

Veterans Disability Compensation

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"An Appeals Process Overview"

Was your recent VA disability compensation award simply not enough? Have you been denied VA education, pensions, or health care benefits?

Fortunately you do have recourse through the VA Appeals process. Veterans and other claimants for VA benefits have the right to appeal decisions made by a VA regional office or medical center. In fact it sometimes seems that appealing VA rulings is just part of the process. A claimant has one year from the date of the notification of a VA decision to file an appeal. You may appeal a complete or partial denial of your claim or you may appeal the level (i.e. the amount) of benefit granted.

Getting Started With the Appeals Process

Your first step should be to do your homework and read the [Appeals Frequently Asked Questions](#), and review the [Glossary](#) of terms common to the appeals process. You can also read more about the [Board of Veterans Appeals](#) and the [U.S. Court of Veterans Appeals](#) here.

If you decide that you have grounds for an appeal then we suggest your next step be to read the [Appeals Process Checklist](#). Then, follow the steps outlined here:

The Appeals Process FAQs

Do you have questions about the VA Appeals process? Below are some frequently asked questions which may help you better understand commonly used terms and the overall process?

What is the Board of Veterans' Appeals? - The Board of Veterans' Appeals (also known as "the BVA" or "the Board") is a part of the Department of Veterans Affairs (VA), located in Washington, D.C. "Members of the Board" review benefit claims determinations made by local VA offices and issue decisions on appeals. These Board members, attorneys experienced in veterans' law and in reviewing benefit claims, are the only ones who can issue Board decisions. Staff attorneys, referred to as Counsel or Associate Counsel, are also trained in veterans' law. They review the facts of each appeal and assist Board members.

What is an appeal to the Board of Veterans' Appeals? - An appeal is a request for a review of a VA determination on a claim for benefits issued by a local VA office. Who can appeal? - Anyone who has filed a claim for benefits with VA and has received a determination from a local VA office is eligible to appeal to the Board of Veterans' Appeals.

When can I file an appeal? - You may file an appeal up to one year from the date the local VA office mails you its initial determination on your claim. After that, the determination is considered final and cannot be appealed unless it involved clear and unmistakable error by VA.

What can I appeal to the Board? - You may appeal any determination issued by a VA regional office (RO) on a claim for benefits. Some determinations by VA medical facilities, such as eligibility for medical treatment, may also be appealed to the Board. You may appeal a complete or partial denial of your claim or you may appeal the level of benefit granted. For example, if you filed a claim for disability and the local office awarded you a 10% disability, but you feel you deserve more than 10%, you may appeal that determination to the Board.

What can't I appeal to the Board? - Decisions concerning the need for medical care or the type of medical treatment needed, such as a physician's decision to prescribe (or not to prescribe) a particular drug or order a specific type of treatment, are not within the Board's jurisdiction. (Occasionally, the Board receives an appeal of this nature, but since it doesn't have the legal authority to decide this type of case, the Board must dismiss it.)

How do I file an appeal? - No special form is required to begin the appeal process. All that's needed is a written statement that (1) you disagree with your local VA office's claim determination and (2) you want to appeal it. This statement is known as the Notice of Disagreement, or NOD.

Where do I file my appeal? - Normally, you file your appeal with the same local VA office that issued the decision you are appealing, because that is where your claims file (also called a claims folder) is kept. However, if you have moved and your claims file is now maintained at a local VA office other than the one where you previously filed your claim, you should file your appeal at the new location.

What kind of information do I need to include in my appeal? - It is important that you send VA any evidence that supports your argument that its determination on your claim was wrong. If you have additional evidence, such as records from recent medical treatments or evaluations that you feel make your case stronger, you can submit the evidence to the office holding your claims folder. An appeal representative can also submit additional written information in support of your claim.

If your file is still at the local VA office and you send your new evidence there, it will send you a SSOC if it still does not allow your claim after reviewing the new evidence. The new evidence you submitted will be

whether attorneys or agents are eligible for payment of fees from the claimant's past-due benefits. Appellants have the right to present their case in person to a board member at a hearing in Washington, DC, at a VA regional office, or by videoconference.

