



DEPARTMENT OF VETERANS AFFAIRS

SEP 08 2014

AARON M. HASSAY  
518 LAIDLEY ST  
UNIT B  
SAN FRANCISCO, CA 94131

In Reply Refer To: 345/CORE 1/AC

HASSAY, Aaron Michael

Dear Mr. Hassay:

We made a decision on your claim for service connected compensation received on September 9, 2013.

This letter tells you what we decided. It includes a copy of our rating decision that gives the evidence used and reasons for our decision. We have also included information about what to do if you disagree with our decision, and who to contact if you have questions or need assistance.

**What We Decided**

We determined that the following conditions were not related to your military service, so service connection couldn't be granted:

Medical Description
Low back condition; also claimed as a spine condition
Mental health condition; also claimed as depression and anxiety
Post-traumatic stress disorder (PTSD)

Entitlement to Individual Unemployability is denied.

We have enclosed a copy of your Rating Decision for your review. It provides a detailed explanation of our decision, the evidence considered, and the reasons for our decision. Your Rating Decision and this letter constitute our decision based on your claim received on September 9, 2013. It represents all claims we understood to be specifically made, implied, or inferred in that claim.



[REDACTED]  
Hassay, Aaron Michael

### **What You Should Do If You Disagree With Our Decision**

If you do not agree with our decision, please download and complete VA Form 21-0958, "Notice of Disagreement". You can download the form at <http://www.va.gov/vaforms> or you can call us at 1-800-827-1000. You have *one year from the date of this letter to appeal the decision*. The enclosed VA Form 4107, "Your Rights to Appeal Our Decision," explains your right to appeal.

### **What Is eBenefits?**

eBenefits provides electronic resources in a self-service environment to Servicemembers, Veterans, and their families. Use of these resources often helps us serve you faster! Through the eBenefits website you can:

- Submit claims for benefits and/or upload documents directly to the VA
- Request to add or change your dependents
- Update your contract and direct deposit information and view payment history
- Request a Veterans Service Officer to represent you
- Track the status of your claim or appeal
- Obtain verification of your military service, civil service preference, or VA benefits
- And much more!

Enrolling in eBenefits is easy. Just visit [www.eBenefits.va.gov](http://www.eBenefits.va.gov) for more information. If you submit a claim in the future, consider filing through eBenefits. Filing electronically, especially if you participate in our fully developed claim program, may result in faster decision than if you submit your claim through the mail.

[REDACTED]  
Hassay, Aaron Michael

### If You Have Questions or Need Assistance

If you have any questions or need assistance with this claim, you may contact us by telephone, e-mail, or letter.

If you	Here is what to do.
Telephone	Call us at 1-800-827-1000. If you use a Telecommunications Device for the Deaf (TDD), the Federal number is 711.
Use the Internet	Send electronic inquiries through the Internet at <a href="https://iris.va.gov">https://iris.va.gov</a> .
Write	VA now uses a centralized mail system. For all written communications, put your full name and VA file number on the letter. Please mail or fax all written correspondence to the appropriate address listed on the attached <i>Where to Send Your Written Correspondence</i> .

In all cases, be sure to refer to your VA file number 569 63 9321.

If you are looking for general information about benefits and eligibility, you should visit our website at <https://www.va.gov>, or search the Frequently Asked Questions (FAQs) at <https://iris.va.gov>.

We sent a copy of this letter to your representative, American Legion, whom you can also contact if you have questions or need assistance.

Sincerely yours,

Regional Office Director  
VA Regional Office

Enclosures: Rating Decision  
VA Form 4107  
Where To Send Your Written Correspondence

cc: American Legion



**DEPARTMENT OF VETERANS AFFAIRS  
Phoenix Regional Office  
3333 North Central Avenue  
Phoenix, Arizona 85012**

**AARON M. HASSAY**

**VA File Number**



**Represented By:  
AMERICAN LEGION**

**Rating Decision  
September 04, 2014**

**INTRODUCTION**

The records reflect that you are a veteran of the Gulf War Era. You served in the Navy Reserves from May 26, 1994 to May 25, 2002. You filed an original disability claim that was received on September 9, 2013. Based on a review of the evidence listed below, we have made the following decisions on your claim.

