detail can be very helpful in presenting your appeal.

NOTICE OF DISAGREEMENT

An NOD can be as simple as a letter to the VA regional office saying that you disagree with a specific decision. Sometimes the RO may make a decision that covers several claims and send you a notice letter that covers all these decisions. In this case the notice of disagreement must specifically identify the RO decisions that you disagree with. It should also include the date of the adverse decision and the claim number. A great deal depends on this first step in your appeal. Be certain to review the NOD with your representative before it is sent to the VA.

Your advocate is in charge of presenting your evidence and arguments to the VA



**You may want
a hearing at
the RO**

DEADLINE

The notice of disagreement mailed to the VA must be postmarked within one year of the date of the RO's letter notifying you of its decision or you will lose your right to appeal that decision. There are no extensions.

If you miss the deadline and the RO's decision becomes final, you can reopen your claim at the RO if you have new evidence that is relevant to your claim. However, the effective date of your claim will change, in most cases, to the date on which the VA receives the letter seeking to reopen your claim. You will lose back benefits that you would have preserved if you had appealed the denial on time.

STATEMENT OF THE CASE

If the VA continues to deny your claim, it will respond to your notice of disagreement with a *statement of the case* (SOC). The SOC should describe in some detail the laws that apply to your claim and why your claim was denied. There is no set time by which the VA must send you a statement of the case, but you should receive it within two or three months. The SOC is also sent to your representative.

Along with the statement of the case, the RO will provide you with VA Form 9, the *substantive appeal* form. You and your advocate must complete and return this form to the VA if the BVA is to consider your case. If you think you can prove that the RO's decision was wrong, by getting more evidence or explaining your case in a different way to the RO, you should do so, but do not delay completing the Form 9.

Because of the VA's claims backlog, it may take several years before an appeal is decided by the BVA. If you submit evidence during this time, the RO will consider this evidence and make a new decision.

You will receive a *supplemental statement of the case* (SSOC) if the RO decides to continue to deny your claim after receiving evidence submitted after the SOC was written. Completing your substantive appeal will make certain that the BVA will hear your case at the earliest possible time.

WHEN AM I ABLE TO HIRE A LAWYER?

You may pay a lawyer to represent you only if: you filed a notice of disagreement with a VA regional office on or after November 18, 1988, and the BVA has issued an adverse decision.

You can then pay a lawyer to reopen your claim at the regional office or to appeal the Board of Veterans' Appeals decision to the U.S. Court of Veterans Appeals. However, you must hire the lawyer within one year of the decision of the Board of Veterans' Appeals.

These limits do not apply if the lawyer is willing to take your case for free or if someone who does not have an interest in the claim pays the attorney's fee. Local bar associations in most cities have referral services that can help you find an attorney. The Court of Veterans Appeals maintains a list of lawyers admitted to practice before it.

HEARING AFTER AN RO DENIAL

Once you file a notice of disagreement, you can have a hearing in front of a VA hearing officer at the RO. If the hearing officer determines that you have presented new and relevant evidence, the hearing officer can make a new decision, possibly granting you all the benefits you want. If the decision of the hearing officer is unfavorable, you can still appeal to the BVA.

DEADLINE

You have 60 days from the date on the SOC to file the VA Form 9 or you have the remainder of one year from the date on which the VA first denied your claim, whichever deadline is later. Submitting additional evidence in response to the VA denial does not extend the time to file a substantive appeal. You are not required to respond to an SSOC.

SUBSTANTIVE APPEAL

The VA Form 9 is your substantive appeal. The statement you and your advocate provide on the Form 9 should explain what is wrong with the RO decision and why your claim should be granted. If your substantive appeal is too general or doesn't address the issues raised in the RO's decision, the BVA may dismiss your appeal. Your representative should draft the appeal and file it at the appropriate RO.

If the SOC addressed more than one issue, your substantive appeal should either clearly identify which decisions you wish to appeal or state that you are appealing all of the decisions made by the RO. It should also argue, if appropriate, that the RO committed error in addressing the facts or the law relevant to your case. The following statement should appear at the end of your VA Form 9: "If the BVA makes a decision to deny my claim for any reason not explained by the statement of the case, I request that the BVA remand my appeal

to the RO so that I can have the chance to present argument and additional evidence. This will permit me to present the best possible appeal."

