



# VA Appeals



# Appeals Process



- The appeals process is used to continue a claim that has been denied benefits by the VA
- The same three things needed for a successful claim are also needed for a successful appeal: military service (other than dishonorable), a diagnosed condition, and a NEXUS to connect them together.
- Use Georgia Department of Veterans Service (GDVS) for advice and filing of appeal.



# Appeals Modernization Act (AMA)



- 
- The Veteran Appeals Improvement and Modernization Act became law on August 23, 2017 and took effect February 19, 2019.
  - The new law modernizes the current claims and appeals process.
  - Includes three review options for disagreements with decisions
  - Requires improved notification of VA decisions
  - Provides earlier claim resolution and ensures you receive the earliest effect date possible



# Appeals Options



# Appeals Options

---

- **Under the AMA there are three options for review:**
  - ***Option 1: Higher Level Review Lane***
    - Claim is reviewed by a more senior claims adjudicator - Decision Review Officer
    - Filing VA Form 20-0996 (Decision Review Request-HLR)- must be filed within **1 year**.
    - A higher level de novo review (new look) of the decision
    - ***No submission of new evidence is allowed***
    - The possibility of overturning the decision based on a difference of opinion or clear and unmistakable error (CUE)
    - Can request a one time telephone call with the reviewer to identify specific errors in your case (not guaranteed)
    - Goal is 125 days to complete



# Appeals Options Cont.'

---

## ■ **Option 2: Supplemental Claim Lane**

- Replaces “reconsiderations and re-open claims process”
- Filing using VA Form 20-0995 (Decision Review Request- Supplemental Claim)
- You *can* submit or identify new and relevant evidence to support your claim
- VA will provide assistance in developing the evidence
- Can opt in to this lane from legacy appeals (opt in SOC/SSOC block check) *cannot* return to legacy process
- No hearing option with Supplemental Claim
- Must be filed within **1 year** to preserve your effective date. After 1 year the effective date will be the date of the appeal.
- Goal is 125 days to complete



# Appeals Options Cont.'

---

- **Option 3: Board Lane- Board of Veteran Appeals (BVA)**
  - Process starts with the completion and receipt of **VA Form 10-182** (Board Appeal Notice of Disagreement).
    - You only have **1 year** from the date of the Notice of Decision or Statement of the Case (SOC) to file the VA Form 10-182.
  - You have **3 choices** in the board lane: Direct Review, Evidence Submission and Hearing
    - **Direct Review**—
    - **Evidence Submission**—
    - **Hearing-**



# Appeals Options Cont.'

---

- **Option 3: Board Lane- Board of Veteran Appeals (BVA)**
  - **Direct Review**—
    - **do not** want to submit additional evidence or have a hearing.
    - Average response time is 356 days.
  - **Evidence Submission**—
    - Submit additional evidence **without** a hearing,
    - **90 days** from the NOD to submit additional evidence
  - **Hearing-**
    - Submit additional evidence and have an in-person hearing before a VLJ.
    - Scheduled hearing
    - May submit evidence **within 90 days** after the hearing —will take longer than a year





# Court of Appeals for Veteran Claims (CAVC)

---



- **Process starts**
  - Written notice of appeal (NOA) that includes: name, address, phone number, email address,
  - VA claims file number, date of board decision being appealed using CAVC form 1
  - Must be filed and received by court within 120 days from date of BVA decision \$50Appeal fee
  - Pleadings must be sent in separate pdf files
  - <http://www.uscourts.cavc.gov/appeal.php>
  - Traditional court of law proceedings—adversarial in nature.
  - Appeal will be docketed and the clerk will send a notice of docketing to all parties.



# Proposed Reductions



# Proposed Reductions

---

- A **proposed reduction** is a process used to screen the current severity of a veterans condition and apply the appropriate compensation.
  - These conditions are considered unprotected
    - Disability rating less than 5 years).
  - Every time a veteran applies for compensation (initial or increase) they are screened for a proposed reduction.
  - Proposed reductions are also triggered by conditions that are deemed not permanent such as prostate cancer—those conditions are tagged with a future exam.
  - Most proposed reductions are triggered by the
    - veteran themselves continually applying for compensation.



# Proposed Reductions Cont.’



- **Protected Ratings** (3 types)
  - **Stabilized ratings**—meaning they have been at the same level for 5 years. These cannot be reduced unless there is sustained improvement in your condition.
  - **100% disability ratings**—these can be reduced only after a re-examination has found there is a material improvement in ability to function in life and work.
  - **20 year continuous ratings**—you cannot reduce your benefits if your rating has been in effect for 20 years except in clear cases of fraud.
  - If you receive a proposed reduction, request a personal hearing on VA Form 21-4138 within **30 days** of receipt of the letter otherwise the VA will reduce your benefits within **60 days** of notification.



# Questions?

---





# Check on Learning

---

- What are the three appeals options under the Appeals Modernization Act (AMA) ?
- How long does a veteran have to appeal a denial on a rating decision under AMA?
- Can you submit additional evidence under AMA Higher Level Review?
- Can you appeal a board decision higher?



# Check on Learning Answers



- What are the three appeals options under the Appeals Modernization Act ?
  - **Higher level review,**
  - **Supplemental claim and**
  - **Board lane.**
- How long does a veteran have to appeal a denial on a rating decision under AMA?
  - **1 year**
- Can you submit additional evidence under AMA Higher Level Review?
  - **No**
- Can you appeal a board decision higher?
  - **Yes, to the Court of Appeals for Veteran Claims (CAVC)**