

Getting a Fair, Thorough and Accurate VA Disability Evaluation

Guidelines for Veterans

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Dedication

This pamphlet is dedicated to military personnel, past and present, who have served or are currently serving in the armed forces of The United States of America.

For the veterans and active duty military personnel reading this pamphlet, thank you for your service to The United States of America. Our nation owes you, and your families, a debt that is impossible to repay.

Statement of Purpose

This pamphlet provides essential information about ways to minimize the pitfalls that can be associated with the disability evaluation process. It addresses the steps veterans may take to avoid undermining their success in being awarded a deserved disability rating. Information included in the pamphlet is geared toward those traumatized by life-threatening situations and who may have post-traumatic stress disorder (PTSD). This pamphlet can also be helpful to individuals who have other emotional or physical difficulties.

Individuals who have emotional or physical difficulties other than PTSD may find this pamphlet useful with regard to documentation of events surrounding the development of physical or emotional difficulties, and how these difficulties impact you and those around you. This pamphlet may help you think about how you will discuss your difficulties with an examiner – especially the importance of talking, openly and honestly, with the examiner about your problems.

The purpose of your disability evaluation is to fully evaluate and do justice to your disability claim. If you think of your evaluation as being done for you and with your help, instead of being done to you, it will be easier to be an active, helpful, contributing participant in the process.

Introduction

You served in the armed forces of our country. It is now our nation's opportunity to be of service to you, and to fully and fairly evaluate your disability claim. It is important that you have the courage and stamina to follow through with the disability evaluation process. This may require you to face, head on, the ups and downs that can, at times, accompany the process.

1. How to file a claim.

File VA Form 21-526, Veteran's Application for Compensation and/or Pension. You must file a claim to begin the process. If you do not file a claim, you cannot be granted a disability – even if you deserve one.

Seek help from a Veterans Service Organization so that the proper forms are submitted to the Department of Veterans Affairs (VA). A national service organization (American Ex-POW's, American Legion, AM VETS, DAV, Military Order of the Purple Heart, PVA, VFW, VVA, etc), a State Veterans Affairs Office, or a County or Local Veterans Affairs Office can help you through the process. These organizations can provide you the correct forms, give you information and assistance in preparing these forms, and even submit your information to the appropriate Regional Office of the Department of Veterans Affairs. You need to be sure, however, that they will submit the documents you may leave with them, or you will need to do so yourself.

If you feel that a particular organization is not being responsive to your needs, talk with the person working with you, or, alternately, go to a different Veterans Service Organization for help.

2. Roadblocks to filing a claim.

There are a number of roadblocks or impediments to filing a claim of which you should be aware. Some veterans may feel they do not deserve anything – knowing the sacrifices that some individuals in their unit made. Due to limited awareness of the emotional impact of their service, denying their difficulties, or, at times, having “survivor guilt,” veterans may feel they did not have it so bad. Consequently, they may not believe they qualify for a disability. To ask for, or to be given, a disability rating would make them feel defective or inadequate. Veterans may also fear how they would be perceived by others, if a disability rating were granted.

Veterans with “survivor guilt” often have self-defeating behavior. They behave in a manner which is unproductive and undermines their success, advancement and happiness in life, whether in personal or work relationships. This self-defeating behavior can include not allowing oneself success in receiving a deserved disability rating for military-related physical and/or emotional difficulties.

Many people are less aware of emotional difficulties than physical ones. It is understandable that they might have a greater reluctance to recognize and seek help for emotional difficulties than for physical problems. After all, most people tend to make more allowances for how they react emotionally to life situations, and are less aware of changes that develop in their mental functioning. Often a person thinks, “This is how I am.” Not, “This is how I have become” - as a result of what I went through and understandable reactions to events in my life, or the development of serious problems.

Being given a disability rating can force veterans to face painful realities which they may prefer to avoid. Indeed, what they witnessed, experienced, or were part of can have such a negative impact, they do not want to remember or talk about their experience. But denying or avoiding talking about the emotional and physical realities that exist in veterans’ lives can be costly.

It is these realities that need to be addressed, not denied or avoided, to help achieve a thorough evaluation.