REQUESTING A HEARING

The Form 9 also asks if you wish to appear at a hearing before the BVA in Washington, D.C., or before a traveling BVA member at the regional office. At a hearing, a BVA member will listen to arguments and permit you to submit evidence about your appeal.

In most cases, if you are at all able to appear at a hearing before the BVA or before a traveling BVA member, you should do so. (Your representative usually cannot appear on your behalf unless you are also present.) One advantage of having a hearing is that it extends the time in which you can submit additional evidence to the BVA. If you do not ask for a hearing, you usually get only 90 days to submit additional evidence once your claims folder is sent to the BVA--unless you can provide a good reason why you were not able to submit the evidence within the proper time.

If you do not want to appear in person, or cannot appear, the service organization representing you will submit another written argument to the BVA. Your official records and any other documents you have submitted within the proper time will also be before the Board.

*You have
the right to
appeal the
RO's decision*

*You have the
right to appeal a
BVA decision to
the U.S. Court of
Veterans Appeals*

If you win at the CVA—that is, if the court reverses the BVA—the award of benefits will usually be calculated back to the date on which you first filed at the RO. Be aware that approximately half of the cases decided by the court are remanded to the BVA for development of additional evidence or readjudication. If the BVA decides against you again on remand, you have the right to appeal to the CVA again. One thing you must remember if you appeal to the CVA: you cannot submit any new evidence in support of your claim to the court. However, if your case is remanded by the CVA, you can add evidence to the record.

REOPEN WITH NEW AND MATERIAL EVIDENCE

If you decide you do not have enough evidence to win at the CVA or get a CVA remand, you may want to consider the third option: submitting new and material evidence to reopen your claim at the RO. Although you have only 120 days to appeal to the CVA, you may hire an attorney to represent you with this claim, at any level in the VA claims process, within one year of the date of the BVA decision. If you win after reopening your claim, the effective date of your award will usually be the date on which the RO received your letter asking that your claim be reopened.

APPEAL AND REOPEN

As a fourth option, you can appeal to the CVA and attempt to reopen your claim at the RO with new and material evidence at the same time. If you do this, you protect your chance to win at the court and you establish the earliest possible effective date if the CVA turns you down but your new evidence convinces the RO to award you benefits.

IF YOU WIN AT THE BVA

Winning at the BVA can mean different things. If your reason for applying to the VA was to get the VA to agree that your present disability is related to your military service, winning can mean the VA agrees your disability is service connected.

However, this does not necessarily mean you will start getting money. Your file will be returned to the RO from the BVA, and the RO will decide what percentage disability rating you should have. If you disagree with the rating the RO gives you, you may appeal this decision after discussing it with your representative. If you applied to have your disability evaluation increased, winning can mean increased monthly payments.

OTHER THINGS YOU SHOULD KNOW

MONEY FOR YOUR FAMILY

If you have a dependent spouse, child, or parents, you may be able to get extra money from the VA for your family members. You will have to submit copies of your children's birth certificates and your marriage certificate to get this extra *dependents' allowance*. See your representative for information and help.

VOCATIONAL REHABILITATION

If your service-connected condition is rated 10 percent disabling or higher by the VA, you may apply for vocational rehabilitation counseling. If you cannot work because of your service-connected disability, or have a low-paying job, or lack job skills, you may be eligible for paid schooling and training to help you obtain gainful work.

VA MEDICAL TREATMENT

Once your disability is service connected, you become potentially eligible for free hospital care at VA medical centers. You are also potentially entitled to VA out-patient care for your service-connected condition.

RATING REDUCTIONS

There are rules that require the VA to give you notice and a chance for a hearing before reducing your rating. Work with your representative to exercise your rights.

IF YOU CANNOT WORK

If you are rated less than 100 percent disabled by the VA for one or more service-connected conditions, and you believe that these disabilities keep you from obtaining regular substantial work, you should apply for increased

compensation benefits called *individual unemployability*. If the VA decides that you are entitled to individual unemployability, you will be paid compensation at the 100 percent rate. This can make a difference of more than \$1,000 a month to you. Special rules cover this benefit, which can be hard to win; see your representative for help.

