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Hispanic-American Veterans of Connecticut, Inc.

Dando Frente Hoy y Siempre

Know the Process: Disability Benefits

DISCLAIMER: *This guide is intended as an introductory tool for people who wish to apply for disability benefits. This guide does not purport to provide legal advice or to give an opinion as to the appropriate course of action in a particular case. Veterans should always conduct their own research on the most recent VA regulations and the best course of action for their particular case. This guide was created in April 2015.*



Know the Process: Disability Benefits

This manual guides you through the process for **disability compensation**. Disability compensation is a monthly, tax-free payment. The federal government provides disability compensation to veterans with diseases or disabilities that were either *caused or aggravated* (made worse) by military service. The **two main** requirements for disability compensation are:

- You have a disease or disability that is connected to your military service.
- You have an Honorable or General discharge OR you receive a “character of discharge” determination from the Department of Veterans Affairs (VA).

NOTE: Veterans with Other than Honorable, Bad Conduct, and other types of Dishonorable discharges may still be able to receive disability compensation. If you have one of these discharges, you have to go through an extra process to apply for benefits. That process is discussed below in the section titled “Character of Discharge Determination.”

To receive disability compensation from the VA, you must submit an application. This manual explains how to submit an application. It also explains how to apply for a rating increase if you already receive disability compensation and how to appeal if the VA denies your claim.

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Overview: What Goes In Your Benefits Application

To apply for benefits, you need to compile a packet that includes 4 items:

- ✓ Official VA Application Form
- ✓ Copy of Your DD-214
- ✓ Cover Letter
- ✓ Supporting Evidence

A cover letter and supporting evidence are not required, but they strengthen your application. The purpose of your application is to prove to the VA that your disability is connected to your military service. A cover letter and supporting evidence help you explain to the VA how your disability is linked to your service and has affected your life. After receiving your application, the VA will decide whether you have a disability, how serious your disability is, and how your disability affects your ability to work.

Step One: Notify the VA of Your Application

The first step in applying for benefits is to notify the VA that you want to seek benefits. Send the VA an "intent to file" form (VA Form 21-0966). This form tells the VA what disability you have and starts the clock for your claim. If the VA grants your disability claim, it will provide payments going back to the date on this form. The intent to file form is available at: http://afterserviceadvocates.com/downloads/Proposed_VA_Form_21-0966.pdf

Send the intent to file form to VA's Claims Intake Center. The address is available at: <http://www.benefits.va.gov/COMPENSATION/ mailingaddresses.asp>. For Connecticut veterans, send to:

**U.S. Department of Veterans Affairs
Claims Intake Center
P.O. Box 5235
Newnan, GA 30271**

You can also apply for disability compensation online at <https://www.ebenefits.va.gov/ebenefits/> but paper applications can be easier and allow more flexibility to explain your situation.

***** KEEP COPIES OF EVERYTHING YOU SUBMIT TO THE VA *****

Step Two: Gather Your Paperwork

Next, compile: (1) the official VA benefits application form (2) a copy of your DD-214 (3) your military records (4) doctors' records related to your disability

The official application form is called "VA Form 21-256": <http://www.vba.va.gov/pubs/forms/VBA-21-526-ARE.pdf>. You can also submit a "Fully Developed Claim" (FDC) using this form: <http://www.vba.va.gov/pubs/forms/VBA-21-526EZ-ARE.pdf>. The VA processes FDCs more quickly, but you cannot add any information after you submit an FDC, unlike the regular application. Use the FDC form if you have all of your documents ready and know that you will not need to add anything to your claim.

If you are applying for compensation for PTSD, you also need to submit the “VA Form 27-0781”: http://www.va.gov/vaforms/form_detail.asp?FormNo=21-0781. You should submit both the official application form and this PTSD form.

You should also gather your military records. You will need any documents that show what you did in the military and how your disability is related to your service.

If you do not already have your records, you can request them online or by mail using a form called the "SF-180": www.archives.gov/veterans/.ves.gov/research/order/standard-form-180.pdf. The mailing address is at the bottom of the form.

Step Three: Write a Cover Letter

The purpose of the cover letter is to explain to the VA that your injury is “service-connected.” “Service-connected” means that your disability is related to your service, either because your military service *directly caused* your disability or because your service *made your condition worse*. The VA will **only** provide disability benefits for disabilities that are connected to your service.