Such denial or avoidance leads to underlying problems not being recognized to have developed as a military-related problem, and to not being granted deserved disability ratings. Denial or avoidance of one’s problems increases difficulty in obtaining appropriate VA treatment. Veterans may also experience progressively greater alienation and isolation, with even more adverse impact on their and their families’ lives. Consequently, veterans’ actual physical and mental health problems are best faced by veterans, their families and our nation.

3. How to document your military experiences.

For a military-related disability to be recognized, the VA must verify that you were exposed to a severe or life-threatening stressor. Your military experience(s) can be documented using:

- **VA Form 21-4138, Statement in Support of Claim**
- **DD 214, and DD 215 if you have this**
- **original award documents of medals or awards**
- **newspaper articles about a traumatic event**
- **letters to or from loved ones, regarding traumatic events**
- **statements from fellow service personnel**
- **photographs relevant to traumatic experiences**

Document military stressors in a Stressor letter. [VA Form 21-4138, Statement in Support of Claim - on which a Stressor letter may be written, or to which a Stressor letter can be attached.]

Submit a Stressor letter – from you, the veteran, if possible, or with others' help, if needed. Writing a Stressor letter can take weeks, months or years to accomplish. It is important to get this done and submitted for consideration, as soon as you can, despite possibly stirring up painful memories and feelings. You do not have to go into extreme detail when writing down information about stressful events. Provide what information you can, however, about your stressors, including the unit in which you served, approximate date(s), location(s) where you were, who was with you, name and rank of individual(s) killed or wounded, what happened, etc.

Bring in a copy of your DD 214. Your DD 214 will show in which campaigns you served, the individual medals you were awarded, and if you were awarded the CAB, CAR or CIB. Sometimes, the DD 214 may not list all the individual medals and awards that you were given.

Bring in copies of the original award documents for any individual medals or awards that you received. Any medals or awards you received in the military are important. Those that show you were wounded or acted with bravery include the Purple Heart Medal, Air Medal with V Device, Soldier's Medal, Bronze Medal with V Device, Silver Star Medal, Commendation with V Device, Distinguished Flying Cross, etc. Those that show you were in combat include the CAB, CAR or CIB.

Your DD 214, DD 215, medals, and awards verify whether you were wounded, performed with valor, and/or were exposed to a life-threatening stressor. The VA accepts the CAB, CAR or CIB as confirming exposure to a life-threatening stressor (i.e., combat), as well as any award for valor or a Purple Heart.

Also, bring in a copy of newspaper articles which document a traumatic event, and letters to and/or from loved ones about this having happened – if you

have either of these. This documentation is especially important if your DD 214 and/or DD 215 does not confirm exposure to a life-threatening stressor.

4. How your family, friends, fellow service personnel, and care providers can help.

Provide current letters from loved ones, friends, fellow service personnel or people (including co-workers and employers) who have known you and observed problems. Remember that a former spouse, estranged relative or friend may be willing to provide useful information.

Individual letters can be attached to or written on VA Form 21-4138, Statement in Support of Claim, and need to include the veteran's full name, social security number, and the date of the correspondence. In addition, the person writing the letter should also include their name, address, and how the veteran is known to them.

Ask family members, friends or people who have known you to write letters regarding changes they have observed in you. Ask them to describe changes in overall attitude and behavior, emotional state, including fluctuations; ability to get along with, and to work with, others; etc. How are you different now from how you were before military service? How do the changes observed impact your relationships with family, friends and people at work?

"Buddy letters" from military friends who have served with you in your unit, and whose participation has been verified by the VA, can help confirm your involvement in the same events. This will assist the VA in documenting your exposure to stressful events. They should include their rank in the service and their social security number.

If you have seen a professional for emotional or physical difficulties, the VA carefully considers statements made by your care provider on your behalf.

Family and/or friends may provide useful emotional support, information, and encouragement to follow through with a disability evaluation.

It is often helpful for someone to go with you when you report for the disability evaluation. If you have trouble talking, or have had a head injury or have memory loss, ask if a family member or friend can be present – at least in the initial part of the interview.