**DECISION**

1. Service connection for mental health condition; also claimed as depression and anxiety is denied.
2. Service connection for posttraumatic stress disorder is denied.
3. Service connection for low back condition; also claimed as a spine condition is denied.
4. Entitlement to individual unemployability is denied.

EVIDENCE

- United States Navy Reserve service treatment records dated May 1994 through August 2001.
- VA Form 21-22 Appointment of Veterans Service Organization as Claimants Representative; appointing the Disabling American Veterans as your representative, received July 18, 2013.
- Letter/correspondence from the Disabled American Veterans dated July 17, 2013, received July 18, 2013.
- VA Form 21-4138, Statement in Support of Claim; informal claim, received July 18, 2013.
- Standard Form 180 Request Pertaining to Military Records, received July 18, 2013.
- VA Form 21-22 Appointment of Veterans Service Organization as Claimants Representative; appointing the American Legion as your representative, dated September 05, 2013, received September 09, 2013.
- Letter/correspondence with enclosures from the American Legion, dated September 05, 2013, received September 09, 2013.
- VA Form 21-0781a, Statement in Support of Claim for Service Connection for Post-Traumatic Stress Disorder (PTSD) Secondary to Personal Trauma; received September 09, 2013.
- Letter and medical statement from Ms. Constance Louie, Ph.D., Clinical Psychologist, San Francisco Vet Center, dated September 04, 2013, received September 09, 2013.
- United States Navy Reserve military personnel records received September 09, 2013.
- Copies of United States Navy service treatment records (Report of Medical Examination 5 pages) dated June 10, 2000, received September 09, 2013.
- VA Form 21-526EZ Application for Disability Compensation and Related Compensation Benefits, received September 09, 2013.
- Duplicate VA Form 21-22 Appointment of Veterans Service Organization as Claimants Representative; appointing the American Legion as your representative, dated September 05, 2013, received September 09, 2013.
- Standard Form 88 Report of Medical Examination (entrance examination) dated May 26, 1994, received September 09, 2013.
- Duplicate letter/correspondence with enclosures from the American Legion, dated September 05, 2013, received September 09, 2013.
- Duplicate United States Navy Reserve military personnel records received September 09, 2013.
- VA Form 21-0820 Report of General Information, report of telephonic contact; indicating the veteran was on Social Security and unable to work and was homeless, dated December 12, 2013, received December 13, 2013.
- VA Form 21-4138, Statement in Support of Claim; indicating possible name change; and California driver's license received December 24, 2013.
- E-mail correspondence indicating Army transfer disqualification due to psychiatric and spinal conditions received December 24, 2014.

- Amended copy of VA Form 21-0781a, Statement in Support of Claim for Service Connection for Post- Traumatic Stress Disorder (PTSD) Secondary to Personal Trauma dated September 05, 2013, received December 24, 2014.
- Private treatment records from Alameda County Medical Center, dated September 28, 2005, received December 24, 2013.
- United States Navy USS Sides (FFG-14) muster roles dated February 14, 2014 with personal note from veteran, received March 03, 2014.
- United States Navy Certificate of Appointment (grade advancement) undated received March 03, 2014.
- VA Form 21-4138, Statement in Support of Claim, received March 03, 2014.
- Our letter indicating your removal from the Fully Developed Claim Program and requesting additional information and evidence in support of your ongoing claim, dated March 14, 2014.
- Our e-mail request to the Records Management Center requesting copies of your service treatment records dated March 14, 2014.
- Our VA Form 21-3101 request to Defense Personnel Records Imaging System (DPRIS) for personnel and service treatment records dated March 14, 2014.
- Our submission to the San Francisco Vet Center requesting all treatment records, hospital summaries, findings and or diagnoses, dated March 14, 2014.
- Letter received from the San Francisco Vet Center dated March 20, 2014 indicating that records for Mr. Aaron Hassay are not available, received March 24, 2014.
- Letter/correspondence from the American Legion dated March 20, 2014, received March 25, 2014.
- VA Form 21-4138, Statement in Support of Claim, received March 25, 2014.
- United States Naval Reserve NAVPERS 1070/613 indicating expiration of Reserve Enlistment (Honorable); discharge date of May 25, 2002, received March 25, 2014.
- Letter and note from veteran with Gmail RE: Medical Issues (UNCLASSIFIED), dated July 23, 2013, received March 31, 2014.
- VA Form 21-8940, Veteran's Application for Increased Compensation Based on Unemployability with attached employment history, received March 31, 2014.
- Letter and statement from veteran with enclosed Abstract of Service and Medical History undated received April 01, 2014.
- Lay/Buddy statement (e-mail) from Mr. Matt Smith dated February 02, 2014, received April 01, 2014.
- Letter/correspondence with enclosed Social Security Administration Work History Report received from veteran April 01, 2014.
- Letter/Correspondence with enclosed duplicate e-mails received from veteran April 01, 2014.
- Social Security Administration Retirement, Survivors and Disability Insurance Notice of Award, dated September 12, 2011 received April 01, 2014.
- Updated VA Form 21-8940, Veteran's Application for Increased Compensation Based on Unemployability, received April 02, 2014.