The cover letter should describe:

- **Your experience in the military**
- **The injury that was either caused or aggravated (made worse) by your service**
- **A list of evidence you have to show that your injury is connected to your service**
- **How your injury has affected your life**

NOTE: The service-connection requirement does not mean that you cannot get benefits if your military service did not directly cause your disability. If your injury became worse during your service, you can still apply for disability compensation.

EXAMPLE ONE: You had knee problems before you enlisted, but you passed the physical to get into the military. If your knee problem *became worse* while you were in the military, you can apply for disability compensation.

EXAMPLE TWO: You have suffered from depression your whole life. After joining the military, however, your depression symptoms became much more severe. You can apply for compensation for your depression, which *became worse* during your service.

EXAMPLE THREE: You suffered a traumatic brain injury (TBI) while you were deployed and now you experience bad migraines. You can apply for compensation for your TBI-related migraines.

Your cover letter should describe in detail the problems your disability has created for you, including any current symptoms. It should also state whether you have children, a spouse, or parents you support. The VA will use this information to determine your monthly payments.

In some cases, the VA will *automatically assume* a connection between your service and your disability. This means you do not have to prove that your disability is “service-connected.” Disabilities that fall into this category are called “presumed service connected disabilities.” A list is here: <http://www.benefits.va.gov/BENEFITS/factsheets/serviceconnected/presumption.pdf>. If you have one of these conditions, be sure to mention it in your cover letter.

Step Four: Compile Supporting Evidence

You should submit supporting evidence with your disability claim to prove to the VA that you should receive disability compensation. Supporting evidence should show:

- You have a disability or disease
- The symptoms of the disability or disease
- How much the disability has affected your life
- How the disability is related to your military service

You can submit several types of evidence to support your claim:

- Buddy statements
- Copies of military medals and awards
- Military medical records showing your disability (See Step 1)
- Military evaluation reports that describe your disability
- Military records describing your service
- Medical records showing your disability and symptoms. Be sure to send records from any private (non-VA) doctors you have seen. (See Step 1)

“Buddy Statements” are letters from friends, family, colleagues, or members of your unit who can describe your disability or symptoms. Buddy statements help to prove the VA that your disability began or got worse during your service, help to show how your disability is affecting your life.

EXAMPLE ONE: Maria served in the Marines and deployed to Iraq. During her deployment, she saw an IED explode. Maria returned from Iraq with PTSD and is now seeking benefits. She submits buddy statements from members of her unit, who describe the experience in Iraq. She also submits a buddy statement from her current doctor, who describes the symptoms of her PTSD. Finally, Maria submits a buddy statement from her husband, who describes how Maria’s PTSD makes her daily life harder.

EXAMPLE TWO: John served in the National Guard. After leaving the military, he suffers from serious pain in his right shoulder. John applies for benefits and submits a buddy statement from a member of his unit. The statement describes how John’s friend watched him start to struggle with his shoulder while he was in training.

What Happens Next: The Compensation and Pension Exam

After you submit your application, the VA will schedule a Compensation and Pension (C&P) Exam. A C&P Exam is an appointment where a doctor examines your disability in order to write a report. The VA uses the report to decide whether to grant you disability benefits and to determine your disability rating. (Information on disability ratings is below).

The VA usually schedules your C&P Exam at a VA hospital, but also works with private doctors. The VA will tell you where to go for your exam. Any doctor you see will be working for the VA.

If you do not hear from the VA within a few months after submitting your claim, you can call to check on the status of your application and ask whether you need a C&P Exam. The telephone number for the Hartford Regional Benefits Office is (860) 666-6951.

Not everyone has a C&P Exam. It is up to the VA. If the VA schedules a C&P Exam, you must attend to be considered for benefits. You can reduce the chances of having a C&P Exam by submitting **supporting evidence from your own doctor** with your benefits application.

The more information you give the VA to show that your disability is connected to your military service, the stronger your claim will be. Submit copies of any medical papers you have that document your disability. If possible, submit a letter from your doctor describing your disease or disability.

The VA may schedule a C&P Exam for each disability you have. If you have applied for benefits to cover multiple disabilities, ask the VA whether you can be examined for all your diseases or disabilities in one C&P appointment.