Your spouse or significant other may be a better historian about sleeping patterns, emotional reactions, and the impact of your difficulties on the family. They may be more aware of these matters and less likely to deny or minimize problems.

There may be some things to talk about that you are not comfortable discussing with others present. Some examiners will pick up on this and suggest they speak individually with you. Otherwise, you, your family member, or friend can suggest that it may be useful for you to talk privately with the examiner. This should be respected, without any subsequent pressure or inquiry by family or friends to talk about what was discussed.

5. Meeting with your disability evaluator.

Be open with the evaluator when talking about traumas and difficulties you experienced in the service, and your subsequent adjustment.

Consider the evaluator as having a “need to know” with regard to traumatic experiences that you have had. As difficult as it is to acknowledge and talk about things you have experienced, there is no practical way to know what your experience was without hearing it from you.

If you can't give the whole story, give part of the story. For example, *“There is something that happened (e.g., that involved the death of individuals in my unit/enemy soldiers/civilians, etc.) that I can't talk about. It's so painful and upsetting. But I can't get this out of my mind.”*

Also, it is best to acknowledge if you had a security clearance that prevents you from talking about certain classified matters. This way the examiner is made aware of and can consider this information in his/her formulation of your difficulties (i.e., that your security clearance may not allow you to speak about, and the VA to verify, certain traumatic experiences). When secret missions are declassified in twenty or more years, it can be established that you had indicated in a disability evaluation that classified events, about which you could not then speak, did have an adverse emotional impact on you.

It is important to remember that while missions may be classified, the deaths of individuals in your unit on such missions and the dates of their deaths are public information. At times, however, the location and circumstances surrounding their deaths may be reported inaccurately, officially, because of national security interests.

If you have concerns, tell the evaluator your impressions about the examination process.

Try to establish and to be part of a genuine dialogue between you and the evaluator. Even if you are not an American citizen (some foreign nationals serve in our armed forces), you are a veteran of the United States of America's military, you have sworn to "support and defend the Constitution of the United States against all enemies, foreign and domestic," and you deserve to be listened to and heard.

During the evaluation, you may need to speak up and tell the evaluator your perceptions, not only of past events, but even current ones – i.e., including whether you feel that the evaluator is hearing or is interested in what you are trying to talk about.

If you are concerned about whether the evaluator is hearing and understanding your perspective and thoughts about your difficulties, you can say such things as:

"You don't seem to have time to hear my story."

"I don't think that you know how difficult it is to talk about this."

Speak up in a straightforward manner, without excessive irritability or hostility, if there is something that you want to tell the examiner. Although you may feel like swearing, storming out, or even physically assaulting the examiner, such behavior would not be productive to having your claim fully and fairly evaluated.

Avoid losing control of your emotions so that you receive a fair hearing of your concerns and difficulties. Perhaps, the examiner will remind you of your platoon leader or commanding officer, whom you hate and blame for some individuals' deaths. If so, this will naturally stir up strong feelings. The examiner is not that person, however, even if the appearance or general demeanor of the examiner is quite similar. Transferring feelings that you have for leaders (who may have failed you while in the military) onto the examiner can interfere with your saying all that would be useful to say in your evaluation.

Choose not to "shoot yourself in the foot," and not to behave in a self-defeating, self-destructive way in the evaluation. You can undermine receiving a full evaluation of your disability claim by avoiding talking about real traumas, defensive denial of difficulties, withdrawal and avoidance, or by hostile, abrasive, sarcastic confrontation or belligerence with the examiner. Take the high road so you can receive a fair hearing. You, and everyone else who has served our country in the military, deserve to be heard and to be fairly and fully evaluated.

6. What to do if your disability is denied or underrated.

If a disability is denied or is rated lower than what seems to be appropriate, ask to see the evaluation on which the Rating Decision was made by the VA Regional Office. The Veterans Service Organization assisting you with your claim can help you obtain this report.

Review the examination report to determine if it is accurate, or if important information is left out. Notice whether you or the examiner denied or minimized problems that actually exist. Consider whether the degree of impairment acknowledged in the evaluation is realistic, and whether the evaluation adequately addresses the difficulties present and their impact in your life.

