

# BENEFITS FOR ILLINOIS VETERANS



What every Illinois veteran, dependent, or survivor of a veteran should know about the federal and state benefits to which they are entitled by law.



ILLINOIS ATTORNEY GENERAL  
**LISA MADIGAN**

## **Warning**

The contents of this book are not provided for purposes of giving legal advice to the reader. The contents are for informational purposes only, and the Office of the Illinois Attorney General does not assume responsibility for the accuracy or veracity of the reports or studies summarized herein, nor does this publication represent a legal opinion of the Office. The purpose of this publication is to provoke thoughtful analysis by veterans who are involved in pursuing benefits before the U.S. Department of Veterans Affairs, the Illinois Department of Veterans' Affairs, or any other federal or state agency that administers any type of veteran benefit or right. Cautionary messages, questions, legal cases, or pitfalls presented in this book are not the only legal issues to be considered. Reading this book is a good beginning, but veteran service officers of the various veteran organizations are the best source of assistance in making an informed decision about obtaining veteran benefits and in learning about changes in veteran law. The final authority on veteran rights is the agency administering the benefits sought and, in the case of benefits administered by the U.S. Department of Veterans Affairs, the Court of Veteran Appeals.

For a copy of the *Benefits for Illinois Veterans* handbook, please contact:

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**OFFICE OF THE ATTORNEY GENERAL  
STATE OF ILLINOIS**

**Lisa Madigan  
Attorney General**

Dear Veteran:

Your dedication to serving our nation in the Armed Forces has earned you a number of rights and benefits. This edition of the *Benefits for Illinois Veterans* handbook has been updated to include the rights and benefits available to the veterans of the War on Terrorism.

The purpose of this handbook is to help you secure the rights and benefits to which you are entitled. This book will give you a better understanding of:

- Guidelines for determining eligibility for benefits.
- Benefits that are available for service-disabled veterans and their families.
- How to apply for benefits and, if necessary, how to appeal a denial of benefits.
- How to get help if you run into problems.

The rights and benefits available to you and your dependents or survivors were won by you and past generations of veterans. As Attorney General, I am committed to working with the veterans of this state to guarantee that your rights and benefits are maintained.

**Sincerely,**



**Lisa Madigan  
Attorney General**

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## INTRODUCTION

This edition of the *Benefits for Illinois Veterans* handbook has been revised and re-formatted. The handbook is now available both online and in print. The online version contains hyperlinks to Internet sites and to topics within the book. Those reading the printed version will note that there are words and phrases that are underlined. These underlined words and phrases will appear in blue when viewing the online version. The blue underline means that the word or phrase is hyperlinked. We have done this because more and more veterans are viewing our online version. Hyperlinking to Internet sites and within the book makes it much easier for the reader to research the various topics discussed. For those reading the print copy, Web sites are listed in the footnotes.

The reader will also note that the word veteran is used throughout the book. This should be taken by the reader to mean veterans, veterans' dependents, and other interested parties such as advocates. Because this book is addressed mostly to veterans and the benefits discussed in the book were earned by veterans through their service to our nation, we thought it appropriate to use the word veteran in those places where the information being discussed would be applicable to veterans, dependents, survivors, and advocates.

Those who have had previous versions of *Benefits for Illinois Veterans* will find that this book lacks several chapters found in previous editions. We wanted to print the book in a larger type for ease of reading. We also wanted to have a more in-depth examination of the benefits discussed. Should you have suggestions or comments on the new format, please do not hesitate to contact our office. Please send any comments to:

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# **CHAPTER ONE: ELIGIBILITY FOR BENEFITS**

# **ELIGIBILITY FOR BENEFITS**

Generally, there are two parts to determining a veteran's right to a benefit: eligibility and entitlement. Eligibility is established by meeting certain military service criteria. Once the military service criteria is met, the veteran must then meet entitlement criteria. Entitlement criteria depend upon the benefit sought and the current circumstance of the person applying for the benefit.

The purpose of this chapter is to discuss how the U.S. Department of Veterans Affairs (VA) and Illinois Department of Veterans' Affairs (IDVA) establish eligibility for and entitlement to benefits. This process is the cause of much consternation for veterans who do not understand it. Reading this chapter will give veterans a better understanding of how the VA and IDVA decide a claim for benefits.

## **FEDERAL BENEFITS (VA)**

### **Eligibility and Entitlement**

The veteran must be both eligible and entitled to receive benefits. Eligibility means that the applicant meets specific service requirements (e.g., the veteran received an honorable discharge and served a specific length of time within one of the branches of the military). Being entitled to a benefit means meeting certain personal requirements (e.g., the individual or family earned income is below a certain level and a veteran's disability is service-connected at a specific percentage). Both service requirements and personal requirements are established by the Congress and VA regulation as approved by the Congress or IDVA regulation.

### **Determining Eligibility—A Three Step Process**

#### **Requirements Based On Military Service**

##### **Type of Discharge**

Service dates and type of discharge are the easiest criteria to check. All the information the veteran needs is on the DD 214 or discharge papers. The first eligibility requirement for VA benefits is a discharge or release from service under "other than dishonorable conditions." This means the discharge must be one of the following:

- \* Honorable Discharge
- \* General Discharge (under honorable conditions)
- \* Hardship Discharge
- \* Medical Discharge

“Bad paper” discharges (i.e., Dishonorable, Bad Conduct, Undesirable, and “other than honorable” discharges) are usually a bar to all veterans benefits. Many veterans who have accepted a less than honorable discharge were either told or led to believe that it would be automatically upgraded after six months. This was especially true during the Vietnam era. However, this is a myth and is untrue. The only way to get a discharge upgraded is to apply for an upgrade.

### **Type of Service**

Eligibility for most benefits requires “active duty.” Membership in a Reserve Component or the National Guard, even when such service includes extended periods of “Active Duty for Training,” does not meet the requirement for active duty. However, those who serve on active duty with the National Guard or Reserve are considered to be on “active duty.” In recent years the National Guard and the Reserve have been activated several times. These activations are considered active duty service. Nevertheless, the time requirements for certain benefits still apply. For details on circumstances that make members of the National Guard and Reserve components eligible for benefits, see “Exceptions and Limitations” and “Death While on Active Duty” later on in this chapter.

### **Length of Service**

A specified minimum length of service is an eligibility requirement for all benefits. The length of time varies depending upon the veteran’s dates of service and the benefit.

**\*Veterans Who Enlisted On or After September 7, 1980,** must complete a minimum of 24 months of active duty to be eligible for any VA benefit unless released for a service-connected disability found generally at [38 C.F.R. § 3.12\(a\)-Minimum active-duty service requirements](#).<sup>1</sup>

**\*Veterans Who Were In Service Before September 8, 1980,** must complete varying minimum lengths of active duty service to be eligible for different benefits. For example, to be eligible for medical benefits, the minimum length of active duty service for any veteran is one day. Eligibility for a G.I. loan requires a minimum length of service. For a Vietnam era veteran, 90 days is required. Eligibility for other benefits may require a minimum of 12 months or more.

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<sup>1</sup> [http://www.access.gpo.gov/nara/cfr/waisidx\\_04/38cfr3\\_04.html](http://www.access.gpo.gov/nara/cfr/waisidx_04/38cfr3_04.html)

## Service-Connected and Non-Service-Connected Disability

### Service-Connected Disability

“Service-connected” is a key term in determining eligibility for disability compensation as well as for medical and other benefits. Service-connected means that the VA has recognized that the veteran’s disability occurred or had its origins while on active duty and was not the result of willful misconduct.

**VRB Tip: If you are currently on active duty, including service with the National Guard and Reserve components, you should report and seek treatment for any wound, injury, or other medical condition that occurs or is aggravated while on active duty. You should also obtain a copy of all examination and treatment records. When you are released from active duty or active duty for training (including weekend drill), you should file a claim for service-connection with the VA.**

Being service-connected is becoming more important every year, especially in the area of medical care. Service-connected veterans have a higher priority in receiving medical treatment. Veterans who are service-connected are also eligible for more benefits than veterans who are not service-connected. Many times length of service requirements are waived for service-connected veterans. Veterans whose service-connected disabilities are rated at 30 percent or more may be eligible for additional allowances for dependents, including spouse. In addition, dependents or survivors of 100 percent service-connected veterans may be eligible for health care, educational, and many other benefits such as military base commissary and exchange privilege.

**VRB Tip: Veterans who experience a medical or psychiatric condition shortly after discharge and believe the condition is the result of military service should contact a VA regional office to file a claim or go to a VA medical center for treatment. If this is not practical, a private physician should be consulted and a copy of all medical records should be kept. The veteran should submit the medical records along with a claim to the VA to apply for service connection of that condition and retain the records for possible future use in proving service connection.**

### Death While on Active Duty

If an individual dies while on active duty or as a result of active duty (including members of the National Guard and Reserve Components who die while attending a scheduled drill or on active duty for training or as a result of such drill or training), his/her surviving spouse and/or dependents become eligible for death benefits such as compensation, educational assistance, health care, commissary, and base exchange privileges.

## **Non-Service-Connected Disability**

Non-service-connected is defined as any condition that is not directly traceable to military service or to a service-connected disability.

## **Special Requirements Based On Present Circumstances**

By “present circumstances,” we mean the circumstances at the time of application for a benefit. In many cases, the VA will expect the veteran or dependent to provide documentary proof that the special requirements are met. Some examples of special requirements are:

### **Current Financial Situation**

Income below a minimum level prescribed by law is an eligibility requirement for non-service-connected health care, non-service-connected disability pension, and other benefits. Conversely, a good credit record and ability to repay are requirements to obtain a VA guaranteed home loan.

### **Current Health Situation**

Eligibility for health care requires that the VA recognize the veteran’s condition as one requiring treatment. Compensation or pension requires a determination as to the degree a disability is disabling (i.e., preventing the veteran from pursuing gainful employment).

### **Current Employment Situation**

The veteran must be unemployed between certain dates to be eligible for unemployment compensation. Members of the National Guard or Reserve Components or members who are returning from active duty have re-employment rights.

### **Current Status of Survivors and Dependents**

Surviving spouses of deceased veterans must not have remarried and dependents must meet age and dependency requirements.

### **Current VA Approval of Education or Training Institutions**

Eligibility for educational assistance requires that the institution in which the veteran enrolls be currently approved by the VA.

## **Exceptions and Limitations**

VA regulations are full of phrases such as “Provided that,” “only when,” “except in cases where,” “so long as,” etc. These phrases often call attention to a factor that provides an exception or limitation to a general rule of eligibility. Some examples of exceptions or limitations are:

### **A “Delimitation” Date**

The period of time after discharge in which a veteran has to take advantage of a benefit, or the permanent cut-off date of the benefit itself.