Things you should know before you go to a C&P Exam:

- The doctor who examines you does not decide whether you get benefits. S/he will write a report to the VA and then the VA will decide whether to grant your application.
- The C&P doctor might ask you questions about your finances.
- The C&P doctor should have your VA medical records, but sometimes does not. Bring any medical records you have with you to the exam.
- You can ask the VA for a male or female doctor if you have a preference.
- You can bring a friend with you to the C&P Exam for support or help with interpretation.

Many veterans find the C&P Exam stressful. Speaking with a stranger about your disability can be difficult. To prepare, make a list of things to tell the doctor before the C&P Exam to help you remember details. Try to tell the C&P doctor everything about how your disability has affected your life.

Disability Ratings and Monthly Payments

After you apply for benefits, the VA will send you a letter with its decision. If the VA determines that you have a service-connected disability, it will assign you a “disability rating.” A disability rating is a percentage that the VA uses to describe how serious your condition is.

Disability ratings range from 0% (least serious) to 100% (totally disabled). Veterans with any rating (including 0%) can receive VA healthcare for their disability. Veterans with multiple disabilities receive a *separate* disability rating for each disability. For example, you could receive:

10% rating for hearing loss + 40% rating for PTSD + 20% rating for arthritis

The VA combines these separate ratings into a total rating percentage. The VA does not simply add your ratings to reach this number. It uses a more complicated formula.

Monthly payments for disabilities begin when a veteran has a combined rating of 10% or more. Your monthly disability payment depends on your disability rating, your marital status (single or married), and the number of dependents you have (children or parents you support).

The VA uses a chart to figure out your payment amount. The full chart is at: http://www.benefits.va.gov/compensation/resources_comp01.asp#BMo2.

Rating Re-examination: When Your Rating Can Change

After you receive disability benefits, the VA can schedule another doctor's exam to see if your rating should go up or down. This process is known as "rating re-examination."

Not all veterans will be asked to have a rating re-examination. The VA usually does not re-examine veterans with permanent disabilities, veterans over age 55, and veterans with 100% disability ratings.

The VA will likely require a rating re-examination 2 to 5 years after you receive benefits. In many cases, veterans have a re-examination every five years until they turn 55.

To set up your re-examination, the VA will send a letter asking you to schedule an appointment with a VA doctor, similar to the C&P Exam. The doctor will report to the VA and the VA will contact you if it decides to change your rating. There are **limits on when the VA can change your rating**:

- If you have had your rating for **5 YEARS**, the VA cannot reduce your rating unless your condition has permanently improved. However, if the VA shows that your disease or disability *has* permanently improved, it can lower or completely stop your benefits.
- If you have had your rating for **10 YEARS**, the VA cannot stop your benefits unless it can show that you committed fraud (lied about your condition). It can still lower your benefits if your disability permanently improves.
- If you have had your rating for **20 YEARS**, the VA cannot reduce your benefits below the lowest amount you have received in the past, unless the VA proves that you lied about your condition.
- If you receive a **100% disability rating**, the VA cannot reduce your benefits unless it can provide that your condition has improved enough that you can now work.

Challenging Rating Reductions

You can challenge the VA's decision to reduce your rating. If you want to challenge the decision, you should write a letter to the VA Claims Intake Center at the address that is listed on page 2.

The letter should tell the VA that you disagree with your rating decrease and that you want a hearing (meeting with the VA). At the hearing, you can explain why the VA should not have reduced your rating. A sample rating decrease challenge letter is included at the end of this manual.

- To challenge a rating decrease, you must write to the VA within **30 days** after you receive the letter reducing your rating.
- After you send the letter, you have **60 days** to send the VA any evidence you have to show that your rating should not be decreased. In this time, try to get a doctor to write a letter explaining your condition. You should also send buddy statements and other supporting evidence to show that you still suffer from your disability. (See page 4). Bring copies of these documents to the hearing.

If you write to the VA to challenge your rating reduction and it does not get contact you to schedule a hearing, call the Hartford Regional Benefits Office at **(860) 666-6951**.

Rating Increases

If your condition became worse and you want to increase your rating before your next rating re-examination, call the Hartford Regional Benefits Office at **(860) 666-6951**. Tell the VA representative that you would like to schedule a rating re-examination appointment.

Appealing a VA Denial

If the VA denies your claim, you can appeal (challenge) its decision. You have **one year** from the date that you receive the denial to appeal. Keep a copy of the VA denial letter so that you can prove that you started your appeal within one year.