Also, closely read the Rating Decision to see if the reasoning behind the conclusions is reasonable, or if there are any flaws in the decision that was made. Look to see if accurate, truthful information is being discounted or denied.

If, after review of the evaluation on which the Rating Decision was made, you believe that your disability has been unfairly denied or underrated, appeal the Rating Decision.

Appeal the denial, sooner rather than later – i.e., if an erroneous decision was made and you are denied a disability when one exists, or if your disability is rated too low a percentage (and you are actually more disabled than you have been rated). Seek assistance from a Veterans Service Organization, and file your appeal with the VA Regional Office handling your claim.

You have only one year to appeal an incorrect Rating Decision, or else you have to start all over with new information that was not initially considered. If you have to start over, “new and material evidence” will need to be provided which shows a “nexus” or link between a service-related incident, illness or condition and a current or chronic condition.

Your appeal will result in a fresh look at the Rating Decision and all the information in your Claims File. Sometimes you may not have to be reevaluated, especially if you present clear, convincing information in your appeal letter which shows that you have been unfairly denied a disability rating, or that it has been underrated. More often, however, a reevaluation will be requested by the Regional Office, in order to reassess what the correct rating should be.

Final Suggestions and Comments

Our country has long accepted that it has a responsibility to care for its veterans. This was told by Abraham Lincoln in his second appearance to take the oath of the Presidential office, during the Civil War when he said,

“Fellow countrymen . . . With malice toward none, with charity for all, with firmness in the right, as God gives us to see the right, let us strive on to finish the work we are in, to bind up the nation’s wounds, to care for him who shall have borne the battle and for his widow and his orphan – to do all which may achieve and cherish a just and lasting peace among ourselves and with all nations.”

This guideline for obtaining a thorough disability evaluation began with the following:

You served in the armed forces of our country. It is now our nation’s opportunity to be of service to you, and to fully and fairly evaluate your disability claim. It is important that you have the courage and stamina to follow through with the disability evaluation process. This may require you to face, head on, the ups and downs that can, at times, accompany the process.

Our nation has the job of providing evaluation, treatment, and compensation for veterans who have developed medical disabilities in the process of serving their country. Just as our nation must face and accept the truth with regards to disabilities that its veterans develop, its veterans must also solidly face reality, acknowledge and address problems, in order to plot their course on the highest road they might.

Your course of healing from traumatic experiences also requires an honest, though possibly painful, assessment of where you have been – so as to enable you to move toward a more productive, healthier adjustment. Doing as well as you might, given the development of a problem, will ultimately benefit not only you, but also your family, and our nation.

The Veteran's Side of the Evaluation Process

An old joke about psychiatrists and mental health care may provide useful insights into the disability evaluation process:

Question: *How many psychiatrists does it take to change a light bulb?*

Response: *One, but the light bulb has to want to change.*

To apply a variation of this concept to disability evaluations, one might say:

Question: *How many psychiatrists does it take to perform a thorough disability evaluation for a veteran?*

Response: *One, but the veteran has to want to be evaluated.*

Of course, it also helps if the evaluator is interested in doing a thorough disability evaluation and can talk with you, the veteran, if he/she observes that you are putting stumbling blocks in both of your paths in the evaluation.

Notably, you will more likely want to provide information to the examiner and to be evaluated for a possible service-related disability if:

1. you recognize that you are having a problem that affects you and those around you (i.e., you are not in a state of denial about having a problem); and
2. you are talking to an examiner who is open-minded, flexible, responsive, and most of all ***interested in hearing what you have to say*** (and understanding the associated ramifications).

There are two sides to the “disability evaluation process”:

- that of you, the veteran, being evaluated; and
- that of the evaluator or examiner.

Both have critical roles in ensuring that a thorough and accurate evaluation for a possible service-related disability takes place.

When inadequate evaluations are done, people get discouraged and disillusioned. They also tend to disappear or walk away - so as to regroup or withdraw from a painful experience. Because of this, unfortunately, it may not take just a year or two, but may literally take decades to resolve or redress the injustice that an inadequate evaluation perpetuates.