### **Continuous Service**

A continuous period of active duty service without a break for any reason. Eligibility for a certain benefit may require a continuous period of active duty (e.g., 24 months of continuous service for educational benefits).

### **“Bad Paper” Discharges**

“Bad paper” discharges result in ineligibility for most veterans benefits. Some significant exceptions are as follows:

- \* When the holder of the bad paper discharge has a previous “under conditions other than dishonorable” discharge for a prior period of service;
- \* When eligibility is restored because the veteran has applied for and received an upgraded discharge;
- \* When the VA agrees to review a “bad paper” discharge and finds the veteran eligible for benefits. Such cases are extremely rare and carefully scrutinized by the VA.

### **Special Status of the Service-Connected Disabled Veterans**

Veterans in this category are eligible for virtually all veterans benefits, regardless of limitations on length of service, dates of service, etc. They are also eligible for other veterans benefits that non-service-connected veterans are not. Members of the National Guard or Reserve Components who become service-connected disabled while attending scheduled drills or on active duty for training may be eligible for health care, disability compensation, and death benefits.

## **Maintaining Eligibility**

Many veterans, dependents, and survivors find their benefits stopped because they violate VA rules for maintaining benefits. Examples of how eligibility may be lost are as follows:

### **Education Benefits**

Education benefits may be stopped if the institution in which the veteran is enrolled loses its VA approval or if the veteran's grades or course load fall below the minimum requirements.

### **Pension Benefits**

A veteran receiving a non-service-connected pension who earns or otherwise acquires additional income may lose part or all of his/her pension depending upon the amount of the additional income.

### **Survivors Benefits**

When the surviving spouse remarries, he/she is no longer eligible for survivors benefits.

### **Compensation and Pension Benefits**

Veterans must comply with VA instructions regarding when and where to appear for physical examinations, observation, or treatment.

Please note: If a veteran or dependent becomes ineligible, not only will the benefit stop, but also the VA will demand that the veteran or dependent pay back any money the VA paid out before it noticed the ineligibility. While there is recourse for those caught in this situation, it is better avoided.

## **STATE BENEFITS (IDVA)**

### **Eligibility and Entitlement**

The relationship between "eligible" and "entitled" is the same for state benefits as it is for federal benefits, except submission of proof of eligibility goes to the IDVA rather than the VA.

In general, the eligibility requirements for state benefits take into consideration the same three factors as for federal benefits but add a fourth: residency. Here are a few key highlights of the IDVA's eligibility requirements.

### **Requirements Based on Military Service**

The IDVA uses the same guidelines and definitions of eligibility based on service as the VA. However, Illinois residency is also required to obtain state veterans benefits. For some benefits, the veteran must have been a resident of Illinois at the time of entrance into the service. For others, the requirement is residency both before and after service.

### **Special Requirements Based on Present Circumstances**

There are state benefits for which the present circumstances of the veteran, survivor, or dependent are weighed to determine eligibility. These circumstances usually relate to the need of the applicant. For example:

#### **Admittance to Illinois Veterans Homes**

The IDVA operates [veterans homes](#) at Quincy, LaSalle, Anna, and Manteno. Residents of the Illinois Veterans Homes may be charged a monthly maintenance fee of 90 percent after the first \$100 of their income to a maximum of \$929. Many pay the maximum, many pay a percentage of this amount, and others pay nothing. To determine the veteran's payment arrangement, his/her financial situation is carefully reviewed.

## **COUNTY BENEFITS**

### **Indigent Veteran and Family Assistance**

Indigent Veteran and Family Assistance is administered by the County Veterans Assistance Commission (VAC) or local veteran organizations in counties where a VAC does not exist. Indigent Veteran and Family Assistance includes:

- \* Assistance to ensure that indigent veterans (and their families) who are victims of burn-outs, flood-outs, or unemployment have the basic necessities of life.
- \* A burial allowance and the designation of responsibility for proper funeral arrangements for indigent veterans or members of their immediate family.

## **Exceptions and Limitations**

There are few exceptions and limitations for county benefits as most focus on the veteran's need. All VACs recognize the standards of indigence as set forth by the Illinois Department of Public Aid.

## **SUMMARY**

You must meet certain requirements to be eligible for a veteran's benefit, although the specifics vary depending upon the benefit in general. There are two types of eligibility requirements: requirements based on military service and special requirements based on present circumstances. If a review of both requirements indicates the veteran or dependent is eligible for a certain benefit, then the veteran should check further before filing a claim to make sure there are no limitations that will prevent obtaining the benefit sought. If the requirement review shows that the applicant is not eligible for a certain benefit, before giving up, the veteran should make sure that there are no exceptions that would establish eligibility.

Once submitted, the receiving agency (the VA or the IDVA) will verify eligibility and review the claim. If anything is needed to further establish the eligibility for a benefit, the agency will notify the applicant. If benefits are denied, the agency will inform the advocate and the applicant as to why the benefit was not awarded. If the veteran or the advocate disagrees, the denial may be appealed.

Finally, once a veteran is receiving a benefit, he or she must protect themselves from an unexpected cut-off and/or overpayment by maintaining eligibility. This simply requires knowing the rules that govern eligibility and following them. Always remember, it is the veteran's responsibility to follow up on his or her claim and to keep the VA or IDVA up to date on any changes that might affect eligibility.

## **CHAPTER TWO: HOW TO APPLY FOR BENEFITS**

# HOW TO APPLY FOR BENEFITS

The purpose of this chapter is to explain how to apply for federal and state veterans benefits. This action is called “making a claim.” This chapter will explain the steps a veteran should take to ensure that the claim is processed promptly. Additionally, we will discuss the procedures the VA or IDVA will follow in processing the claim.

## FEDERAL BENEFITS (VA)

### Where to Apply

An application for benefits can be made at one of three types of VA facilities, depending on the benefit desired.

**Medical benefits:** Apply at the nearest VA hospital or outpatient clinic.

**Psychological readjustment, including sexual trauma counseling:** Apply at the nearest Veteran Center or VA medical facility.

**All other benefits administered by the VA:** Apply to a VA Regional Office (VARO).

There are four ways to apply to the VA for benefits:

1. Apply by visiting a VA Regional Office (VARO). For medical or psychiatric care, apply with a VA Medical or Veteran Center.
2. Apply by obtaining and completing the appropriate form and sending it to the appropriate VA Regional Office or Hospital.
3. Apply for benefits online. An applicant can fill out an application online at [http://vabenefits.vba.va.gov/vonapp/about\\_vonapp.asp](http://vabenefits.vba.va.gov/vonapp/about_vonapp.asp). This site walks the applicant through the process step by step.
4. Apply for benefits by writing the VA a letter. This is called an informal claim.

A dependent or survivor may apply for a benefit on behalf of a veteran in one of the methods described above. This is usually done when the applicant is unable to complete the application because they are incapacitated. An applicant can also apply for benefits through an appointed representative, such as a Veteran Service Organization (VSO).

There are two types of third-party assistance:

1. **Administrative:** The third party helps determine the applicant's eligibility, fills out the proper form, checks it for accuracy and completeness, and forwards it to the appropriate VA facility.
2. **Representational Assistance (advocacy):** Representational assistance not only takes care of the administrative details, but also further develops the case and if necessary represents the applicant at hearing and appeal proceedings. There are many [Veteran Service Organizations](#) available to assist veterans in the claims and appeals process.

### **Facts the VA Needs to Process a Claim**

Veterans or dependents should be ready to supply the VA with the following information when making a claim: name and address, telephone number, Social Security number, date and place of birth, and branch of military service. The VA may also ask if the veteran has a "C" number. "C" numbers were the claim numbers issued years ago before the VA started using the Social Security number as the claim number.

On occasion, it may be necessary to provide detailed information on military service. Such information may include: service serial number (these were issued to service members prior to 1969), dates of military service, and the unit served with while in combat or when the claimed injury occurred. The veteran may also be asked to report the dates that certain incidents occurred.

All of the above information, except a VA "C" number, may be found on the veteran's DD 214 or other military separation papers. If separation papers are not available, the VA may request military records using the veteran's name, Social Security number, military serial number, and branch of service. This process will take time and may delay the processing of the claim.

## **Visiting the VA Regional Office**

Should the veteran or dependent visit a VA Regional Office, he/she will be able to talk directly to a VA representative. This is a good way to clarify the requirements for the benefit sought and to be informed as to the evidence needed. Additionally, an application for the benefit may be completed on the spot, which will establish the effective date of the award. It is helpful, although not necessary, to bring a copy of the veteran's DD 214, separation papers, or discharge papers, if the applicant is a World War II or Korean War veteran. The VA will routinely run a check on military records anyway, but if the documents are available to the VA they are more likely to begin processing the claim. Also, the sooner the claim is filed, the earlier the effective date. Remember that the date benefits start is the date the claim was submitted. It is not, as some think, the date the veteran separated from the military. The only time that is true is when a claim is filed within one year from the date of separation. Lastly, because of heightened security at all federal buildings, including the VA, the VA now requires a photo identification card and will require all visitors to walk through a metal detector.

## **The Initial Interview**

If the veteran wishes to deal with the VA without the assistance of a third-party representative, the first contact will usually be with a Veterans Benefits Counselor (VBC) at a VA Regional Office or VA Medical Center. During the interview, the veteran and the VBC will exchange information concerning the benefit sought. The applicant should bring all pertinent information to this interview, such as marriage certificates, divorce decrees, discharge papers, doctors' reports, proof of school attendance, and/or financial information if applying for a pension. Bring anything that may help the VA in proving eligibility for the benefit sought. During the interview, the veteran will be asked to provide facts regarding service and details on the veteran's current situation as it relates to the benefit.

The interviewer will assist the veteran in completing a claim form for the benefit sought. This is known as making a formal claim. The VA will then start processing it. The VA may do the following in development of the claim:

- Request military Service Medical Records (SMR) and the Military Personnel Records known as the 201 file to include the Form 20;
- Ask that the veteran submit to a compensation/pension examination at a VA Medical Center;
- Ask the veteran to sign a release of information so that they can get medical evidence from the veteran's private healthcare providers;

- Ask that the veteran write a “stressor letter” if the claim is for post-traumatic stress disorder;
- Request that the veteran supply any other information needed.