- Duplicate United States Naval Reserve NAVPERS 1070/613 indicating expiration of Reserve Enlistment (Honorable); discharge date of May 25, 2002, received April 02, 2014.
- VA Form 21-4142, Authorization for Release of Information submitted by veteran for private treatment records from Ms. Constance Louie, Ph.D. dated March 31, 2014, received April 02, 2014.
- Standard Form 180 Request Pertaining to Military Records, dated March 03, 2014, received April 02, 2014.
- United States Navy/Naval Personnel Command (reply to request for records) dated March 21, 2014; indicating that your request for could not be completed as there is no DD Form 214, Certificate of Release or Discharge from Active Duty of record, received April 02, 2014.
- United States Navy Naval Postgraduate School Thesis "A Cost Comparison Between Active and Naval Reserve Force FFG 7 Class Ships by Robert F. Dudolevitch, dated June 1993; received from veteran on April 07, 2014.
- VA Form 10-5345 Request for and Authorization to Release Medical Records or Health Information dated April 08, 2014, received from veteran on April 10, 2014.
- Private treatment records from San Francisco Vet Center (RCS Client Information Record) dated August 01, 2013 through February 24, 2014 received April 10, 2014.
- Letter and statement from veteran 11 pages (undated); in support of his ongoing claim received April 11, 2014.
- Statement from veteran with enclosed Naval Post Graduate School (2 excerpts from master thesis) "Cost Benefit Analysis of the Naval Reserve Force Frigates by Mr. Jeffrey S. Davis dated 1994, received April 14, 2014.
- Letter and statement from veteran 4 pages (undated); in support of his ongoing claim received April 20, 2014.
- Defense Personnel Records Imaging System (DPRIS) response United States Naval Reserve military personnel file, received May 05, 2014.
- A complete review of your electronic VA claims file to include all evidence contained in and received.

### REASONS FOR DECISION

#### 1. Service connection for mental health condition; also claimed as depression and anxiety.

Entitlement of service connection for a mental health condition; also claimed as depression and anxiety is denied.

We have denied service connection because there is no medical evidence of an injury or disease process which was incurred or aggravated in line of duty while on active duty, or active duty for training and any period of inactive duty training.

AARON M. HASSAY

-an acute myocardial infarction, a cardiac arrest, or a cerebrovascular accident that occurred while the person was proceeding directly to, or returning directly from, a period of active duty for training

•dies or becomes disabled from an

injury incurred or aggravated in the line of duty during a period of inactive duty training, or an acute myocardial infarction, a cardiac arrest, or a cerebrovascular accident that occurred during such training or while the person was proceeding directly to, or returning directly from, a period of inactive duty training, or performs full-time duty in the Armed Forces other than active duty for training.

The evidence of record does not support that you meet the criteria for establishing Veteran status for compensation and pension purposes.

A review of the evidence of record has shown that our letter dated March 14, 2014 requested you provide evidence which would support your contention that your condition was the result of complaints in service or due to your active military service. As of the date of this Rating Decision, you have yet to submit any documentation which would provide credible supporting evidence of service connection.

In summary we must deny entitlement to service connection for a mental health condition; also claimed as depression and anxiety as you failed to provide the Veterans Administration with the information we requested in support of your claim for service connection. Therefore, service connection is denied.