You can assist the examiner in performing a thorough evaluation of your claim. This guideline for obtaining a thorough and accurate disability evaluation is directed toward you, the veteran, and what you can do to facilitate the full and fair evaluation of your disability claim.

Your side of the "disability evaluation process" should be as fairly weighted as possible. You are a participant in a very important process. Each veteran is unique and has their own story to tell. You need to tell yours.

SUMMARY OF ABBREVIATIONS AND WORDS:

C-file Claims File

The Claims File contains documentation regarding disability claims made by a veteran, including:

- a copy of your DD 214 (in most cases, but not always)
- VA Form 21-526 (Veteran's Application for Compensation and Pension)
- VA Form 21-4138 (Statement of Support of Claim) if this has been submitted
- letters from veterans, family members, and other individuals on behalf of veterans
- service medical records
- prior VA disability evaluations
- rating decisions made by the VA Regional Office
- appeal documentation if this has been submitted and acted upon
- other pertinent documents

CAB Combat Action Badge

CAR Combat Action Ribbon

CIB Combat Infantryman Badge

V device a notation that distinguishes a particular award was given for valor

DD 214 military discharge document for the veteran, which gives dates of service, military specialty information, rank, awards, type of discharge, etc.

DD 215 the official military discharge document which corrects errors and omissions of important data on your original DD 214. Most veterans will not have one of these. Contact one of the Veterans Service Organizations listed below for help in correcting your DD 214 if it has errors.

Examiner or evaluator - a psychiatrist (M.D. or D.O.), or a psychologist (Ph.D.)

“survivor guilt” - feeling guilty that you survived while others were killed or injured

VA - Veterans Administration or Veterans Affairs (as it is now called)

SUMMARY OF ABBREVIATIONS AND WORDS (continued):

Veterans Service Organizations – this includes State, County, and Local Veteran Affairs Offices. It also includes the following National Service Organizations (not a complete listing).

American Ex-POW's American Ex-Prisoners of War

American Legion

AM VETS American Veterans

DAV Disabled American Veterans

Military Order of the Purple Heart

PVA Paralyzed Veterans of America

VFW Veterans of Foreign Wars

VVA Vietnam Veterans of America

CHECKLIST OF DOCUMENTS NEEDED FOR A VA DISABILITY EVALUATION

Make sure all the following are submitted

- _____ **1. VA Form 21-526** (Veteran's Application for Compensation and/or Pension).

- _____ **2. A copy of your DD 214, and a copy of any original award documents** (i.e., Purple Heart Medal, Air Medal with V Device, Soldier's Medal, Bronze Star Medal with V Device, Silver Star Medal, Commendations with V Device, Distinguished Flying Cross, etc.)

- _____ **3. VA Form 21-4138** (Statement in Support of Claim) on which a Stressor letter may be written, or to which a Stressor letter can be attached.

- _____ **4. VA Form 21-4138** (Statement in Support of Claim) on which letters from friends, family members, or employers may be written, or to which letters may be attached.

NOTE: Make 2 copies of the documents you will submit to the VA, one for your personal records, and one for your examiner. Submit the original documents to the VA.

Include the service member's full name and social security number on all documents submitted, in addition to the date of the correspondence.

1. Submit original documents to the VA Regional Office, which will evaluate your claim. This information will then be included in your Claims File (C-file) as a permanent record.

If a Veterans Service Organization said they would send in these forms, documents, and letters to the VA Regional Office for you, you need to be sure that they were submitted.
2. You will want to keep your own file with a copy of all these documents for potential future reference.
3. As all material may not be available to your examiner, you should bring in a copy of these documents to your scheduled disability evaluation. This way, you can share them with the examiner, in case he/she does not have your C-file to review.

NOTE: On VA Form 21-4138, you will sign beneath the statement: “*I CERTIFY THAT the statements on this form are true and correct to the best of my knowledge and belief.*”

If you, family members, or friends write to the VA Regional Office on something other than a standard VA Form, it may be useful to make a statement attesting to the accuracy of the information being provided. As done with VA Form 21-4138, you can state at the end of your letter: "I certify that the statements I have made are true and correct to the best of my knowledge and belief."

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