



# VA Claims (Compensation)



# Claims Process

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The claims process can be very complex and daunting for veterans who don't know the process. It is best to have an accredited representative assist you. That is where the Georgia Department of Veterans Service (GDVS) comes in.

GDVS is the *only* agency accredited to submit claims or appeals for Veteran of Foreign Wars represented veterans within the State of Georgia.

Unless you work for GDVS, you cannot submit any claims for Veteran of Foreign Wars represented veterans. This is a *liability* issue!



# Law and Policy

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38 U.S.C. § 5905 states that anyone who wrongfully withholds from any claimant or beneficiary any part of a benefit or claim allowed and due to the claimant or beneficiary, shall be fined as provided in title 18, or imprisoned not more than one year, or both.

In accordance with 38 CFR, 14.636 (b), Veteran of Foreign Wars Service Officers are prohibited from receiving a fee for their services.

- This includes soliciting, contracting for, receiving any fee or compensation (including gifts), or wrongfully withholding benefits from any claimant or beneficiary.
- The Veteran of Foreign Wars never charges a veteran for its representation services, and violators will be subject to severe penalties.



# Types of Claims

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## Six (6) Types

- Original
- Increase
- New
- Secondary SC
- Special and
- Supplemental



# Types of Claims



# Types of Claims

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## Original Claim

- First claim for disability compensation.
- It can be a pre-discharge claim or post-discharge claim.
- Pre-discharge claims are in the BDD program
  - Six (6) months prior to leaving service—filed on VA 21-526EZ
  - Once you reach 3 month prior to discharge you are *no longer* eligible for BDD.
- File using Form 21-526EZ

## Increased Claim

- Claim for an increase for current disability rating
- File using Form 21-526EZ



# Types of Claims Cont.'

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## New Claim

- Claim for added benefits,
  - Special Monthly Compensation (SMC)
  - Individual Unemployability (IU),
  - Dependent Indemnity Compensation (DIC)
- File using form 526EZ

## Secondary SC Claim

- Claim for a new disability that is *linked to a SC disability* you already have. (Use example)



# Types of Claims Cont.'

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## Special Claims (special in nature)

- Automobile and adaptive equipment (if your SC condition prevents you from driving),
- Clothing allowance (due to clothing damage from prosthetic or orthopedic devices or ointments from skin condition),
- Convalescence (from surgery for a SC condition),
- Dental care (if rated at 100% or SC),
- Hospitalization (due to SC condition),





# Types of Claims Cont.'

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## Special Claims (special in nature)

- Aide and Attendance
- Housebound
- Individual Unemployability (can't work due to SC conditions),
- Title 38 USC, 1151 disabilities (claims of injury due care)
- Pre-stabilization (recent discharge and must have severe SC disability that is unstable and your disability is expected to continue for unknown amount of time).



# Types of Claims Cont.'

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## Supplemental Claim

- Filed if the VA denied and you didn't file an appeal
- Submitting new and material evidence
- File using Form 21-0995



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# Claims Process



# Claims



**There are three things you need for a successful claim:**

- **Military Service** (other than dishonorable)
  - Event
  - Injury
  - Exposure
- **A Diagnosed condition**
  - current physical or mental disability that makes you less able/totally unable to perform everyday tasks, including meaningful work
- **Nexus Letter**
  - Review Service Treatment Records (STRs) and Post Treatment Records
  - Current diagnosis
  - Rational/Medical opinion 50% probability
  - More Likely Than or As Likely Than



# Claims Process

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- **Intent to file** (VA Form 21-0966)
  - This form starts the claims process and preserves the effective date of your claim.
  - You have *one year* from date the form is signed to complete your claim. If you don't submit the claim you will lose that time.



# Claims Process

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Filing your claim using VA Form 21-526EZ

- This can be accomplished several ways:
  - Have it prepared and submitted by an accredited representative like GDVS <https://veterans.georgia.gov/field-offices>
  - Have it prepared by the Veterans Administration via public contact.
  - Self-prepared and submitted through ebenefits <https://www.ebenefits.va.gov/ebenefits/homepage>
    - Self-prepared and submitted via fax or mail
- Supporting medical evidence along with a NEXUS letter –
  - Fully Developed Claim



# Claims Process

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- **Once the claim arrives at the VA Regional Office it goes through 5 steps:**
  - Claim received
  - Initial Review
  - Evidence Gathering, Review and Decision
  - Preparation for notification
  - Claim Complete



# Claims Process



- **Claim Received** (self explanatory)
  - Receive written confirmation from the VA that the claim has been received and it is being worked.
  - If you applied online using Ebenefits you should see a receipt in your list of Open Claims within one hour.
  
- **Initial Review**
  - Claim has been assigned to a Veterans Service Representative (VSR) – Duty to Assist
  - Claim is reviewed to determine if additional evidence is needed.
  - If no additional evidence is needed, the claim will move to step 3.





# Claims Process



- **Evidence Gathering, Review, and Decision**
  - The VSR will request evidence from you, health care providers, governmental agencies or others.
  - Review the evidence
  - VA exams will be scheduled during this phase.
  - Make a decision
- **Preparation for Notification**
  - The entire claim packet is prepared for mailing.
- **Claim Complete**
  - Decision packet is mailed to veteran

The process takes approximately 111.5 days



# Effective Dates

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- **Effective date is determined**
  - By the date the claim is received *or the*
  - Date you first got your illness or injury—whichever comes later
- Claim received within 1 year of separation from active duty,
  - Effective date can be as early as the day following separation
- Dependent and Indemnity Compensation (DIC) claim
  - Effective date is the date of the claim receipt
  - If veteran died in service or within 1 year of separation from service, the date will be the first day of the month of death.
- Death/disability due to hospital stays
  - it is the date the of the injury in the hospital or when condition got worse
  - If death incurs, the effective date will be the month the veteran dies. I
  - f more than a year following injury or death—the effective date is the date they get the claim.



# Military Service



- IAW 38 CFR 3.700 (a) (1), pension, and compensation
  - Will not be paid to any person for any period for which he or she receives active service pay.
- Reservists may waive their pension and compensation
  - Periods of field training, instruction and other duty or drills
  - Using VA Form 21-8951-2
- The VA will recoup VA pension and compensation
  - Periods of active duty or drill
- DFAS only reports active duty/drill pay to VA
  - After fiscal year is complete.
- Service members *responsibility to notify* the VA



# Incarceration

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- All veterans *must* notify the VA if they are incarcerated.
- Per 38 CFR para 3.665, compensation payments will be reduced on the **61<sup>st</sup> day** of incarceration.
  - If rated 20% and over—reduced to 10% until released from prison.
  - If under 20% compensation it will be reduced by half.
  - This rule applies to fugitive felons as well and the clock will start on the date the warrant is issued.
  - Low income dependents can petition for apportionment.
  - VA will retroactively recoup compensation payments once incarceration is discovered.



# Questions?

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# Check on Learning

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- On what day of incarceration will a veterans payments be reduced?
- What 3 things do you need for a successful claim?
- Name 3 types of claims?
- Can a Post Service Officer file a claim on behalf of a veteran and are there any exceptions?



# Check on Learning Answers



- On what day of incarceration will a veterans payments be reduced? **61<sup>st</sup> Day**
- What 3 things do you need for a successful claim?
- **Military Service,**
  - **Diagnosed Condition,**
  - **Event during service**
  - **NEXUS**
- Name 3 types of claims?
  - **Original**
  - **Increase**
  - **New**
  - **Secondary SC**
  - **Special**
  - **supplemental**
- Can a Post Service Officer file a claim?
  - **No, and only if they are a GDVS employee**