### **Telephoning the VA**

The VA now uses a nationwide telephone number: 1-800-827-1000. If dialed from Illinois, the number will connect the caller to the Chicago Regional Office. After going through a menu-driven system to direct the call appropriately, the caller will then be connected to a Veterans Specialist. The specialist will answer questions relating to the benefits administered by the VA and questions relating to a claim. Any time you have a conversation with a VA official or veteran’s advocate, whether by telephone or in-person visit, it is a good practice to take notes about the conversation. Your notes should include the name of the person you spoke with, the date and time of the meeting/conversation, and a summary of the discussion, especially any “next step” or action promised or agreed to by the VA or veteran’s advocate, even if it is only a claim form to be sent. In the event that the VA later denies the claim and the veteran wishes to appeal, these notes might prove helpful.

### **Writing to the VA**

It is not necessary to address a letter to the VA to a specific person, unless directed to do so. Upon receipt of a letter, the VA mailroom staff will route the letter to the appropriate section for processing. The reply to the letter will depend upon how the letter is written.

When corresponding with the VA about a benefit, always follow the old service adage, K.I.S.S. –“Keep it Simple, Soldier.” If the letter is short and concise, the veteran will probably get a clear answer. If the letter is long and rambling, with the question somewhere in the middle, it is unlikely that the person writing the reply is going to take time to figure it out. Instead, a form letter requesting specific information will be sent, even though that information was in the original letter. If sending a hand-written letter, be sure to write legibly.

Any letter to the VA about a benefit should include:

- The VA file or “C” number and any other identifying information. The claim number should be listed at the top of each page of the letter.
- The name, address, and telephone number of the veteran.
- A clear statement of the issue of concern or the benefit sought.

The first letter to the VA should also include the veteran's Social Security number, branch of service, military serial number, date and place of birth, and dates of service. Once again, the most convenient way to provide this data is by including a certified copy of the DD 214 or discharge certificate.

Be sure to date the letter. The VA considers any letter of inquiry from a veteran about a benefit an "informal claim." This means that if the benefit is later awarded, the effective date of the benefit (and in the case of financial assistance, the date the VA is obligated to begin payment), may be the date the VA received the first letter or "informal claim."

### **Application Made by Dependents**

Dependents of a veteran can make an application for benefits on behalf of the veteran (e.g., if the veteran is incapacitated). Dependents can also make direct application for benefits to which they are entitled.

Dependents should provide the basic facts required by the VA as indicated earlier. Since service record data is often unknown to dependents, make sure this information or a copy of the veteran's DD 214 is included among important family papers. Dependents will also need to furnish documents proving their relationship to the veteran. Examples of such documents include veteran's death certificate, marriage certificate, divorce decrees, birth certificate, or any other document that may prove the veteran's or the dependent's claim.

### **When the Claim Requires "Development"**

The VA is mandated to assist veterans in the development of their "well grounded" claims. Now, with the passage of the "Veterans Claims Assistance Act of 2000" the VA is also mandated by law to reasonably assist a claimant in the claims process. This is commonly known as the VA's "Duty to Assist."<sup>2</sup> More information on this mandate is available later in the book.

Veterans may receive a letter from the VA asking for additional information. The VA calls this "claim development." They may request:

- More facts and details about the veteran;
- Additional documents, which could include marriage license, birth certificates, employment records, school records, medical records, etc.;
- The veteran's appearance for a medical examination or psychiatric evaluation (if the veteran is applying for compensation or pension benefits).

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<sup>2</sup> 38 C.F.R. § 3.159 Department of Veterans Affairs assistance in developing claims.  
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The veteran should provide the VA with all the information they request. If the veteran does not provide the requested information, it will damage his or her chance of receiving the applied-for benefit. If the VA sets up an interview or medical appointment, the veteran should be there and be on time; however, the veteran should also be prepared to wait.

If the requested information is not provided or if the veteran fails to show up for a scheduled appointment, the VA will stop processing the claim. The VA interprets this failure to comply with their request as “abandonment of the claim.” This means that the VA may assume the veteran is no longer interested in obtaining the benefit.

### **When a Claim is Approved**

If the benefit sought is awarded, the VA will send an award letter to the veteran. Attached to the letter will be a Rating Decision explaining what evidence the VA considered in rating the claim and the “Reasons and Basis for the Decision.” The veteran should read this very carefully. It is very important to understand how and why the decision was made, even if the claim was won. The letter will also explain, though not in as great of detail as the Rating Decision, why the benefit was awarded, the percent of disability, and the amount to be received per month. **It will also contain instructions, which the veteran should read carefully.** Many veterans and their families have suffered an overpayment of benefits or lost benefits because they failed to read the instructions that came with the award letter. For example, should the veteran be awarded a non-service-connected pension, the letter will contain instructions that any new income must be reported to the VA.

### **When a Claim is Denied**

If the benefit sought is denied, the veteran will receive a letter from the VA stating that the application for the benefit has been denied. As stated above, it is important to read very carefully the attached Rating Decision. The decision will explain what evidence the VA considered. Make sure all of the evidence submitted was listed under the evidence section. The decision will also have a “Reasons and Basis” section giving the reasons for the decision. In this area, each piece of evidence in the evidence section should be discussed. If it is not, this should be noted in the event an appeal is filed.

If the applicant believes the VA's decision was wrong, a "Notice of Disagreement" (NOD) should be completed. A NOD is the first step in the appeal process. The NOD may be as long or as short as the claimant wishes. It could be as simple as, "I disagree with the Rating Decision; Send me a Statement of the Case." Or, the NOD may include a statement as to why the claimant disagrees with the decision. A statement of this type should address each issue under consideration and the way submitted evidence was considered. A claimant may also wish to address the length of the compensation and pension examination or what was discussed in the examination. In addition, the claimant may submit new evidence with the NOD to help prove the case.

When the VA receives the NOD, they will review the case again. They may, for example, reconsider certain pieces of evidence, consider evidence submitted but not listed in the decision, or request a new examination. Should they continue to deny the claim, they will issue a "Statement of the Case" (SOC). The SOC is a restatement of the Rating Decision and a chronology of the claim.

If the applicant continues to disagree with the VA's decision, then the appeal is continued by completing the VA Form 1-9, Appeal to the Board of Veteran Appeals, which they will receive with the SOC. Submitting this form is called perfecting the appeal. The form offers the applicant another opportunity to state the case. It also offers an opportunity to:

- Have a personal hearing in Washington, D.C., before the Board of Veteran Appeals.
- Have a personal hearing at the VA Regional Office before the Traveling Board of Veteran Appeals.
- Have a hearing using the VA's video conferencing techniques. (This is like a personal hearing except the board member is in Washington and the applicant is at the Regional Office.)
- Have the appeal considered on the evidence of record and the statements made by the veteran and his or her appointed representative.

### **When Notification is Delayed**

When a benefit claim is submitted, the VA is obligated to notify the veteran that the benefit has been awarded or denied, or to request further development of the claim "within a reasonable time," although the length of time actually required may vary depending upon the benefit. If the veteran has had no contact from the VA after four months, an inquiry should be made about the status of the claim. A backlog in case processing is a constant problem. At the time of this writing, some veterans are waiting over six months just to have their claim considered for the first time.

## **What To Do If a Claim Is Delayed**

There are several options open to a veteran or an advocate who wants to inquire about the status of a claim. A letter could be sent asking for the status of the claim. The veteran may also call the VA toll-free at 1-800-827-1000 and ask for a status report. If a Veteran Service Officer (VSO) is handling the claim, then the veteran should contact the VSO. Often, a VSO can get an instant update on the claim and its location.

The veteran may choose to visit the VA counselor who helped file the claim. When making this follow-up contact, be wary of answers such as, “These things take time,” or “It’s just routine.” The claim may be stuck. Try to find out what has happened to the claim, where the claim is now, and when the determination will be made. This is a good time to have a good quality veteran service officer. Most of the time, veteran service officers can explain exactly what is wrong or what needs to be done to get the case moving. Veteran service officers have direct access to adjudication and the rating specialist and can talk face to face with the person processing the claim.

Many veterans and dependents become very frustrated when the claim is not awarded quickly. Sadly, the VA often takes months to get the first decision processed. In the case of contested claims, it may actually take years to get a final decision. It is important to not take this frustration out on the person trying to provide assistance. Claims, for the most part, are processed in the order received and there are thousands of claims. Calling constantly, writing a lot of letters, or constantly asking your representative to inquire about the claim may have a negative effect. Each inquiry causes the claim file to be pulled from its location so that an answer may be given. This may actually delay the processing. Patience is a must when dealing with the VA. Keep inquiries to a minimum.

If, however, the claim has gone on for some time without a decision or contact by the VA, then other steps may be required. This may include appointing a Veteran Service Organization as your representative or making a personal visit to the Regional Office to talk with someone who actually knows about your claim.

## **ILLINOIS DEPARTMENT OF VETERAN AFFAIRS BENEFITS (IDVA)**

The procedure for applying to the Illinois Department of Veterans’ Affairs for benefits is generally the same as when applying to the VA. The most significant difference is that the veteran may use the IDVA to apply for either U.S. or State of Illinois benefits. IDVA field officers are knowledgeable about both state and federal benefits. Their offices are well stocked with appropriate U.S. and State benefit application forms. Since the IDVA has approximately 50 field offices, many claimants prefer to take their federal benefit business to the IDVA rather than to one of the few VA facilities. If a veteran is interested in federal benefits, IDVA service officers are able to counsel the veteran on the specifics and review qualifications.

Recently, the IDVA started representing their own clients before the U.S. Department of Veterans Affairs. The VA has given the IDVA space within the American Legion office and they are now able to work directly with their field offices in representing veterans. This is a great boon to the Illinois veteran community and should make claims processing much smoother for those who work with IDVA service officers locally. The IDVA may now assist veterans not only with filing the initial claim, but also throughout the appeal process. However, the IDVA will still refer cases to VSOs as requested by veterans who visit their office.

Those veterans who have access to a computer with Internet service (note: many libraries have computers that are hooked up to the Internet) may visit the IDVA's Web site and see all state benefits and the location of all IDVA field offices and Veterans Homes. The Web address for the IDVA is <http://www.state.il.us/agency/dva/benefits/>.

**VRB Tip: Do not let the field service officer pre-adjudicate your claim. You always have the right to file and let the VA or IDVA make the decision. Sadly, some service officers will refuse to file a claim if they think you are not eligible. Remember it is your claim and you have the right to a formal consideration by the agency to which you are applying.**

## SUMMARY

Veterans and dependents who go to the VA or to the IDVA for benefits have a right to expect courteous, prompt, efficient service. At the same time, the veteran's cooperation in providing the VA or the IDVA with the information they request is essential to having a claim processed. If any problem is encountered in dealing with the VA or IDVA, and if it cannot be resolved with the VA counselor or IDVA field officer, the Veteran Service Organizations are a great source of help.