Note: Decisions concerning the need for medical care or the type of medical treatment needed, such as a physician's decision to prescribe (or not prescribe) a specific drug are not within the Board's jurisdiction, and thus cannot be appealed.

Board decisions can be viewed at the "[Board of Veterans' Appeals Decisions Search](#)" website.

U.S. Court of Veterans Appeals

Have you been denied VA education, pensions, or health care benefits? Fortunately you do have recourse through the VA Appeals process. Find out how a VA claim can be appealed and how the process works.

A VA claim may be appealed from the Board of Veterans Appeals to the Court of Veterans Appeals. This court is independent of the Department of Veterans Affairs. Only claimants may seek a review by the court; VA may not appeal board decisions. To appeal to the court, the claimant must have filed a Notice of Disagreement on or after November 18, 1988. The notice of appeal must be received by the court with a postmark that is within 120 days after the Board of Veterans Appeals mails its final decision.

The court does not hold trials or receive new evidence. The court reviews the record that was considered by the Board of Veterans Appeals. Oral argument is held only at the direction of the court. Either party may appeal a decision of the court to the U.S. Court of Appeals for the Federal Circuit and to the Supreme Court of the United States. Appellants may represent themselves before the court or have lawyers or approved agents as representatives. Court decisions, case status information, rules and procedures, and other special announcements can be obtained from the U.S. Court of Appeals for Veterans Claims Website. You can write the Clerk's office at:

**United States Court of Appeals for Veterans
Claims**

625 Indiana Ave, NW, Suite 900
Washington, DC 20004
Telephone: (202) 501-5970

The Appeals Process Checklist

Are you submitting a VA appeal but are not sure what to do? Following the appeals process checklist below will help and guide you through the process.

If you want to appeal a VA decision, you have one year from the date you were notified of the VA decision to file an appeal. After that period, the decision is considered final and cannot be appealed unless it involved a clear and unmistakable error by the VA.

To ensure that your appeal to the VA is handled smoothly, browse our appeals checklist, or follow the step-by-step instructions below for submitting an appeal.

Appeals Checklist - Arranged in Chronological Order:

1. If you have received a determination on a VA benefits claim that you do not agree with, send your Notice of Disagreement to the local VA office that processed your claim. Make sure you do it within one year of your determination being mailed out.

2. After receiving your Notice of Disagreement, your local VA office will send you a summary of reasons behind its ruling in a Statement of the Case and a VA Form 9. Be sure to fill out and mail back the VA Form 9 no later than 60 days after your Statement of the Case was mailed out, or within one year from the date your original determination was mailed to you, whichever is later.

3. After receiving your VA Form 9, your local VA office will forward all claim materials to the Board of Veterans Appeals. It will notify you when it sends these materials out. You have 90 days after this notification is mailed to submit additional evidence, appoint or change legal representation for your claim, or ask for a hearing.

4. The Board will conduct hearings, if requested, review your appeal and issue a decision. It will either grant, remand or deny your appeal. If your appeal is denied, you have 120 days to file another appeal to the U.S. Court of Appeals for Veterans Claims. You can also submit a CUE motion or filing reconsideration motion to the Board of Veterans Appeals, or reopen the case at your local VA office. The 120-day deadline is the same for all these appeals.

The Appeals Process: Step 1

The first step in the appeal process is for a claimant to file a written notice of disagreement (NOD) with the local VA regional office or medical center that made the decision. This is not a special form; it is simply your written statement that (1) you disagree with your local VA office's claim determination, and (2) you want to appeal it.

Submit your NOD to the same local VA office that issued the decision you are appealing. If you have moved and your claims file is now maintained at a local VA office other than the one where you previously filed your claim, submit your NOD to the new location.

If you have received notice of determinations on more than one claim issue, be specific about which issue or issues you are appealing. For example, if your local VA office made claim decisions on your pension and a medical payment, but you only want to appeal the decision on your medical payment, be sure to note that. Once you have completed this take the next step:

The Appeals Process: Step 2

After receiving the Notice of Disagreement (NOD), the VA will mail the claimant a Statement of the Case describing what facts, laws and regulations were used in deciding the case. A [VA Form 9 \(Appeal to the Board of Veterans Appeals\)](#) will be included with the Statement of the Case.