HELP YOURSELF AND OTHER VETERANS—JOIN A SERVICE ORGANIZATION

One of the best things any veteran can do is to join with other veterans to make your voices heard. We believe the best way to do this is to join a service organization. Association with other veterans may be the most effective way to protect your right to VA benefits, and the rights of other veterans to VA benefits.

Although each wartime era may be very different, the needs of the veterans of all these wartime periods are in many ways very much the same. For example, some World War I veterans were exposed to mustard gas, some World War II veterans were exposed to ionizing radiation, and some Vietnam veterans were exposed to Agent Orange. Many years after discharge, a considerable number of these veterans suffered from diseases caused by these exposures. Some of these veterans, with the support of veterans service organizations, were eventually able to obtain compensation benefits for the diseases caused by these exposures. If you join a service organization, you will be part of a community of veterans who understand your concerns and your needs. You are not alone.

*Be honest
and follow the
advice of your
advocate*

DATES AND DEADLINES

To keep track of the deadlines that face you, fill in the blanks below. The VA appeal deadlines are met if your response is postmarked by the required date. The deadline to file an appeal with the Court of Veterans Appeals is also met if your appeal is postmarked on or before the required date.

1. Date of VA denial letter: _____
2. Deadline to file *notice of disagreement (NOD)*:
date of denial letter on line 1 + 1 year = _____
3. Date of VA *statement of the case (SOC)*: _____
4. Deadline to file appeal to BVA:
date of SOC (line 3) + 60 days = _____
or date of denial letter (line 1) + 1 year = _____
(whichever is later).
5. Date of VA notification of transfer of case to BVA (FL 1-26 letter): _____
6. Deadline to submit additional evidence, change representative, request BVA hearing:
date of FL 1-26 letter (line 5) + 90 days = _____
7. Date of VA notification of BVA hearing date: _____
8. Deadline to change hearing date:
date of first notification (line 7) + 60 days = _____
or no later than two weeks before hearing + _____
(whichever is earlier).
9. Date of BVA decision: _____
10. Deadline to seek reconsideration of BVA decision: no deadline
11. Date of BVA agreement to reconsider: _____
12. Deadline to submit new evidence: date of notice of reconsideration + 60 days = _____
13. Deadline to file notice of appeal in U.S. Court of Veterans Appeals:
postmark date of BVA decision + 120 days = _____; or
date of BVA's denial of reconsideration + 120 days = _____
14. Deadline to reopen claim at RO: no deadline.

OTHER SELF-HELP GUIDES AVAILABLE FROM NVLSP

1. *Self-Help Guide on Agent Orange*—Describes programs and benefits available to veterans and their families, including VA compensation, and explains eligibility requirements; includes resource contacts and materials and information on obtaining assistance and representation.
2. *Self-Help Guide on Veterans Family Benefits*—Explains who is recognized as a qualifying family member or surviving family member and how to prove a relationship to the veteran; describes various programs, their eligibility requirements, and how to apply; includes information on educational assistance, health care, home loan guaranty, and apportionment of VA benefits for family members, as well as several other benefits.
3. *Self-Help Guide for Veterans of the Gulf War*—Explains the disability and medical benefits that are unique to veterans of the Gulf War, as well as providing an overview of the VA's regular service-connected compensation and non-service-connected pension programs and the VA claims process.
4. *Self-Help Guide on VA Health Care*—Has suggestions for veterans needing medical care from the VA; describes available services; offers guidance in preparing for the admissions process, and on how to proceed if denied admission or if dissatisfied with services received.
5. *The Veteran's Advocate*—Bimonthly journal offering timely information on changes in VA laws, regulations, and procedures. Covers current rulings, including those of the U.S. Court of Veterans Appeals (CVA), discharge upgrading, military records correction, actions for medical malpractice, and pending legislation. Offers practical advice and tips for those representing veterans and their dependents.
6. *The Veteran's Benefit Manual and 1992-1993 Supplement*—The only comprehensive manual on veterans law. Three volumes offering detailed information on eligibility for benefits from VA and on representing claimants before the VA and CVA. Provides extensive instructions on filing for VA benefits and developing claims with emphasis on preparing claims for VA compensation and pension benefits.
7. *Military Discharge Upgrading and Supplement*—A comprehensive 700-page manual for advocates describing in detail the process of applying for a military discharge upgrade. Includes a chapter on federal court litigation and strategies to challenge discharges for all reasons.
8. *Basic Training Corresponding Course in Veterans Benefits*—A course taken at home to make you a better advocate for yourself and for others. The course provides an overview of the VA system, explaining the rules, and providing practical advice on how to work more effectively with veterans in need.