## **CHAPTER THREE: SOURCES OF HELP IN OBTAINING BENEFITS**

## SOURCES OF HELP IN OBTAINING BENEFITS

There are two kinds of help that veterans need when they decide to claim a benefit: administrative assistance or representational (advocacy) help.

### Administrative Assistance

The veteran needs administrative help when the problem is one that can best be solved with technical interpretative assistance. A few examples of the kinds of problems that might require administrative assistance are:

- **Help in Filling Out a Form**
- **Help in Resolving Conflicting Information:** A buddy says the veteran is eligible for VA medical treatment, but according to a pamphlet the veteran reads, he or she is not.
- **Help in Getting Back Up “Through the Crack”:** The VA notified the veteran months ago that his or her educational benefits were approved, but the veteran has yet to receive the first check. The veteran has written and called, but has not received a satisfactory response. The veteran needs someone who knows the system to check into it.

### Representational (Advocacy) Help

The veteran needs representational help when the problem is more complex, requiring representation in a matter before the VA or other government agency. This is assistance that is more professional in nature – the type of help that might be provided by an experienced Veterans Service Officer, a trained Veterans Advocate, or a lawyer. Here are some examples of the problems that might require representational assistance:

- **Help in Appealing Denial of a Claim:** The veteran’s claim was turned down. The veteran believes the claim was justified. The veteran needs a representative to work on the appeal with him or her.
- **Help in Getting Service-Connected-Disability Compensation Long After Discharge:** The veteran is sure his or her present condition is traceable to an injury in service but does not know how to build the case.
- **Help in Dealing with Overpayment:** The veteran was notified that an overpayment has occurred and wants to apply to the board on waivers and compromises for relief.
- **Help in Reopening a Claim:** The veteran needs assistance in reopening a claim that was previously denied.

## **Where to Find Help**

There are a number of sources of help available to veterans, dependents, and survivors. Most offer both administrative and representational help, although some tend to concentrate more on one than another.

### **The Department of Veterans Affairs (VA)**

The VA is one of the veteran's two best sources of administrative help. The veteran will find that any specific questions he or she might have will be answered promptly and clearly. The VA Regional Office has a number of veteran benefits counselors ready to answer questions, assist in filling out VA forms, and explain VA procedures.

Although a VA benefits counselor can serve as the veteran's representative in Regional Office hearings and before the Board of Veteran Appeals – and some perform this service exceedingly well – it would probably be wiser to seek representational help elsewhere.

### **The Illinois Department of Veterans' Affairs (IDVA)**

The IDVA now supplies both administrative and representational assistance. Many of the IDVA's service officers are good at representing veterans in VA proceedings and, now that there are IDVA service officers at the VA, they can take a claim from start to finish – even through the appeal process. The IDVA has an added resource in that their field service officers may now assist in the development of evidence and help the veterans in obtaining information from the VA through their Regional Office service officers.

### **The Veteran Service Organizations (VSOs)**

The VSOs provide both administrative and representational help. This means that VSOs may take a claim from start to finish and through the appeal process. Some VSOs even assist veterans before the Court of Appeals for Veteran Claims.

The individuals who provide this service are service officers. There are two types of service officers: the local post or chapter service officers who are part-time volunteers and the full-time, professional service officers who are employees of the VSO.

The local post or chapter service officers are versed in veterans' benefits. They tend, however, to be more active in providing administrative assistance and counseling, with their representational caseload being referred to full-time service officers at the Chicago VA Regional Office. Veteran organizations that have offices at the Regional Office are as follows:

<p><b>American Legion</b>  Veterans Affairs &amp; Rehabilitation Office  Wayne T. Macejak, Director  2122 W. Taylor St., Room 106  Chicago, IL 60612  (312) 980-4266 or 4267  Fax: (312) 706-6675  E-mail: <a href="mailto:wayne.macejak@vba.va.gov">wayne.macejak@vba.va.gov</a></p>	<p><b>Veterans of Foreign Wars</b>  VFW Department Service Officer  2122 W. Taylor St., Room 105  Chicago, IL 60612  (312) 980-4284  Fax: (312) 706-6680  E-mail: <a href="mailto:vfwcdigr@vba.va.gov">vfwcdigr@vba.va.gov</a></p>
<p><b>Disabled American Veterans</b>  Randy Bunting, National Service Officer  VA Regional Office  2122 W. Taylor St., Room 104  Chicago, IL 60612  (312) 980-4242  Fax: (312) 706-6673  Web: <a href="http://www.dav.org">www.dav.org</a></p>	<p><b>Military Order of the Purple Heart</b>  Mark Stroud, National Service Officer  2122 W. Taylor St., Room 108  Chicago, IL 60612  (312) 980-4271, 72, 73  Fax Number: (312) 706-6677  E-mail: <a href="mailto:mark.stroud@vba.va.gov">mark.stroud@vba.va.gov</a></p>
<p><b>Paralyzed Veterans of America</b>  Daniel J. Howell, National Service Officer  VA Regional Office  2122 W. Taylor St., Room 126  Chicago, IL 60605  (312) 980-4287  Fax: (312) 980-4494</p>	<p><b>AMVETS</b>  Richard H. Miller, National Service Officer  VA Regional Office  2122 W. Taylor St., Room 109  Chicago, IL 60612  (312) 980-4252, 56, 58  Fax: (312) 706-6674  E-mail: <a href="mailto:amvrmill@vba.va.gov">amvrmill@vba.va.gov</a></p>
<p><b>Vietnam Veterans of America</b>  Dorothy LeClear, Director  VA Regional Office  2122 W. Taylor St., Room 107  Chicago, IL 60605  (312) 980-4268  Fax: (312) 980-4493  E-mail: <a href="mailto:DorothyLZ122@aol.com">DorothyLZ122@aol.com</a></p>	<p><b>Illinois Department of Veterans' Affairs</b>  Anthony Vaughn, Supervisor  2122 W. Taylor St., Room 127  Chicago, IL 60612  (312) 980-4512  Fax: (312) 980-4508  Web: <a href="http://www.state.il.us/agency/dva">www.state.il.us/agency/dva</a></p>

## **The County Veterans Assistance Commissions (VAC)**

Although provided for under Illinois law, not all counties have a Veterans Assistance Commission. Where they have been established, they usually serve as another good source of administrative help. In addition, depending upon individual qualifications, some VAC superintendents have compiled excellent records as veteran case representatives.

## **Veterans Rights Bureau – Office of the Attorney General**

The Veterans Rights Bureau provides assistance to veterans, dependents, or survivors with regards to understanding available benefits and eligibility requirements to attain desired benefits. The Veterans Rights Bureau will also refer veterans as appropriate for further assistance.

## **Some Other Sources of Help**

### **Elected Officials**

It is the official position of the VA that political intervention has no bearing whatsoever on the adjudication process. However, as has been testified to by numerous veterans, this is clearly not so. In some cases where a senator or congressman took a serious interest in a constituent's complaint, showed familiarity with the governing regulation, and contacted the VA by way of inquiry, it has been observed that the VA took a more detailed look at the disputed benefit. If a congressional staffer calls, he or she will usually get a standard case status report. However, if the representative calls personally, a more serious look is taken.

### **The Media**

Every so often, the media will focus on a veteran who has been denied or lost benefits and who has enough "smarts" to get the media to cover his plight. A typical story may show a veteran in a wheelchair, or homeless and haggard, with the thrust of the copy being that "he doesn't know where to turn next." This is every VA administrator's nightmare come true. It is clearly poor "public relations" for the VA. In many well-documented cases, the VA has been known to respond to adverse publicity by taking immediate action favorable to the veteran. If the veteran can get the media on his or her side, he or she should do it.

## **How to Choose a Representative**

First, shop around. Too many veterans feel like they are “stuck” with the first service officer they meet. This is a mistake. If the prospective representative does not make a good first impression, he or she probably is not too charming before a board either. A veteran needs a representative who can intelligently prepare and persuasively present the case. A good representative is aware of all the rights and benefits available and the tactics needed to obtain those benefits. A good representative is aggressive in pursuing an appeal and like a bull dog, fights until the battle is either won or lost.

In the final analysis, though, it is the veteran’s case. No service organization charges a fee for handling a case or gets part of the back pay for their work. Win or lose, the service officer gets paid the same. In the end, the veteran, and only the veteran, has the most to gain or lose in the claims process. So be your own best advocate.

When choosing a VSO service officer, always try to meet face to face. If that is not possible because of distance, a telephone conference is the next best thing. Ask questions about how the case will proceed. Ask if there is enough evidence of record to win. If not, ask what other evidence may be helpful to the case and get suggestions on how to obtain that evidence. In short, be involved in the case. Just a short word of caution, however: remember that VSO service officers are paid professionals. Most know their business. It is a good idea to follow their instructions. Also, don’t continuously call for a status of the claim and such. Most VSO service officers have very large case loads and there is only so much time to spend with one case.

## **SUMMARY**

Veterans need two types of help when claiming benefits. Of these, obtaining administrative assistance presents no problem. However, obtaining the other type of assistance, representational (advocacy) help, is cause for greater concern. When choosing a representative, the veteran should shop around and learn how well-qualified – by training or experience or both – the people he or she is talking to are. Choose a representative who is not only qualified to serve as an advocate, but one who actually cares about the outcome of the claim. In addition, the veteran should not overlook the “back-up” sources of help, including the veteran’s congressman or senator to whom the VA must pay attention. Finally, media coverage of the veteran’s problem may be a great help.

Remember, it is the veteran’s claim and it is in the veteran’s best interest to become as knowledgeable about it as possible. The veteran should be aware of the time frame for processing a claim. At this writing, for example, there is a six to eight month delay in rating claims and almost a year and a half for appeals to be heard before the Board of Veterans Appeals (BVA). The veteran should also discuss the claim at length with his or her service officer to learn more about the claims process, the evidence needed, and how to develop that evidence.

## **CHAPTER FOUR: HEALTH CARE**

## HEALTH CARE

Over the last several years, the VA has changed the way it provides for the health care needs of the aging veteran population. On October 9, 1996, the Veterans' Health Care Eligibility Reform Act of 1996 (Public Law 104-262) was signed into law. The law replaced the complicated eligibility requirements for both inpatient and outpatient treatment. In general, the requirements for inpatient and outpatient care are now the same. Eligibility requirements for nursing home care remained the same as they were prior to Public Law 104-262.

### Description of Benefit

A complete range of care and services are available at VA Medical Centers, Community Based Outpatient Clinics (CBOC), and Vet Centers. Services include medical care, rehabilitation, mental health services, and patient education. Also included are needed prescription medications. Locations of VA medical treatment centers are available online at <http://www1.va.gov/directory/guide/home.asp>. This site will assist in locating not only VA medical treatment centers but also National Veteran Cemeteries.