This decision will be reconsidered if any information or medical evidence by competent administrative or medical personnel is received which reveals that service connection is warranted.

## **2. Service connection for posttraumatic stress disorder.**

Entitlement of service connection for post-traumatic stress disorder (PTSD) is denied.

We have denied service connection because there is no medical evidence of an injury or disease process which was incurred or aggravated in line of duty while on active duty, or active duty for training and any period of inactive duty training.

Service connection may be granted if the evidence of record shows a current disability, evidence of incurrence or aggravation of a disease or injury in service and evidence of a nexus, or link

Service connection may be granted if the evidence of record shows a current disability, evidence of incurrence or aggravation of a disease or injury in service and evidence of a nexus, or link between the in service injury or disease and the current disability; service connection will also be granted for specific diseases or conditions which are proximately due to or the result of a service connected disease or injury. When service connection is thus established for a secondary condition, the secondary condition shall be considered a part of the original condition; and service connection may be granted for specific diseases or conditions which are presumed to have been caused by service if manifested to a compensable degree within one year following military discharge.

For the showing of chronic disease in service there is required a combination of manifestations sufficient to identify the disease entity, and sufficient observation to establish chronicity at the time, as distinguished from merely isolated findings or a diagnosis including the word "Chronic." When the disease identity is established (leprosy, tuberculosis, multiple sclerosis, etc.), there is no requirement of evidentiary showing of continuity. Continuity of symptomatology is required only where the condition noted during service (or in the presumptive period) is not, in fact, shown to be chronic or where the diagnosis of chronicity may be legitimately questioned. When the fact of chronicity in service is not adequately supported, then a showing of continuity after discharge is required to support the claim.

A review of United States Navy Reserve service treatment records indicated complaints, treatment and a provisional diagnosis of bipolar disorder vs major depressive disorder on August 13, 1999. There was no further evidence of additional treatment.

A review of private treatment records (listed as evidence) indicated complaints, treatment and a diagnosis of major depressive disorder, recurrent with severe psychotic feature; however, they were silent for any information or evidence which would indicate that this condition was due to or the result of your military service.

A review of United States Naval Reserve personnel records indicated no active military service.

VA regulations indicate that a Reservist may meet the criteria for establishing Veteran status for compensation and pension purposes if he/she

- dies or becomes disabled from

- a disease or injury incurred or aggravated in the line of duty during a period of active duty for training (ACDUTRA or ADT), or



between the in service injury or disease and the current disability; service connection will also be granted for specific diseases or conditions which are proximately due to or the result of a service connected disease or injury. When service connection is thus established for a secondary condition, the secondary condition shall be considered a part of the original condition; and service connection may be granted for specific diseases or conditions which are presumed to have been caused by service if manifested to a compensable degree within one year following military discharge.

For the showing of chronic disease in service there is required a combination of manifestations sufficient to identify the disease entity, and sufficient observation to establish chronicity at the time, as distinguished from merely isolated findings or a diagnosis including the word "Chronic." When the disease identity is established (leprosy, tuberculosis, multiple sclerosis, etc.), there is no requirement of evidentiary showing of continuity. Continuity of symptomatology is required only where the condition noted during service (or in the presumptive period) is not, in fact, shown to be chronic or where the diagnosis of chronicity may be legitimately questioned. When the fact of chronicity in service is not adequately supported, then a showing of continuity after discharge is required to support the claim.

Service connection for posttraumatic stress disorder requires medical evidence diagnosing the condition in accordance with §4.125(a) of this chapter; a link, established by medical evidence, between current symptoms and an in-service stressor; and credible supporting evidence that the claimed in-service stressor occurred. The following provisions apply to claims for service connection of posttraumatic stress disorder diagnosed during service or based on specified in-service stressors:

- (1) If the evidence establishes a diagnosis of posttraumatic stress disorder during service and the claimed stressor is related to that service, in the absence of clear and convincing evidence to the contrary, and provided that the claimed stressor is consistent with the circumstances, conditions, or hardships of the veteran's service, the veteran's lay testimony alone may establish the occurrence of the claimed in-service stressor.
- (2) If the evidence establishes that the veteran engaged in combat with the enemy and the claimed stressor is related to that combat, in the absence of clear and convincing evidence to the contrary, and provided that the claimed stressor is consistent with the circumstances, conditions, or hardships of the veteran's service, the veteran's lay testimony alone may establish the occurrence of the claimed in-service stressor.
- (3) If the evidence establishes that the veteran was a prisoner-of-war and the claimed stressor is related to that prisoner-of-war experience, in the absence of clear and convincing evidence to the contrary, and provided that the claimed stressor is consistent with the circumstances,

conditions, or hardships of the veteran's service, the veteran's lay testimony alone may establish the occurrence of the claimed in-service stressor.