The appeal involves **two steps**:

- 1) **Send a Notice of Disagreement (VA Form 21-0958)**
- 2) **Attend a Hearing to Explain Why You Believe the VA Was Wrong**

Step One: Notice of Disagreement (NOD) Form

To challenge a denial, you need to send the VA a "Notice of Disagreement" (NOD) form (VA Form 21-0958). The NOD form is available at: <http://www.vba.va.gov/pubs/forms/VBA-21-0958-ARE.pdf>. This form tells the VA that you disagree with its decision and would like to appeal. Send the NOD form to the address listed on page 2.

The NOD form asks why you disagree with the decision. Your answer can be short. You do not have to list all the reasons you disagree. You will have a chance to explain your reasons to the VA later, either by sending an additional letter or by attending a hearing. Keep the NOD form simple to give you time to decide how you would like to explain your case, but be sure to include:

- **The date that you received the VA denial letter**
- **The fact that you want to appeal the VA denial**
- **The fact that you plan to add evidence to your appeal later**

If you want to, you can choose to appeal to a “decision review officer” (DRO) at the VA. The DRO is a VA representative who will hear your explanation for why the VA decision to deny you benefits was wrong. If you want to have an in-person hearing with the VA, make sure to write that fact on your NOD form.

You do not have to go to the DRO hearing to appeal your denial. You can appeal without meeting with anyone from the VA, just by submitting the NOD form explaining why the VA is wrong. However, attending a DRO hearing will give you a chance to explain in person why the VA was wrong to deny your claim.

Step Two: Decision Review Officer (DRO) Hearing

If you select the DRO hearing option on the NOD form, the VA will contact you to schedule a “DRO hearing.” A DRO hearing is a meeting where you explain to the DRO, who is a representative of the VA, why the VA was wrong to deny your claim. NOTE: The DRO *does not* take away benefits that you already have. The DRO only has the power to give you benefits after you received a denial.

The DRO hearing will probably be held in a room at the Hartford Regional Benefits Office. If your disability makes going to Hartford too difficult, ask the VA to set up a hearing by video conference. The VA may be able to set up a video conference with a VA office closer to you.

The DRO hearing is important and you must be prepared, but it will not be like a formal trial in a courtroom. You will have a chance to explain to the DRO why the VA's decision was wrong. Show the DRO medical records and doctors letters related to your disability.

Tips for the DRO Hearing:

- Bring as much supporting evidence as you can. (See page 4 for examples). Give this evidence to the DRO and keep your own copies.
- You can bring witnesses to give statements of support for you. Witnesses should be the same kinds of people who could write you a “buddy statement.” (See page 4).
- If possible, bring a recorder with you to the hearing. You may want a recording of the hearing if you choose to appeal again.
- The DRO must tell you if more evidence would help your claim. If the DRO says that other evidence could be helpful, ask her/him to *wait to decide on your claim* until you can submit that evidence. After the hearing, gather the evidence and send it to the VA.

The DRO will send you a letter with a decision after your hearing. The VA can be slow to send decisions, so you should call the VA if you do not hear back within two months. If you receive another denial, you can appeal again. The next appeal goes to the Board of Veterans Appeals (BVA). Information about how to appeal to the BVA is available here: <http://www.bva.va.gov/>. See page 10 for information on veterans lawyers who may be able to help you with the appeals process.

REMEMBER: An appeal is your chance to explain why your disability is connected to your military service and how it has affected your life. You should consider appealing if the VA denies your disability compensation claim.

Character of Discharge Determination

If you have an Other than Honorable, Bad Conduct, or other type of Dishonorable Discharge, the process of applying for benefits is the same, but you *also* need to ask for “character of discharge determination” from the VA. Through a character of discharge determination, the VA can decide to grant you benefits even though you do not have an Honorable or General Discharge.

You do not have to make a formal application for a “character of discharge determination.” You are not required to mention your discharge status when you apply. However, if you submit your claim without mentioning your discharge status, the VA will ask you about it. Your claim may be quicker and easier if you disclose your discharge status at the beginning of the process when you first submit your benefits claim.