Public Law 104-262 established seven [enrollment \(Priority\) groups](#)<sup>3</sup>. Veterans who wish to be treated by the VA must enroll in the VA's health care system. Veterans enrolled in the system will receive both inpatient and outpatient care. They may also receive nursing home care. For veterans who are under 50 percent service-connected, medical care will be furnished for non-service-connected disabilities only to the degree that Congress appropriates funds. Usually this affects only those veterans who exceed the income limits set by Congress (those in Priority Groups 7 and 8). Priority Group 8 was added by Public Law 107-135. The VA has suspended new enrollment of veterans assigned to Priority Groups 8e and 8g (the VA's lowest priority groups consisting of higher income veterans). Those veterans who enrolled in this group for treatment prior to January 17, 2003, will be "grandfathered" in for treatment, will remain enrolled, and will continue to be eligible for the full range of VA health care benefits. The enrollment groups are ([C.F.R. 38 17.36 Enrollment - provision of hospital and outpatient care to veterans](#)):

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<sup>3</sup> <http://www.va.gov/healtheligibility/eligibility/PriorityGroups.asp>

## Priority Groups

### Priority Group 1

- Veterans with service-connected disabilities rated 50% or more disabling.

### Priority Group 2

- Veterans with service-connected disabilities rated 30% or 40% disabling.

### Priority Group 3

- Veterans who are former POWS.
- Veterans awarded the Purple Heart.
- Veterans whose discharge was for a disability that was incurred or aggravated in the line of duty.
- Veterans with service-connected disabilities rated 10% or 20% disabling.
- Veterans awarded special eligibility classification under Title 38, U.S.C., Section 1151, “Benefits for individuals disabled by treatment or vocational rehabilitation.”

### Priority Group 4

- Veterans who are receiving aid and attendance or housebound benefits.
- Veterans who have been determined by the VA to be catastrophically disabled.

### Priority Group 5

- Non-service-connected veterans and non-compensable service-connected veterans rated 0% disabled whose annual income and net worth are below the established VA Means Test thresholds.
- Veterans receiving VA pension benefits.
- Veterans eligible for Medicaid benefits.

### Priority Group 6

- Compensable 0% service-connected veterans.
- World War I veterans.
- Mexican Border War veterans.
- Veterans solely seeking care for disorders associated with:
  - Exposure to herbicides while serving in Vietnam.
  - Exposure to ionizing radiation during atmospheric testing or during the occupation of Hiroshima and Nagasaki.
  - Disorders associated with service in the Gulf War.
  - Any illness associated with service in combat in a war after the Gulf War or during a period of hostility after November 11, 1998.

### **Priority Group 7**

- Veterans who agree to pay specified co-payments with income and/or net worth above the VA Means Test Threshold and income below the Geographic Means Test Threshold.

Sub Priority a: Non-compensable 0% service-connected veterans who were enrolled in the VA Health Care System on a specified date and who have remained enrolled since that date.

Sub Priority c: Non-service-connected veterans who were enrolled in the VA Health Care System on a specified date and who have remained enrolled since that date.

Sub Priority e: Non-compensable 0% service-connected veterans not included in Sub Priority a above.

Sub Priority g: Non-service-connected veterans not included in Sub Priority b above.

### **Priority Group 8**

- Veterans who agree to pay specified co-payment with income and/or net worth above the VA Means Test Threshold and the Geographic Means Test Threshold.

Sub Priority a: Non-compensable 0% service-connected veterans enrolled as of January 16, 2003, who have remained enrolled since that date.

Sub Priority c: Non-service-connected veterans enrolled as of January 16, 2003, who have remained enrolled since that date.

Sub Priority e: Non-compensable 0% service-connected veterans applying for enrollment after January 16, 2003.

Sub Priority g: Non-service-connected veterans applying after January 16, 2003.

## **Reservists and National Guard Members**

Members of the Reserves and National Guard called to duty may be eligible for health care depending upon the length of service. If a member of the National Guard or Reserves is called to active duty, they may qualify for medical care from the VA. The VA provides cost-free health care services and nursing home care for conditions possibly related to military service to veterans with combat service after November 11, 1998, for a two-year period beginning on the date of their separation from active military service. Veterans who qualify under this special eligibility are not subject to co-pays for conditions potentially related to their combat service. However, unless otherwise exempted, combat veterans must either disclose their prior year gross household income or decline to provide their financial information and agree to make applicable co-pays for care or services the VA determines are clearly unrelated to their military service.

Those Reservists and National Guard members seeking to apply for VA health care must complete VA Form 10-10EZ and submit a copy of their DD 214 or certificate of release or Discharge from Active Duty. Also needed, especially if it is not noted on the DD 214, is documentation showing receipt of Hostile Fire or Imminent Danger pay; an Armed Forces Expeditionary Medal, Kosovo Campaign Medal, Global War on Terrorism Expeditionary Medal, or Southwest Asia Campaign Medal; proof of exemption of federal tax status for Hostile Fire or Imminent Danger pay or orders to a theater of combat operations. If a VA Medical Center is close by, veterans may choose to go to the Medical Center to apply or apply online at <https://www.1010ez.med.va.gov/sec/vha/1010ez/>. The veteran may also call 1-877-VETS (8387) to obtain a form through the mail.

## **Co-Payments**

On September 1, 1999, the VA became Medicare compliant. This changed the way the VA does business in two very important ways. The first is that the VA now bills private insurance companies what are called “reasonable charges” – meaning that the bill the insurance company gets will now contain charges similar to those of private hospitals. The bill will be itemized just like a private hospital’s bill. The second is that those veterans who must co-pay are now required to pay a larger deductible. Additionally, the VA will now bill the insurance companies of veterans rated less than 50 percent when they are treated for non-service-connected conditions.

## **Inpatient Care**

The method of co-payment is similar in many ways to Medicare. Co-payments are calculated in 90-day increments during a 365 day period. At this writing, the deductible for hospitalization is \$992 for the first 90 day period plus a \$10 per diem. The inpatient co-payment for each additional 90 days of care during a 365 day period is \$496. At the end of a 365 day period, the co-payment cycle starts all over again. For example, a veteran is hospitalized for 30 days January 1 to January 30. The veteran would owe the VA a co-payment of \$992 plus the \$300 per diem (\$10 per day x 30 days = \$300) for a total co-pay of \$1,292. The next 90 day period the co-pay would be \$496 (one half of the \$992) plus the \$10 per diem for a total co-pay of \$796. *Please note if the veteran is hospitalized within a 90-day period where the deductible has been paid, only the \$10 per diem would be charged.* ([17.108 Co-payments for inpatient hospital care and outpatient medical care.](#))

## **Outpatient Treatment**

The VA charges a \$15 co-payment for each primary care visit and a \$50 co-payment for each specialty care visit. Those who have Medigap and/or other health insurance will have the total amount paid by the insurance company applied to the veteran's co-payment first, with the remaining co-pay balance due the veteran's responsibility.

## **Prescription Medication**

The co-payment for medication is attached to the Medical Consumer Price Index. According to C.F.R. 38 PART 17 \_MEDICAL- Sec. 17.110 Co-payments for medication:

Prescription Drug component of the Medical Consumer Price Index as follows: For each calendar year beginning after December 31, 2002, the Index as of the previous September 30 will be divided by the Index as of September 30, 2001. The ratio so obtained will be multiplied by the original co-payment amount of \$7. The co-payment amount for the new calendar year will be this result, rounded down to the whole dollar amount.

In short, this means that the co-payment for prescription medications changes every year according to the medical consumer price index. At the time of this writing, the VA co-payment for each 30-day or less supply of medication for treatment of non-service-connected conditions is \$8.00. The specific condition of the veteran and the Priority Group the veteran is enrolled in determines whether or not the veteran will have a prescription medicine co-payment.

## **Long-Term Care**

VA charges for long-term care services vary by type of service provided and the individual veteran's ability to pay.

## **How the VA Bills**

Once the total bill for treatment is determined, the VA will first submit the bill to the veteran's health insurance company. This includes billing to a Medicare supplemental plan, sometimes referred to as a Medigap supplemental policy. Should the insurance company not reply to the VA's demand for payment or pay only a part of the bill or deny payment, the VA will bill the veteran for the total cost of care or that portion not paid by insurance. The VA usually allows about 90 days for the insurance company to reply to the billing. If the insurance company refused to pay or only paid a portion of the bill, it is a good idea for the veteran to personally contact the insurance company. There are many occasions where a bill will be denied the first time it is submitted and paid upon second consideration.

The veteran should address all questions on co-pay billing to the Medical Care Cost Recovery (MCCR) office at the local VA Medical Center. It is always better to pay the bill as soon as it is received. The VA is mandated by law to collect payments due and will do so quickly. Should a bill be found invalid or should the veteran become service-connected for a disability for which he/she was billed, the VA will reimburse the veteran for the amount paid.

## **How the VA Determines Income and Net Worth**

For VA health care purposes, the VA counts total family income as income for the veteran. Income includes, but is not limited to, wages, retirement pensions, military retirement, unemployment compensation, U.S. railroad retirement, interest and dividends, worker's compensation, and any other type of income. Such income is counted for the spouse and children living with the veteran. Income is counted for the calendar year prior to the application for treatment.

Net worth includes the market value of stocks, bonds, notes, IRAs, bank deposits, savings accounts, and cash; however, personal property and the veteran's residence are not counted. The VA determines net worth by subtracting total debts from the total net worth. The result is the adjusted net worth. It should be noted that the VA will not check the income and net worth at the time the application is completed. However, they may at their discretion check with Social Security and the IRS to verify what the veteran submitted. If there is a discrepancy, a retroactive billing for the cost of care and medications could be created. If the veteran fails to pay the bill, all treatment could be terminated.

## **Health Insurance Companies**

The VA is mandated by law to bill insurance companies for the cost of care for those veterans who must now co-pay. Effective September 1, 1999, insurance companies will be billed “reasonable charges” for the cost of care at VA facilities. But instead of collected funds going to general revenue, the VA is now allowed to keep all funds collected. It is hoped that these funds will be used to improve the quality of care provided by the VA.

## **Catastrophically Disabled Veterans**

A catastrophically disabled veteran is one who has “a permanent severely disabling injury, disorder, or disease that compromises the ability to carry out the activities of daily living to such a degree that the individual requires personal or mechanical assistance to leave home or bed or requires constant supervision to avoid physical harm to self or others.” Veterans who meet this definition will be placed in Priority Group 4. Evaluation for the catastrophically disabled may be requested by the veteran or his/her representative. The evaluation is a physical/mental examination conducted by the hospital. The examination includes a review of the veteran’s medical records. Upon completion of the process, the veteran will be notified of the hospital’s decision by letter. ([VHA Directive 2004-067](#).)