(4) If a posttraumatic stress disorder claim is based on in-service personal assault, evidence from sources other than the veteran's service records may corroborate the veteran's account of the stressor incident. Examples of such evidence include, but are not limited to: records from law enforcement authorities, rape crisis centers, mental health counseling centers, hospitals, or physicians; pregnancy tests or tests for sexually transmitted diseases; and statements from family members, roommates, fellow service members, or clergy. Evidence of behavior changes following the claimed assault is one type of relevant evidence that may be found in these sources. Examples of behavior changes that may constitute credible evidence of the stressor include, but are not limited to: a request for a transfer to another military duty assignment; deterioration in work performance; substance abuse; episodes of depression, panic attacks, or anxiety without an identifiable cause; or unexplained economic or social behavior changes.\*

VA will not deny a posttraumatic stress disorder claim that is based on in-service personal assault without first advising the claimant that evidence from sources other than the veteran's service records or evidence of behavior changes may constitute credible supporting evidence of the stressor and allowing him or her the opportunity to furnish this type of evidence or advise VA of potential sources of such evidence. VA may submit any evidence that it receives to an appropriate medical or mental health professional for an opinion as to whether it indicates that a personal assault occurred.

A diagnosis of post-traumatic stress disorder must meet all diagnostic criteria as stated in the Diagnostic and Statistical Manual of Mental Disorders published by the American Psychiatric Association. The evidence does not show a confirmed diagnosis of post-traumatic stress disorder which would permit a finding of service connection.

A review of your service treatment records was silent for any complaints, treatment, or a diagnosis of

A review of private treatment records (listed as evidence) indicated complaints, treatment and a diagnosis of post-traumatic stress disorder (PTSD); however, they were silent for any information or evidence which would indicate that this condition was due to or the result of your military service.

\* A review of United States Naval Reserve personnel records indicated no active military service. \*  
There was no was also no evidence which indicated that you were assaulted or were there any investigation findings which indicated your claimed stressor.

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VA regulations indicate that a Reservist may meet the criteria for establishing Veteran status for compensation and pension purposes if he/she

- dies or becomes disabled from

- a disease or injury incurred or aggravated in the line of duty during a period of active duty for training (ACDUTRA or ADT), or

- an acute myocardial infarction, a cardiac arrest, or a cerebrovascular accident that occurred while the person was proceeding directly to, or returning directly from, a period of active duty for training

- dies or becomes disabled from an

- injury incurred or aggravated in the line of duty during a period of inactive duty training, or an acute myocardial infarction, a cardiac arrest, or a cerebrovascular accident that occurred during such training or while the person was proceeding directly to, or returning directly from, a period of inactive duty training, or performs full-time duty in the Armed Forces other than active duty for training.

The evidence of record does not support that you meet the criteria for establishing Veteran status for compensation and pension purposes.

A review of the evidence of record has shown that our letter dated March 14, 2014 requested you provide evidence which would support your contention that your condition was the result of complaints in service or due to your active military service. As of the date of this Rating Decision, you have yet to submit any documentation which would provide credible supporting evidence of service connection.

Service connection for post-traumatic stress disorder (PTSD) requires medical evidence diagnosing the condition; credible supporting evidence that the claimed in-service stressor occurred; and a link, established by medical evidence between your current symptoms and the in-service stressor.

In summary we must deny service connection for post-traumatic stress disorder (PTSD) as you failed to provide the Veterans Administration with the information we requested in support of your claim for service connection. We have no evidence of a military stressor and no evidence of a link between your symptoms of post-traumatic stress disorder (PTSD) and some event or series of events that occurred during your military service. Therefore, service connection is denied on a direct basis as this condition neither occurred in nor was caused by military service.