PERSONAL WORKSHEET

My C File#

VA Contact

VA Address

City/State/Zip

VA Phone

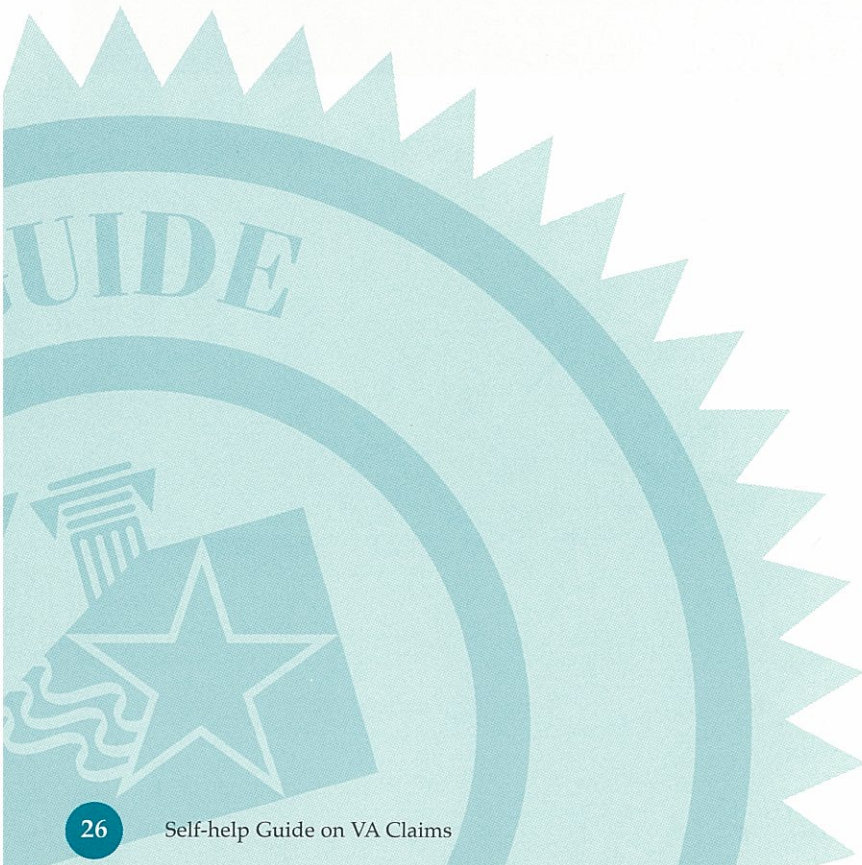
Advocate:

Name

Address

Organization

Phone





PUBLICATIONS ORDER FORM

Name & Title _____

Organization _____

Street _____

City/State/Zip _____

Please indicate quantity for each:

☐ Self-Help Guides (described on pg.25) — \$7.50 each

#1 _____ #2 _____ #3 _____ #4 _____

☐ The Veteran's Advocate (7/97 Prices)
1 year — \$80.00 (**\$50.00 VSOs & LSC**)

qty: _____

2 years — \$130.00 (**\$80.00 VSOs & LSC**)

qty: _____

☐ The Veteran's Benefit Manual and 1992-1993
Supplement (7/97 Prices)
(3-volume set) Full set — \$130.00

qty: _____

(85.00 VSOs, LSC, Congressional Caseworkers)

☐ Supplement only — \$60.00

qty: _____

(50.00 VSOs, LSC, Congressional Caseworkers)

☐ Military Discharge Upgrading and Supplement
Full set — \$135.00

qty: _____

☐ 1990 Supplement only — \$60.00 qty: _____

☐ Basic Training Corresponding Course in
Veteran's Benefits — \$149.95

qty: _____

☐ Please check here if new address

Please accept my tax-deductible contribution of:

☐ \$25 ☐ \$50 ☐ \$75 ☐ \$100 ☐ \$200

☐ Other \$ _____

Please include \$3.00 shipping & handling. For
orders of \$20 or more we accept credit cards:

TOTAL ENCLOSED: \$ _____

☐ Visa ☐ MasterCard

Card #: _____

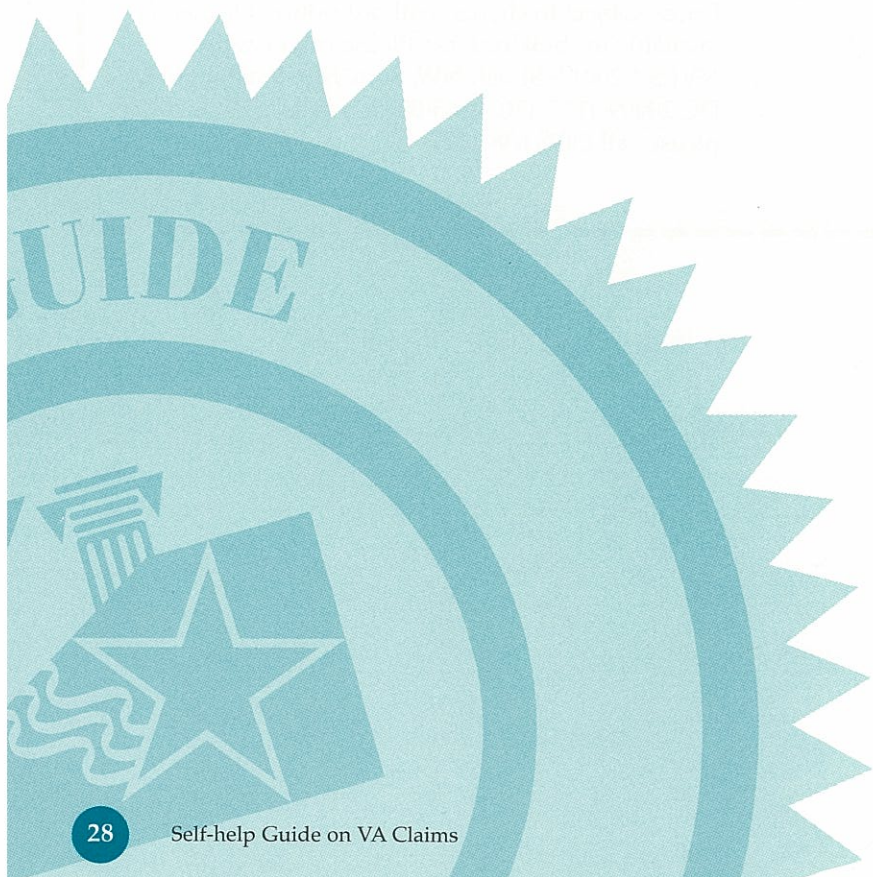
Expiration date: _____

Signature: _____

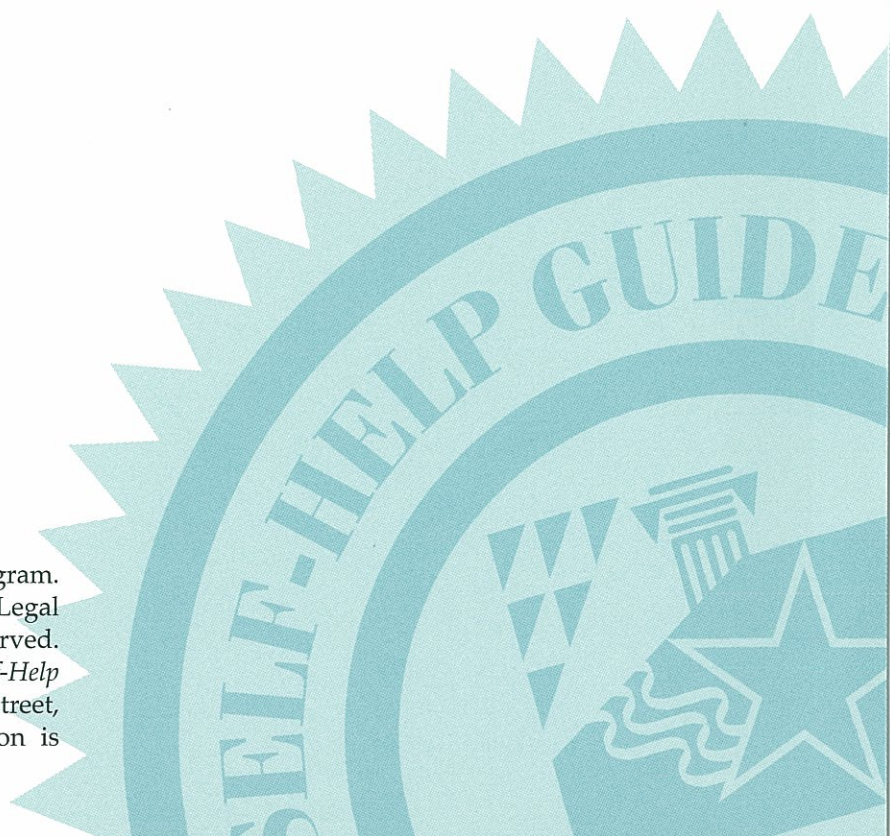
Mail To: _____

Address: _____

Prices subject to change without notice. Discounts
available for bulk orders. Please call or write
NVLSP, 2001 S Street, NW, Suite 610, Washington,
DC 20009-1125; (202) 265-8305. For telephone orders,
please call (301) 638-1327



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THE VETERANS CLAIMS ASSISTANCE ACT OF 2000

On November 9, 2000, the President signed into law The Veterans Claims Assistance Act of 2000 (VCAA or Act). See Pub. L. No. 106-475, 114 Stat. 2096(2000). The VCAA:

- Eliminates the requirement in 38 U.S.C. § 5107(a) that in order to earn the right to VA assistance in developing the pertinent evidence, a claimant must first submit enough evidence to make his or her claim “well grounded” -- thereby overruling longstanding precedents of the U.S. Court of Appeals for the Federal Circuit and the U.S. Court of Appeals for Veterans Claims (CAVC);
- Amends 38 U.S.C. § 5103 to require the VA, upon receipt of a “substantially complete application,” to notify the claimant of any information or evidence necessary to substantiate the claim; and
- Adds a new section, 38 U.S.C. § 5103A, requiring the VA to make “reasonable efforts to assist a claimant in obtaining evidence necessary to substantiate the claimant’s claim.” New sections 5103A(b), (c), and (d) specify that the VA must:
 - (1) make reasonable efforts to obtain relevant, non-federal records that the claimant identifies and authorizes the VA to obtain;
 - (2) continue to try to obtain existing service medical records and, additional records in control of other federal agencies (unless it is discovered that the records do not exist or are unobtainable); and