## **Women Veterans**

### **Toll-Free Mammography Information Line**

A new nationwide toll-free mammography information line now expands the VA’s medical service to women veterans due to the efforts of the Durham VAMC and Telecommunications Support and Radiology services. The Durham VAMC can answer questions about mammography and refer callers for help in arranging for a mammogram at the nearest certified facility or through the women veterans coordinator at the nearest VA medical center. For those VA facilities where no mammography equipment is available, the service will be provided through FDA certified providers. The toll-free number is (888) 492-7844, 8 a.m. to 4:30 p.m. Eastern time. After 4:30 p.m., voice mail will take calls and a counselor will return your call the next business day.

## **Sexual Trauma Counseling**

The Women Veterans Health Program Act of 1992 (P.L. 102-585) allows for Vet Centers and VA medical facilities to provide for outreach and counseling services for women veterans who have experienced sexual trauma while on active duty in the military. The act does not require that the sexual trauma must have been reported at the time it occurred or at anytime during active duty service. Applying for compensation for sexual trauma is addressed in Chapter Six – Compensation and Pension Benefits.

## **Beneficiary Travel**

### **Description of Benefit and Eligibility**

Veterans may be eligible for full or partial reimbursement of travel expenses in connection with receiving VA medical care. Veterans must meet certain criteria to be eligible for beneficiary travel. Travel payments will generally not exceed the public transportation rate and may be made only to the following categories of otherwise qualified veterans:

- Veteran has a service-connected rating of 30% or more;
- Veteran is traveling for treatment of a service-connected condition;
- Veteran receives a VA pension;
- Veteran income does not exceed the maximum annual VA pension rate; or
- Veteran is traveling for a scheduled compensation or pension examination.

A veteran qualifies for Special Mode Transportation (ambulance, wheelchair van, etc.) if:

- Veteran's medical condition requires an ambulance or a specially equipped van;
- Veteran meets one of the eligibility criteria for Beneficiary Travel (except if traveling for a scheduled compensation or pension examination); and
- The travel is pre-authorized (authorization is not required for emergencies if a delay would be hazardous to life or health).

It should be noted that travel is usually given only from the veteran's home to the nearest VA hospital. The VA has also established a deductible that must be met prior to travel being paid. It's a good idea to check with the travel clerk to establish eligibility and the deductible. If there is a need for special transportation (e.g., ambulance, wheelchair van, etc.), be sure to get prior approval from the treating physician or the admitting physician. Travel at VA expense must be authorized in advance. If you don't get prior approval, you could end up paying the cost yourself. Be sure to check your eligibility for special transportation.

## **VA Nursing Home Care**

### **Description of Benefit**

Nursing home care **may** be provided to qualified veterans who do not require hospital treatment but need extended care. The word "**shall**" is used when addressing VA hospital and outpatient treatment because the VA is mandated to provide these benefits. The term "**may**" is used here because VA provides nursing home care only when space is available and/or when certain criteria are met.

When VA physicians regard a medical condition as needing inpatient treatment, a veteran is treated in a VA hospital. But when the condition is seen as being long term, nursing home care may be provided. The VA operates nursing home care units in connection with the VA hospital system. When available facilities are filled, the VA may authorize reimbursement for private nursing home care.

Veterans who need community-based nursing home care for a service-connected disability are eligible for an indefinite contract. This means that the VA pays the private nursing home the complete cost of care. Non-service-connected veterans may get a limited contract for nursing home care for up to six months depending on the availability of funds. The six months may be extended under certain situations. Please refer to [38 C.F.R. Sec. 17.60](#) for details on this and/or speak to a veteran's benefits counselor.

### **Eligibility Requirements**

Admission to a VA Nursing Home Care Unit generally follows the same criteria for admission to a VA hospital. Veterans who require nursing care for a service-connected disability have first priority. Service members in an Armed Forces hospital who require a protracted period of nursing care and who will soon be discharged from the Armed Forces have next priority. Lastly, priority will be given to a veteran who has been discharged from a VA hospital and is receiving VA hospital-based home health services.

The VA may transfer veterans who need nursing home care from VA hospitals, nursing homes, or domiciliary to private nursing homes at VA expense. Veterans may be eligible for cost-free nursing home care depending upon their category for care. Generally, veterans requiring nursing home care for non-service-connected disabilities will be placed upon a contract (this is addressed below). Once the contract is up, the veteran will either have the cost paid for by public aid or go on private pay.

Veterans requiring nursing home care for a service-connected condition or a veteran rated 70% or more have mandatory eligibility. All other veterans are eligible on a resource and space-available basis. The Social Work Department at the nearest VA facility is the best source for determining what assistance is available for these VA services.

### **Priority System**

Veterans in need of care in VA Nursing Home Care may be admitted or transferred according to the following priorities:

- First: Veterans receiving hospital or domiciliary care in VA facilities when transfer is required for service-connected or adjunct disabilities, and persons being furnished care in Armed Forces hospitals who will require a protracted period of nursing home care upon release therefrom, and who will soon be discharged from active military service.
- Second: Veterans not hospitalized or domiciled by the VA who require nursing home care for service-connected or adjunct disabilities.
- Third: Veterans with a service-connected disability who are receiving VA hospital care and require nursing home care for non-service-connected disabilities.
- Fourth: Veterans with a service-connected disability not hospitalized by the VA who require nursing home care for non-service-connected disabilities.
- Fifth: Veterans receiving hospital or domiciliary care in VA facilities whose transfer is required for non-service-connected disabilities.
- Sixth: Veterans not hospitalized or domiciled by VA who require nursing home care for non-service-connected disabilities.

## **Domiciliary Care**

### **Description of Benefit**

Provides care on an ambulatory self-care basis for veterans disabled by age or disease who are not in need of acute hospitalization and who do not need the skilled nursing services provided in nursing homes. Care is provided in a VA domiciliary facility.

### **Eligibility Requirements**

Veterans of the various military services who were discharged for a disability or are in receipt of disability compensation and suffering from a permanent disability, have no adequate means of support, are incapacitated from earning a living, and meet certain other requirements may be eligible for domiciliary care. Veterans who have non-service-connected disabilities that incapacitate them from earning a living, but which are not so severe as to require hospitalization, are also eligible if they are unable to afford private domiciliary care. Residents must be able to feed and dress themselves and perform certain other basic functions without assistance. Prior approval needed for admission.

### **Priority System**

Priority for care in a domiciliary facility is the same as that for nursing home care. Refer to VA Nursing Home Care, Priority System, in this chapter for details.

## **Housebound or Aid and Attendance**

### **Description of Benefit**

Extra money added to the monthly pension check of disabled veterans and increased eligibility for medical care and medicine.

## Eligibility Requirements

### For Housebound

Disability that causes the veteran to be permanently confined to the premises of the home or institution in which he/she resides.

### For Aid and Attendance

The veteran must be incapacitated to the extent that he/she requires the regular aid and attendance of another person for such things as eating, bathing, dressing, adjusting prosthesis, sanitary functions, and protecting himself/herself from hazards of the immediate environment.

**NOTE: Applications for Housebound or Aid and Attendance benefits are made on VA Form 2680, "Veteran's Application for aid and attendance or housebound." Apply at any VA office. This benefit is adjudicated by the Veteran Benefits Administration.**

## Outpatient Dental Treatment

### Description of Benefit

Dental examination and treatment to veterans on an outpatient basis.

### Eligibility Requirements

#### [38 C.F.R. 17.160](#)

- Those having a dental disability rated as service-connected or who are in need of an examination to determine service connection.
- Those who were prisoners of war (POWs) and those whose service-connected disabilities have been rated at 100 % or who are receiving the 100% rate by reason of individual unemployability are eligible for any needed dental care.

- Recently discharged veterans with a service-connected non-compensable dental condition or disability who served on active duty 90 days or more and who apply for VA dental care within 90 days of separation from active duty may receive a one-time treatment for dental conditions if the dental condition is shown to have existed at the time of discharge or release and the veteran's certificate of discharge does not indicate that the veteran received necessary dental care within a 90-day period prior to discharge or release.
- A veteran having a service-connected disability whose dental condition is aggravating the service-connected condition. A good example of this is a veteran suffering from service-connected ulcers whose dental condition doesn't allow him/her to properly chew food. This may be considered to be aggravating the service-connected ulcers and would therefore place the veteran in this category.
- Those whose dental examination is ordered as part of a general physical.
- Those who require dental examination during hospital, nursing home, or domiciliary care.
- Those whose dental conditions are considered to be the direct result of examination, hospitalization, or medical/surgical treatment given by the Department of Veteran Affairs.
- Veterans who are receiving vocation rehabilitation educational benefits (also called Chapter 31 benefits).

## **Treatment Classes**

Eligibility for outpatient dental treatment is divided into six treatment classes. They are as follows: (38 C.F.R. 17.161)

Class 1: Veterans who have a compensated service-connected dental condition. There is no time limit for treatment classes.

- Class 2: Veterans who have a non-compensated service-connected dental condition. There may be time requirements to receive dental treatment under this category, i.e., application for care within 180 days from release from active duty. **The exceptions are those who suffered combat or service trauma or former POWs held less than 90 days. They may have been given treatment as necessary to correct the non-compensated service-connected dental condition. Another exception are those POWs held more than 90 days; they may get dental treatment as needed.**
- Class 3: Veterans who have a dental condition determined to be aggravating a service-connected disability.
- Class 4: Veterans who are rated 100% service-connected. They are entitled to any needed dental care.
- Class 5: Veterans receiving benefits under Vocational Rehabilitation (Chapter 31) benefits.
- Class 6: Veterans who were in the Spanish American War, Boxer Rebellion, or the Philippine insurrection. They may receive treatment for any dental condition.

Dental treatment may also be authorized to certain non-service-connected veterans if dental treatment was begun while the veteran was in the hospital to complete the treatment that was started.

## **Treatment of Post-Traumatic Stress Disorder (PTSD)**

Treatment for PTSD is provided at certain VA medical facilities on both an inpatient and outpatient basis. PTSD is marked by a host of afflictions associated with exposure to catastrophic stress. Nightmares, flashbacks, anxiety, and sudden-startle reactions can occur immediately after exposure to extreme stress or may develop years after the original stress.

**PTSD is a recognized service-connected disability, compensable up to 100%. Those veterans who have reason to think their problems are caused by this affliction should talk to their representatives about filing a claim for disability compensation.**

PTSD, or other identifiable social or psychological problems stemming from military service, may be treated through the Readjustment Counseling Services Program carried out by the Vet Centers and VA Hospitals. These services include individual counseling, group counseling, and family counseling. If the services requested by the veteran are beyond the authorized mission or expertise of the readjustment counseling program, the veteran requesting such services will receive support and assistance in obtaining the needed services, either through referral to an appropriate social agency or to a VA medical center.