This decision will be reconsidered if any information or medical evidence by competent administrative or medical personnel is received which reveals that service connection is warranted.

**3. Service connection for low back condition; also claimed as a spine condition.**

Entitlement of service connection for a low back condition; also claimed as a spine condition is denied.

We have denied service connection because there is no medical evidence of an injury or disease process which was incurred or aggravated in line of duty while on active duty, or active duty for training and any period of inactive duty training.

Service connection may be granted if the evidence of record shows a current disability, evidence of incurrence or aggravation of a disease or injury in service and evidence of a nexus, or link between the in service injury or disease and the current disability; service connection will also be granted for specific diseases or conditions which are proximately due to or the result of a service connected disease or injury. When service connection is thus established for a secondary condition, the secondary condition shall be considered a part of the original condition; and service connection may be granted for specific diseases or conditions which are presumed to have been caused by service if manifested to a compensable degree within one year following military discharge.

For the showing of chronic disease in service there is required a combination of manifestations sufficient to identify the disease entity, and sufficient observation to establish chronicity at the time, as distinguished from merely isolated findings or a diagnosis including the word "Chronic." When the disease identity is established (leprosy, tuberculosis, multiple sclerosis, etc.), there is no requirement of evidentiary showing of continuity. Continuity of symptomatology is required only where the condition noted during service (or in the presumptive period) is not, in fact, shown to be chronic or where the diagnosis of chronicity may be legitimately questioned. When the fact of chronicity in service is not adequately supported, then a showing of continuity after discharge is required to support the claim.

A review of United States Navy Reserve service treatment records was silent for any complaints, treatment, or a diagnosis of a low back/spinal condition.

A review of private treatment records (listed as evidence) was also silent for any complaints, treatment or a diagnosis for a low back/spinal condition.

A review of United States Naval Reserve personnel records indicated no active military service.

VA regulations indicate that a Reservist may meet the criteria for establishing Veteran status for compensation and pension purposes if he/she

- dies or becomes disabled from

- a disease or injury incurred or aggravated in the line of duty during a period of active duty for training (ACDUTRA or ADT), or

- an acute myocardial infarction, a cardiac arrest, or a cerebrovascular accident that occurred while the person was proceeding directly to, or returning directly from, a period of active duty for training

- dies or becomes disabled from an

injury incurred or aggravated in the line of duty during a period of inactive duty training, or an acute myocardial infarction, a cardiac arrest, or a cerebrovascular accident that occurred during such training or while the person was proceeding directly to, or returning directly from, a period of inactive duty training, or performs full-time duty in the Armed Forces other than active duty for training.

The evidence of record does not support that you meet the criteria for establishing Veteran status for compensation and pension purposes.

A review of the evidence of record has shown that our letter dated March 14, 2014 requested you provide evidence which would support your contention that your condition was the result of complaints in service or due to your active military service. As of the date of this Rating Decision, you have yet to submit any documentation which would provide credible supporting evidence of service connection.

In summary we must deny entitlement to service connection for a low back/spinal condition as you failed to provide the Veterans Administration with the information we requested in support of your claim for service connection. Therefore, service connection is denied.

This decision will be reconsidered if any information or medical evidence by competent administrative or medical personnel is received which reveals that service connection is warranted.

#### **4. Entitlement to individual unemployability.**

Entitlement to individual unemployability is denied.

We have denied entitlement to individual unemployability (I.U.) because you have not been found unable to secure or follow a substantially gainful occupation as a result of service connected disabilities.

Benefits granted under the VA rating schedule are intended to compensate veterans for the average impairment in earning capacity that results from service-connected disease or injury. IU is a special additional benefit to address the truly unique disability picture of a veteran who is unemployable due to service-connected disability, but for whom the application of the rating schedule does not fully reflect the veteran's level of impairment.

The current federal law (38 CFR 4.16) provides that individual unemployability may be granted where there is one disability evaluated as 60 percent disabling, or two or more disabilities, one of which is 40 percent with a combined evaluation of 70 percent or more. These percentage standards are set aside only when the evidence clearly and factually shows a veteran has been rendered unemployable solely due to service connected disabilities regardless of their individual and combined percentages.