If you wish to continue your appeal, you must complete and submit the VA Form 9 within 60 days of the mailing

of the Statement of the Case, or within one year from the date the VA mailed its decision, whichever is later. Send your VA Form 9 to the local VA office handling your case; the office will file this and all related information in a claims folder, and will eventually forward it to the Board of Veterans Appeals for review.

On VA Form 9, make sure you clearly state the benefit you want and point out any mistakes you think the VA has made in its decision. If you submit new information or evidence with your VA Form 9, your local VA office, and it will prepare a Supplemental Statement of the Case (SSOC). If you are not satisfied with the SSOC, you have 60 days from the date the SSOC was mailed to submit, in writing, what you disagree with.

Usually, the above is all the paperwork you will need to send to your VA office. The one major exception is if you receive a SSOC covering a new issue. In this case, you must complete a supplemental VA Form 9 covering the new issue if you want to appeal it. For example, if you are appealing a pension ruling, and before the pension ruling is resolved, you appeal a medical payment ruling and receive an SSOC on the medical payment decision, you must send your VA office a VA Form 9 on the medical payment appeal.

It is possible to get an extension for the 60-day window you have to submit your VA Form 9 or respond to the SSOC. Simply write to your local VA office handling your appeal and explain why you need extra time to file. Once you have completed this take the next step:

The Appeals Process: Step 3

You can represent yourself in your appeal if you wish, but most people who appeal obtain representation. You can choose to be represented by a Veteran's Service Organization (VSO) or your state's veterans department. Most VSOs have trained personnel who specialize in providing help with claims and appeals. Your local VA office can provide a list of approved veterans appeal representatives in your area. You can also be represented by a private lawyer or recognized agent.

If you want representation, fill out a VA Form 21-22 to authorize a VSO to represent you, or use VA Form 22a to authorize an attorney or recognized agent to represent you. Once you have completed this take the next step:

The Appeals Process: Step 4

Once you have filed your appeal with your local VA office, it will be forwarded to the Board of Veterans Appeals (BVA). Your VA office will send you a letter when they receive your claims folder. You have 90 days from the mailing date of this letter, or when the Board decides your case (whichever comes first), to add more evidence to your file, request a hearing (see Step Five) or select/change your representative (See Step Three).

If you need to submit any of these items after the 90 days are up, you must submit a written request to the Board, with an explanation for why the item(s) are late.

Until your file is transferred to the Board, your local VA office is the best place to get information about your

appeal. After your file has been transferred, you can call (202) 565-5436 to check on its status.

The Board processes appeals files in the order received. It will assign your case a docket number. For example, if your appeal was the very first appeal to be reviewed in the year 1999, it would have docket number 99-00001. Thus, the larger your docket number, the longer you may have to wait for your case to be reviewed.

On average, you may have to wait two or more years after you file your appeal for the Board to pass a final decision on your case. Complex cases may take longer. If you want your appeal to be reviewed sooner, you can try writing directly to the Board and explain the reasons why you need a quicker ruling. Write to this address:

Board of Veterans Appeals (014)
Department of Veterans Affairs
810 Vermont Ave., NW
Washington, DC 20420

You will need "convincing proof of exceptional circumstances," which includes situations such as terminal illness, danger of bankruptcy or foreclosure, or an error by the VA that caused a significant delay in the docketing of your appeal. Be sure to provide evidence (i.e., bankruptcy notices) if you have it. Once you have completed this take the next step:

The Appeals Process: Step 5

If you wish, you can also have a personal hearing. A personal hearing is a meeting between you (and your legal representative, if you have one) and a VA official who will decide your case. During this meeting, you present testimony and other evidence supporting your case. There are two types of personal hearings: local office hearings and BVA hearings.

A local office hearing is held at your local VA office between you and a "hearing officer" from the local office's staff. To arrange a local office hearing, you should contact your local VA office or your appeal representative as early in the appeal process as possible.

In addition to a local office hearing, you have the right to present your case in person to a member of the Board of Veterans Appeals (a BVA hearing). In most parts of the U.S., you can choose whether to hold this hearing at your local VA office, or at the BVA office in Washington, DC (but not both).