### **Readjustment Counseling**

Some VA medical centers also have approved programs of readjustment counseling services available. Veterans seeking readjustment counseling services at a VA medical center should determine the availability of services prior to coming to the medical center. In areas where VA services are not available, the VA may provide readjustment counseling services through a contract or fee arrangement with community physicians, psychologists, or social workers.

Eligibility for these services has been expanded by P.L. 104-262 as well. Cost-free readjustment counseling is available to any veteran who served on active duty in a theater of combat during a period of war or in any area during a period in which hostilities occurred there (P.L. 104-262 Sec. 331). Also, members of the veteran's family may be provided such services if doing so is needed to effectively treat the veteran.

### **Medical Attention for Dioxin (Agent Orange), Nuclear Radiation Exposure, or Desert Storm Syndrome**

#### **Description of Benefit and Eligibility**

The VA has a continuing program for examining veterans who are concerned about the possible health effects of Agent Orange, nuclear radiation exposure, or Desert Storm Syndrome. The findings of these examinations are entered into a registry. Vietnam veterans and those veterans concerned about radiation exposure and Desert Storm Syndrome are encouraged to request an examination at their nearest VA health care facility. A veteran who participates will receive a comprehensive physical examination and be asked to complete a questionnaire about service experience. Following the examination, the veteran will be advised of the results. The examination could help to detect any illness or injury the veteran may have, regardless of origin, and may provide a basis for follow-up treatment.

Public Law 97-72 authorizes the Department of Veterans' Affairs to "provide certain health care services to any veteran of the Vietnam era (August 5, 1964 through May 7, 1975) who, while serving in Vietnam, may have been exposed to dioxin or to a toxic substance in a herbicide or defoliant used for military purposes. Health care services may not be provided, under this law, for the care of conditions which are found to have resulted from a cause other than exposure to these substances."

While the VA recognizes that certain medical conditions may be the result of exposure to environmental hazards or nuclear radiation, these conditions are not generally recognized as compensable ("service-connected"). Since at some future date greater latitude may be exercised by the VA in determining such conditions to be service-connected, veterans who have reason to believe that their health problems are traceable to the above should consider filing a claim for disability compensation for the condition. Should the VA consider the condition as service-connected at a later date, your effective date might be the date you filed a claim, even if it is years past.

**Do not file a claim for the type of exposure, e.g., Agent Orange; file for the medical condition believed to be caused by the exposure.**

## Children and Spouses

Veterans of the Vietnam War who have children suffering from spina bifida may be eligible for compensation for their children. This is covered in more detail in the booklet titled *Benefits for Survivors and Dependents*. There are also benefits for children born to women Vietnam veterans. This is addressed in Chapter Five: Compensation for Service-Connected Disabilities and Non-Service-Connected Pension, Benefits for Children of Women Veterans with Birth Defects.

Spouses and children of Gulf War veterans may be eligible for an examination by or paid for by the VA under Public Law 103-446, Section 107 of The Veterans Programs Enhancement Act of 1998. Under the act, spouses and children of Gulf War veterans who are suffering from an illness or a disorder, including birth defects that cannot be separated from the veteran's service in the Gulf, may request a physical examination. The examination follows a specific protocol. The results of the examination will be put in the Gulf War database and used for future studies. Should the examination be completed by a private physician or hospital, prior authorization by the VA is necessary. Should the VA give authorization, they may reimburse the examiner up to \$400 (more with approval). These types of examinations are important because the data collected may result in service-connection of certain disabilities, such as happened with the children of Vietnam veterans who suffer from spina bifida. Statistics developed found that Vietnam veterans had a disproportionate number of children with this disease. As a result, these children are now eligible for VA compensation and medical care.

## **Miscellaneous VA Medical Benefits**

### **Homeless Veterans**

The VA has a number of homeless veterans' assistance programs, including health care benefits assistance. The Veterans Benefits Administration (VBA), in working with the Veterans Health Administration and the Department of Defense, has established expedited claims processing for homeless veterans. Outreach and personal assistance to homeless veterans is a top priority for the VBA.

### **Special VA Homeless Programs**

- Homeless Chronically Mentally Ill (HCMI) Veterans program
- Domiciliary Care for Homeless Veterans
- Compensated Work Therapy/Therapeutic Residence (CWT/TR)
- Comprehensive Homeless Centers (CHC)
- Social Security Administration (SSA) & VA Outreach assists veterans in rehabilitation and in receiving SSA benefits

For further information on these and other special programs and to obtain assistance for homeless veterans concerning regular VA health care programs and benefits, contact a VA medical center or regional office or call toll-free at 800-827-1000 to contact your local regional office and speak with a veterans' benefits counselor.

### **Patient Assistance Program (PAP)**

#### **Description of Benefit**

Under this program, a veteran may receive clothing supplies, barber services, and other related benefits.

#### **Eligibility**

Eligibility for this program is established by Medical Administration Service or Social Work Service depending on the hospital. To be eligible, the veteran must be without means. Contact the ward social worker for assistance in receiving PAP benefits. If the veteran is not a patient in a VA Hospital, contact the Chief of Medical Administration or Chief of Social Work Service.

## **Services for the Blind**

### **Description of Benefit**

VA Medical Centers offer total health and benefits review by the Visual Impairment Services Team (VIST). For those who have recently been blinded, other benefits include training at rehabilitation centers for the blind located at select VA hospitals. Veterans may also be eligible for low vision aids, specially adapted housing, electronic and mechanical aids, guide dogs, talking books and tapes, and Braille readers and writers.

### **Eligibility**

Eligibility starts with veterans who are service-connected for blindness, then for veterans who receive compensation for any disability or veterans who are eligible for VA medical services. Blinded veterans receiving compensation or pension receive medical or rehabilitative benefits.

## **Prosthetic Service**

### **Description of Benefit**

Prosthetic service includes the issuing of prosthetic devices and training in their use.

### **Eligibility Requirements**

P.L. 104-262 has also made changes in eligibility for this service. The VA must furnish prosthetic devices to veterans with at least a 10% or more rated service-connected disability who are receiving VA care. Also, under the new law, any veteran is eligible to receive certain prosthetic service cost-free for the treatment of a service-connected disability.

### **For treatment of any disability:**

- Any veteran with a compensable service-connected disability (rated 10% or more, or service-connected according to P.L. 104-262 Sec. 4);
- Former prisoners of war, veterans whose discharge or release from service was for a compensable disability, and veterans who are receiving compensation under [38 U.S.C. Sec. 1151](#);

- Veterans receiving increased pension based on need for regular aid and attendance or because they have been judged permanently housebound;
- Veterans whose incomes are below the means test threshold;
- All other veterans who are not required to pay a co-payment for their health care.

Also, cost-free prosthetic service may be provided to veterans with 0% rated non-compensable service-connected conditions for non-service-connected conditions, and to veterans exposed to herbicides in Vietnam, ionizing radiation, or an environmental hazard in the Persian Gulf, for treatment related to such exposure.

## **Adult Day Care**

### **Description of Benefit**

This benefit provides medical and rehabilitative services. This benefit is not to be confused with hospital care, outpatient treatment, or nursing home care.

### **Eligibility Requirements**

As in all VA benefits, service-connected veterans receive top priority. Veterans 50% or more disabled are next, followed by veterans who have received care at a VA facility who are in need of such care.

## **Health Care for Former Members of the Armed Forces of Poland or Czechoslovakia**

### **Description of Benefits and Eligibility**

The VA is authorized to provide hospitalization, outpatient care, and domiciliary care to certain former members of the armed forces of the Government of Poland or Czechoslovakia who, while serving during WWI and II, participated in armed conflict against an enemy of the U.S. and who have been citizens of the U.S. for at least ten years.

## **Health Care for Former Members of the Armed Forces of the Commonwealth of the Philippines**

### **Description of Benefit and Eligibility**

The VA is also authorized to provide health care for recognized service-connected disabilities of former members of the regular armed forces of the Commonwealth of the Philippines, to certain former members of organized Philippine guerrilla forces, and to certain former members of the Philippine scouts who served in armed conflict against an enemy of the U.S. in WWII, under commanders appointed by the U.S.

### **Overseas VA Health Care Benefits**

#### **Description of Benefit and Eligibility**

Veterans with service-connected disabilities who anticipate a need for medical services for their service-connected disability should contact the Chief of the Medical Administration Service (Foreign and Consular Unit of the Medical Benefits Section), VA Medical Center, Washington, D.C., to request a VA Foreign Medical Services Information Card. It will specify the condition for which treatment at VA expense in a foreign country may be authorized.

Prior to a veteran's overseas travel, any VA facility may assist the veteran by making the contact on the veteran's behalf with the VA Medical Center, Washington, D.C., to request authorization for foreign medical care. While overseas, the veteran may contact the Foreign Service Office in the consular section of the American Consulate or Embassy in the foreign country for assistance at the time treatment is required. Application for care under any circumstances should be made at the Consular Office in advance, or within 72 hours of the need for emergency care.

The Veterans Memorial Medical Center in Manila is the only overseas hospital where VA care is available to veterans with non-service-connected disabilities. Veterans may be admitted on a space-available basis and then only if they cannot afford other hospitalization.

#### **How to Apply for VA Medical Benefits**

- Complete [VA Form 10-10EZ](#) (available at any VA hospital)
- Apply at any VA medical facility or, for readjustment counseling, at any Vet Center

# **STATE HEALTH CARE BENEFITS (IDVA)**

## **Domiciliary and Nursing Home Care**

### Description of Benefit

The state health care veterans benefit is provided by the Illinois Veterans Homes. Currently, there are Veterans Homes in Quincy, Manteno, La Salle, and Anna.

### Eligibility Requirements

- Requirements Based on Military Service
  - Veteran must have served in U.S. Armed Forces for at least one day, during any war time period recognized by the VA or, for domiciliary care only, must have served for at least one year during any period.
- Special Requirements
  - Veteran must have either been an Illinois resident before entry into service or have resided in Illinois for one year before application for admission.
  - Veteran or spouse of deceased veteran must meet other qualifying conditions as determined by the IDVA.
  - Spouses of deceased veterans who meet the above conditions may also qualify for admission (to Quincy Veterans Home only).

## **How to Apply for Admission to an Illinois Veterans Home**

- Complete IDVA Form 225 and IDVA Form 255-1, or if a spouse or widow, a special unnumbered form.
- Apply at any IDVA office or directly to the Home.