These percentage standards are set aside only when the evidence clearly and factually shows a veteran has been rendered unemployable solely due to service connected disabilities regardless of their individual and combined percentages. Such cases are submitted to the Director of the Compensation and Pension Service for extra-schedular consideration.

Your records show you currently have no service connected disabilities. Therefore, entitlement to individual unemployability is denied.

This decision will be reconsidered if any information or medical evidence by competent administrative or medical personnel is received which reveals that entitlement to the benefit is warranted.

#### **REFERENCES:**

Title 38 of the Code of Federal Regulations, Pensions, Bonuses and Veterans' Relief contains the regulations of the Department of Veterans Affairs which govern entitlement to all veteran

benefits. For additional information regarding applicable laws and regulations, please consult your local library, or visit us at our web site, [www.va.gov](http://www.va.gov).

**Can I get someone to help me with my appeal to the Board?** Yes. You can have a veterans' service organization representative, an attorney-at-law, or an "agent" help you with your appeal. But you are not required to have someone represent you. It is your choice.

- Representatives who work for accredited veterans' service organizations know how to prepare and present claims and will represent you. You can find a listing of these organizations on the Internet at: <http://www.va.gov/vso>.
- A private attorney or an "agent" can also represent you. If applicable, your local bar association may be able to refer you to an attorney with experience in veterans' law. VA only recognizes attorneys who are licensed to practice in the United States or in one of its territories or possessions. An agent is a person who is not a lawyer, but who VA recognizes as being knowledgeable about veterans' law. Contact us if you would like to know if there is a VA accredited agent in your area.

**Do I have to pay someone to help me with my appeal to the Board?** It depends on who helps you. The following explains the differences.

- Veterans' service organizations will represent you for free.
- Attorneys or agents can charge you for helping you under some circumstances. Paying their fees for helping you with your appeal to the Board is your responsibility. If you do hire an attorney or agent to represent you, one of you must send a copy of any fee agreement to the following address within 30 days from the date the agreement is executed: Office of the General Counsel (022D), 810 Vermont Avenue, NW, Washington, DC 20420. See 38 C.F.R. 14.636(g). If the fee agreement provides for the direct payment of fees out of past-due benefits, a copy of the agreement must also be filed with us at the address at the top of our letter. See 38 C.F.R. 14.636(h)(4).

### **CAN I GIVE VA ADDITIONAL EVIDENCE?**

Yes. You can send us more evidence to support a claim whether or not you appeal to the Board. **If you want to appeal, though, do not forget the one-year time limit!**

If you have more evidence to support a claim, it is in your best interest to give us that evidence as soon as you can. We will consider your evidence and let you know whether it changes our decision. Please keep in mind that we can only consider new evidence that: (1) we have not already seen and (2) relates to your claim. You may give us this evidence either in writing or at a personal hearing.

**In writing.** To support your claim, you may send documents and written statements to us at the address on the top of our letter. Tell us in a letter how these documents and statements should change our earlier decision.

**At a personal hearing.** You may request a local hearing with us at any time. This hearing is separate from any Board hearing you might ask for later if you appeal. We do not require you to have one. It is your choice. At this hearing, you may speak, bring witnesses to speak on your behalf, and hand us written evidence. If you want a hearing, send us a letter asking for a hearing. Use the address at the top of our letter. We will then:

- arrange a time and place for the hearing
- provide a room for the hearing
- assign someone to hear your evidence
- make a written record of the hearing

### **WHAT HAPPENS AFTER I GIVE VA EVIDENCE?**

We will review the record of the hearing and other new evidence, together with the evidence we already have. We will then decide if we can grant your claim. If we cannot grant your claim and you appeal, we will send the new evidence and the record of any local hearing to the Board.



After careful and compassionate consideration, a decision has been reached on your claim. If we were not able to grant some or all of the VA benefits you asked for, this form will explain what you can do if you disagree with our decision. If you do not agree with our decision, you may:

- appeal to the Board of Veterans' Appeals (the Board) by telling us you disagree with our decision
- give us evidence we do not already have that may lead us to change our decision

This form will tell you how to appeal to the Board and how to send us more evidence. You can do either one or both of these things.

**NOTE:** Please direct all new evidence to the address at the top of our letter. Do not send evidence directly to the Board until you receive written notice from the Board that they received your appeal.