To request a BVA hearing, check the appropriate box on VA Form 9. If you have already submitted your VA Form 9 without checking the box, you can request a hearing by writing directly to the Board of Veterans Appeals within 90 days. Be sure you clearly state whether you want the hearing held at your local VA office or in Washington. Please note that the BVA cannot pay for any expenses — such as lodging or travel — in connection with a hearing.

Basically, to "testify" at a BVA hearing just means to tell what you know about your case. VA hearings are much more informal than court hearings, so you don't need to worry about technical rules of evidence or being cross-examined when you testify.

Some local offices offer video teleconferencing, so you can have your BVA hearing at your local office while the BVA member talks to you from Washington. Check with your local VA office to see if it offers this option.

Be aware that a personal hearing may take some time to arrange. Most BVA hearings are held about three months before the case is actually reviewed by the Board. Once you have completed this take the next step:

The Appeals Process: Step 6

The Board will notify you when it receives your appeal from the local VA office. When the docket number for your appeal is reached, your file will be examined by a Board member and a staff attorney who will check it for completeness, and review all the evidence, your arguments, personal hearing transcripts (if any), the statement of your representative (if you have one) and any other information.

Once a decision has been reached, the Board will notify you in writing. Your decision will be mailed to your home address, so it is extremely important you keep the VA informed of your current address.

If the claimant dies before the Board makes a final decision, the Board normally dismisses the appeal without issuing a decision. The rights of the deceased claimant's survivors are not affected by this action. Survivors may still file a claim at the local VA office for any benefits to which they may be entitled.

Sometimes the Board will remand an appeal, which means it returns the case to your local VA office with instructions for additional work to be done. Remands may occur because of changes in the law, or if you do (or don't do) certain things.

After your local VA office performs whatever additional work is necessary, it will review your case and issue a new decision. If its original ruling still holds, it will send the case back to the Board for a final decision. The case keeps its original place on the Board's docket, so it will be reviewed soon after the Board receives it. Once you have completed this take the next step:

The Appeals Process: Step 7

If you disagree with the Board's final ruling, you can appeal to the U.S. Court of Veterans Appeals for Veterans Claims. Normally, you must file a Notice of Appeal with the Court within 120 days from the date the Board's decision is mailed to you.

To get more information about the Notice of Appeal, methods for filing with the Court, Court filing fees and other related matters, you can call the Court at 1-800-869-8654 or write to the address below:

**United States Court of Appeals for Veterans
Claims**

625 Indiana Ave, NW, Suite 900
Washington, DC 20004
Telephone: (202) 501-5970

If you appeal to the Court, you should also file a copy of the Notice of Appeal with the VA General Counsel at the following address:

Office of the General Counsel (027)

Department of Veterans Affairs

810 Vermont Ave., NW

Washington, DC 20420

There are other ways to challenge the Board's decision:

- **Motion for Reconsideration** — If you can prove that the Board made an obvious error of fact or law in its decision, you can file a written motion for reconsideration. If you have a representative, you should consult with him/her about whether you should file a motion.
- **Reopening the Case** — If you have new evidence, you can request that your case be reopened. To be considered, the evidence you submit must include information related to your case that was not included in your claims folder when the Board decided your case. To re-open your case, you need to submit your evidence directly to your local VA office.
- **CUE Motion** — A Board decision can be reversed or revised if you can prove that the decision contained "clear and unmistakable error" (CUE). Because CUE is a very complicated area of law, you should ask your representative for advice before you decide to file a CUE motion. You can file a CUE motion at any time, but if you file it after filing a Notice of Appeal with the U.S. Court of Appeals for Veterans Claims, the Board cannot rule on your CUE motion. CUE motions should be filed directly with the Board, and not your local VA office.

You have completed the Appeals Process. Refer back to the previous steps for more information:

Military Humor

Real Chiefs Have CPO Association cards from their last five commands.

Real Chiefs Don't remember any time they weren't Chief's.

Real Chiefs Don't know how to tell civilian time.

Real Chiefs Favorite food is shipboard SOS for breakfast.

Real Chiefs Keeps four sets of dress khaki uniforms in the closet in hopes they will come back.

Real Chiefs Favorite national holiday is CPO Initiation.