To determine whether it will grant you benefits with a discharge under other than honorable conditions, the VA considers:

- Any circumstances that might explain why you received a “bad paper” discharge
- Evidence from witnesses to explain the incident that led to your discharge
- Length of service and any medals or awards you received
- The general character of your service leading up to your discharge

If you will need a character of discharge determination, you should send the VA supporting evidence to explain your discharge status. (See page 4 for examples of supporting evidence). Send this evidence along with the rest of your application. **Be sure to explain to the VA why your discharge status does not represent your whole service record and why you should be able to receive benefits.** For more information on the VA’s Character of Discharge Determinations, visit: http://www.benefits.va.gov/BENEFITS/docs/COD_Factsheet.pdf

EXAMPLE: Ramón developed PTSD in Afghanistan and fought with an officer. He received an Other than Honorable discharge. When he submits his claim for disability benefits, Ramón also sends buddy statements and a doctor’s letter explaining that he was suffering from PTSD when he began the fight. He explains in his cover letter that the fight does not represent his service – instead, it was a sign of his PTSD.

NOTE ON DISCHARGE UPGRADES

If you have a discharge under other than honorable conditions, you may also want to consider applying to a military corrections board for a discharge upgrade. A “discharge upgrade” is a decision by the Department of Defense (not the VA) to change your discharge to Honorable, General, or another characterization that is an upgrade from the one you have now.

For information on discharge upgrades, read this manual written by the Connecticut Veterans Legal Center: <http://ctveteranslegal.org/wp-content/uploads/2012/12/Connecticut-Veterans-LegalCenter-Discharge-Upgrade-Manual-November-2011.pdf>

Legal and Other Resources

- The **Connecticut Veterans Legal Center** is a resource for Connecticut Veterans who are referred by mental health care professionals. For information, visit <http://ctveteranslegal.org/>
- The **Errera Community Care Center** helps veterans struggling with mental health challenges, homelessness, substance abuse, and aging. For information, visit <http://www.erreracc.com/>
- Disability compensation is not the only support available to veterans in Connecticut. You might be able to receive many other benefits as a veteran. Some benefits, such as tuition support, substance abuse treatment, and military burial, are available through the state of Connecticut. Other benefits, such as life insurance and home loans, are available through the federal government.

For an overview of **Connecticut’s state benefit programs**, visit:
<http://www.ct.gov/ctva/cwp/view.asp?a=2005&q=293114>

For an overview of **federal benefit programs**, visit:
<http://www.benefits.va.gov/benefits/>.

- The **Connecticut Department of Veterans Affairs** has offices that provide information to veterans. Each of these offices has a “Veterans Services Officer” who can speak with you about your needs. Visit <http://www.ct.gov/ctva/cwp/view.asp?A=2014&Q=290872> to find the office nearest to you.

NOTE: At least two of the state’s Veterans Services Officers are bilingual in Spanish and English. For information, call **(860) 616-3683**.

Sample Rating Decrease Challenge Letter

U.S. Department of Veterans Affairs
Hartford Regional Office
P.O. Box 310909
Newington, CT 06131

Re: Request for Hearing to Contest Rating Decrease Decision, YOUR NAME

To Whom It May Concern:

My name is (insert your name). I am writing to contest the VA's decision to reduce my disability rating and to request a hearing on the decision. I currently receive disability compensation for (insert the specific disability or disease for which you receive disability benefits). On (insert date), I received notification that my disability rating would be decreased from (insert former rating) to (insert reduced rating).

The decision to reduce my rating was incorrect. As required by your regulations, I am submitting this appeal within 30 days of receiving notification that my rating was decreased. I plan to submit evidence to support my appeal.

Please let me know when a hearing on my appeal will be held. I can be reached at (insert your telephone number and, if you have one, your email address).

Thank you,

YOUR NAME

YOUR ADDRESS

Hispanic-American Veterans of Connecticut, Inc.

HAVOCT, Inc. prepared this manual in collaboration with Yale Law School's Veterans Legal Services Clinic.

The mission of HAVOCT, Inc. is to provide bilingual (Spanish & English) services to Connecticut veterans and military families. HAVOCT, Inc. was founded on November 05, 2006 by a group of veterans and community volunteers. The organization began from an effort to bring Hispanic-American Veterans representation to the Greater Hartford Veterans Parade and has since developed its vision to help veterans across the state.

For more information on HAVOCT, Inc., and to join in our efforts, visit www.havoct.org. Members need not be active duty service members or veterans. We welcome all who are interested in serving the Hispanic-American veterans community.

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