### WHAT IS AN APPEAL TO THE BOARD OF VETERANS' APPEALS?

An appeal is your formal request that the Board review the evidence in your VA file and review the law that applies to your appeal. The Board can either agree with our decision or change it. The Board can also send your file back to us for more processing before the Board makes its decision.

### HOW CAN I APPEAL THE DECISION?

**How do I start my appeal?** To begin your appeal, write us a letter telling us you disagree with our decision. This letter is called your "Notice of Disagreement." If we denied more than one claim for a benefit (for example, if you claimed compensation for three disabilities and we denied two of them), please tell us in your letter which claims you are appealing. *Send your Notice of Disagreement to the address at the top of our letter.*

**What happens after VA receives my Notice of Disagreement?** We will either grant your claim or send you a Statement of the Case. A Statement of the Case describes the facts, laws, regulations, and reasons that we used to make our decision. We will also send you a VA Form 9, "Appeal to Board of Veterans' Appeals," with the Statement of the Case. You must complete this VA Form 9 and return it to us if you want to continue your appeal.

**How long do I have to start my appeal?** You have one year to appeal our decision. *Your* letter saying that you disagree with our decision must be postmarked (or received by us) within one year from the date of *our* letter denying you the benefit. In most cases, you cannot appeal a decision after this one-year period has ended.

**What happens if I do not start my appeal on time?** If you do not start your appeal on time, our decision will become final. Once our decision is final, you cannot get the VA benefit we denied unless you either:

- show that we were clearly wrong to deny the benefit *or*
- send us new evidence that relates to the reason we denied your claim

**Can I get a hearing with the Board?** Yes. If you decide to appeal, the Board will give you a hearing if you want one. The VA Form 9 we will send you with the Statement of the Case has complete information about the kinds of hearings the Board offers and convenient check boxes for requesting a Board hearing. The Board does not require you to have a hearing. It is your choice.

### Where can I find out more about appealing to the Board?

- You can find a "plain language" booklet called "How Do I Appeal," on the Internet at: [http://www.bva.va.gov/How\\_Do\\_I\\_Appeal.asp](http://www.bva.va.gov/How_Do_I_Appeal.asp). The booklet also may be requested by writing to: Mail Processing Section (014), Board of Veterans' Appeals, 810 Vermont Avenue, NW, Washington, DC 20420.
- You can find the formal rules for appealing to the Board in the Board's Rules of Practice at title 38, Code of Federal Regulations, Part 20. You can find the complete Code of Federal Regulations on the Internet at: <http://www.gpoaccess.gov/cfr/index.html>. A printed copy of the Code of Federal Regulations may be available at your local law library.



After careful and compassionate consideration, a decision has been reached on your claim. If we were not able to grant some or all of the VA benefits you asked for, this form will explain what you can do if you disagree with our decision. If you do not agree with our decision, you may:

- appeal to the Board of Veterans' Appeals (the Board) by telling us you disagree with our decision
- give us evidence we do not already have that may lead us to change our decision

This form will tell you how to appeal to the Board and how to send us more evidence. You can do either one or both of these things.

**NOTE:** Please direct all new evidence to the address at the top of our letter. Do not send evidence directly to the Board until you receive written notice from the Board that they received your appeal.

### WHAT IS AN APPEAL TO THE BOARD OF VETERANS' APPEALS?

An appeal is your formal request that the Board review the evidence in your VA file and review the law that applies to your appeal. The Board can either agree with our decision or change it. The Board can also send your file back to us for more processing before the Board makes its decision.

### HOW CAN I APPEAL THE DECISION?

**How do I start my appeal?** To begin your appeal, write us a letter telling us you disagree with our decision. This letter is called your "Notice of Disagreement." If we denied more than one claim for a benefit (for example, if you claimed compensation for three disabilities and we denied two of them), please tell us in your letter which claims you are appealing. *Send your Notice of Disagreement to the address at the top of our letter.*

**What happens after VA receives my Notice of Disagreement?** We will either grant your claim or send you a Statement of the Case. A Statement of the Case describes the facts, laws, regulations, and reasons that we used to make our decision. We will also send you a VA Form 9, "Appeal to Board of Veterans' Appeals," with the Statement of the Case. You must complete this VA Form 9 and return it to us if you want to continue your appeal.

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