 - (3) provide a medical examination and/or opinion if the VA finds the veteran has a current medical disability or symptoms and there is evidence to suggest that the current symptoms or disability may be related to an event, injury, or disease which took place in service;

The Act mandates its application to any claim filed on or after the date of enactment, as well as to any claim filed before the date of enactment but not final as of the date of enactment. This means that the VCAA applies to all future claims and any claim pending as of November 9, 2000.

The VCAA also gives individuals two years from November 9, 2000, to request that VA readjudicate claims denied as not well grounded which became final between July 14, 1999 and November 9, 2000. These claimants are advised to immediately contact their representative (usually a service officer). Requests for readjudication should promptly be filed with the local VA regional office.

Note: Because the VCAA eliminated the “well-grounded claim” requirement, please disregard all references to “well grounded” in all NVLSP Self-Help Guides.

Update to Claims Self Help Guide
May 17, 2001

(Add to the Claims SHG on page 18 after the section titled
"Deadline")

Right to Review of Decision

You have the right to have your decision reviewed by someone at the RO who did not make the initial decision on your claim. This reviewer will consider all of the evidence again and will disregard the initial decision. You may request this review in your Notice of Disagreement or after you file your Notice of Disagreement. The deadline for requesting review of your decision is 60 days after the date that VA notifies you in writing of your right to a review. (The VA will notify you of your right to a review at some point after they receive your Notice of Disagreement.) This review is an optional procedure that will suspend the appeal process until the review is completed. In general, we advise claimants to take advantage of this opportunity. Of course, you and your advocate should decide together whether to request review of your initial decision.