## SUMMARY

The eligibility requirements for health care benefits are among the most complex of all of your benefits. To make matters worse, eligibility for these benefits is constantly changing as our government downsizes. To get proper care and treatment, you must be an educated consumer. You should know what you are entitled to by law. Reading this book is only a start. Learn how to ask questions about your treatment. Teach yourself to be assertive in learning about your care and health care procedures you must undergo. Most health care staff are very happy to explain in detail what they are going to do when performing any procedure. Always ask about options. If you have any questions about whether or not you qualify for a health care benefit, talk to one of the sources of help described in Chapter 3 and find out for sure.

**CHAPTER FIVE: COMPENSATION FOR SERVICE-  
CONNECTED DISABILITIES AND NON-SERVICE-  
CONNECTED PENSION**

## **COMPENSATION FOR SERVICE-CONNECTED DISABILITIES AND NON-SERVICE-CONNECTED PENSION**

Service-connected disability incurred or aggravated by military service is one of the most important benefits available to veterans. Service connection is the gateway to a variety of benefits, including compensation, educational benefits, medical care, and benefits for dependents. The greater the degree of service connection, the more benefits available to veterans and their families. Eligibility for non-service-connected pension also allows access to benefits such as a greater eligibility for VA health care.

Should a veteran or veteran's advocate want to appeal the denial of compensation or pension benefits, the Compensation and Pension Benefits Web page <http://www.vba.va.gov/bln/21/index.htm> will be very helpful in the preparation of the appeal. The veteran or advocate will be able to copy sections of the law, Board of Veteran Appeals (BVA) decisions, etc., directly into the Notice of Disagreement (NOD) or Appeal. There will be other references to this and related sites throughout this Chapter.

### **Description of Benefit**

VA compensation is paid to veterans who have a service-connected disability rated at 10% or more. Those who are less than 10% receive no compensation but are still entitled to medical treatment for the condition. In some cases, veterans who have two disabilities rated at less than 10% will receive compensation at the 10% rate. ([38 C.F.R. § 3.324](#))

To be considered service-connected, the veteran must win VA recognition of the disability as being service-connected by going through the VA claims process. Service connection of a disability has three main requirements: (1) there must have been an in-service occurrence, (2) there must be a current diagnosis, and (3) there must be a linkage between the diagnosis and the in-service occurrence.

Those who file a claim and are denied service connection, or who receive a rating less than they believe they should have, do have recourse. Any decision by the VA may be appealed. How to appeal will be discussed in Chapter Six: How to Appeal a Denial of Benefits.

Non-service-connected pension is a benefit for veterans who have at least one day of war time service and at least 90 days of consecutive military service. In addition to the service requirements, the pension is based upon total family income from all sources.

The Veterans Benefits Act of 2003 expanded benefits available to Filipino veterans or their dependents living in the United States so that they may receive the full dollar amount in compensation (this includes the New Philippine Scouts). Filipino veterans are those who served during WWII in the organized military forces of the government of the Commonwealth of the Philippines or who served in organized guerilla units and New Philippine Scouts.

### **Allowances for Dependents**

Veterans whose service-connected disabilities are rated at 30% or more are entitled to an additional allowance for dependents. The additional amount is determined by the number of dependents. A disabled veteran evaluated at 30% or more is also entitled to receive a special allowance for a spouse who is in need of the aid and attendance of another person. It is important, therefore, to submit a VA Form 686c, Declaration of Status of Dependents, with marriage certificates, birth certificates, divorce decrees, and any other proof that establishes dependency with any claims for benefits. The VA's Web site, <http://www.vba.va.gov/bln/21/Rates/comp01.htm>, will give the veteran an idea of the difference in compensation payments for veterans with dependents. Also, 38 U.S.C. §1115 - Additional Compensation for Dependents - describes the benefit.

Additionally, veterans who receive a non-service-connected pension will have the amount of pension increased based upon the number of dependents. However, the pension is also based upon total family income. If the spouse or dependent children are employed, that income counts when the VA determines eligibility.

### **Presumptive Service Connection**

#### **Prisoners of War**

Former prisoners of war who were incarcerated for at least 30 days are entitled to a presumption of service connection for disabilities resulting from certain diseases if manifested to a degree of 10% at any time after active service. The VA Web page <http://www.vba.va.gov/bln/21/Benefits/POW> is especially for former Prisoners of War and their dependents and is very helpful in keeping up to date on benefits. Those who do not have access to a computer should call the Regional Office (800-227-1000) and go through the prompts. Once a veterans' benefits counselor is on the line, ask to talk to the POW coordinator.

## **Presumptive Diseases**

Any nutritional deficiency, avitaminosis, beriberi – including beriberi heart disease. The term beriberi heart disease includes ischemic heart disease in a former prisoner of war who experienced localized edema during captivity. Chronic dysentery, helminthiasis, malnutrition (including optic atrophy associated with malnutrition), pellagra, or any other nutritional deficiency. Post-traumatic osteoarthritis, irritable bowel syndrome, or peptic ulcer disease. Peripheral neuropathy except where directly related to infectious causes. New conditions added as a result of the Veterans Benefits Act of 2003: psychosis and any of the anxiety states, dysthymic disorder (or depressive neurosis), frostbite – including the organic residuals of frostbite if appropriate to where the veteran was held, and post-traumatic arthritis.

## **Exposure to Environmental Hazards**

Veterans from all eras have been exposed in varying degrees to what has become known as “environmental hazards.” Whether it was the gas of WWI or Agent Orange of the Vietnam era, some veterans from all eras have been exposed to an “environmental hazard.” These hazards include, but are certainly not limited to, mustard gas, radiation, Agent Orange, and gulf war syndrome. The VA now acknowledges that certain conditions are presumed to occur as a direct result of the exposure to these hazards and will award compensation to veterans who meet the requirements for presumption. Veterans may also contact the VA Regional Office at 800-827-1000 for new information or visit <http://www.vethealth.cio.med.va.gov> for more information. Each of the current environmental hazards, eligibility requirements, and presumptive conditions are discussed briefly below.

## **Radiation Exposure**

If a veteran served on active duty or active duty for training as a member of the Guard or Reserve program and participated in “radiation risk activity,” he/she is a radiation-exposed veteran. If diagnosed as having any of the following conditions, the VA will presume that the condition(s) occurred as the direct result of exposure to radiation and give the veteran compensation based on its severity. Some of the listed conditions must have occurred five years or more after exposure to radiation.

## **Presumptive Conditions**

All forms of leukemia except chronic lymphatic (lymphocytic) leukemia. Leukemia may become manifest at any time after exposure. Also included is thyroid cancer, breast cancer, lung cancer, and prostate cancer. Bone cancer must become manifest within 30 years after exposure. Liver cancer, skin cancer, esophageal cancer, stomach cancer, colon cancer, pancreatic cancer, kidney cancer, urinary bladder cancer, salivary gland cancer, or multiple myeloma. Posterior subcapsular cataracts must become manifest six months or more after exposure. Non-malignant thyroid nodular disease, ovarian cancer, parathyroid adenoma, tumors of the brain and central nervous system, cancer of the rectum, lymphomas other than Hodgkin's disease and any other cancer. [38 C.F.R. § 3.311\(b\)\(2\)](#) contains all the current conditions considered as presumptive to radiation exposure.

If a claim is based on a disease other than one of those listed above, the VA must, nevertheless, consider the claim under the provisions of [38 C.F.R. 3.311\(4\)](#) provided that the veteran has cited or submitted competent scientific or medical evidence that the claimed condition is a radiogenic disease.

## **Mustard Gas Exposure**

If a veteran participated in any experiments, tested chemical suits, or was in any other way exposed to mustard gas during service, the following conditions are presumed to be caused by such exposure.

### **Presumptive Conditions**

Chronic conjunctivitis, keratitis, corneal opacities, scar formation, or the following cancers: nasopharyngeal, laryngeal, lung (except mesothelioma), or squamous cell carcinoma of the skin, chronic form of laryngitis, bronchitis, emphysema, asthma or chronic obstructive pulmonary disease, and acute nonlymphocytic leukemia. [38 C.F.R. § 3.316](#) claims based on chronic effects of exposure to mustard gas and Lewisite contains the most current presumptive conditions.

## **Agent Orange Exposure**

Veterans who served in Vietnam or in surrounding waters, and veterans who had duties that included visiting Vietnam, are presumed to have been exposed to Agent Orange. As a result, veterans who are diagnosed as having any of the following conditions may be eligible for compensation depending upon the degree of disability and the date of diagnosis.

Additionally, for the first time in its history, the VA will compensate and care for the children of Vietnam veterans who suffer certain birth defects. The first such disability to be considered as service-connected for children is spina bifida. Public Law was passed and made effective January 8, 2003, retroactive to December 1, 2001. This law has made provisions to compensate and care for the children of women Vietnam veterans who have children that suffer birth defects that are not the result of familial disorders, birth related injuries, or fetal or neonatal infirmities with well-established causes. More on this later in the chapter.

### **Presumptive Conditions**

Chloracne or other acne form disease consistent with chloracne; Hodgkin's disease; multiple myeloma; Non-Hodgkin's lymphoma; acute and subacute peripheral neuropathy (the term acute and subacute peripheral neuropathy means transient peripheral neuropathy that appears within weeks or months of exposure); porphyria cutanea tarda; prostate cancer; respiratory cancers (cancer of the lung, bronchus, larynx, or trachea).

Soft-tissue sarcoma (other than osteosarcoma, chondrosarcoma, Kaposi's sarcoma, or mesothelioma). Soft-tissue sarcoma includes the following: adult fibrosarcoma dermatofibrosarcoma protuberans, malignant fibrous histiocytoma, liposarcoma, leiomyosarcoma, epithelioid leiomyosarcoma (malignant leiomyoblastoma), rhabdomyosarcoma, ectomesenchymoma, angiosarcoma (hemangiosarcoma and lymphangiosarcoma), proliferating (systemic) angioendotheliomatosis, malignant glomus tumor, malignant hemangiopericytoma, synovial sarcoma (malignant synovioma), malignant giant cell tumor of tendon sheath, malignant schwannoma, including malignant schwannoma with rhabdomyoblastic differentiation (malignant Triton tumor), glandular and epithelioid malignant schwannoma, malignant mesenchymoma, malignant granular cell tumor, alveolar soft part sarcoma, epithelioid sarcoma, clear cell sarcoma of tendons and aponeuroses, extra skeletal Ewing's sarcoma, congenital and infantile fibrosarcoma malignant ganglioneur.

The VA has a Web page for Agent Orange conditions that contains the most current presumptive conditions and other information concerning exposure to Agent Orange. The Web site is <http://www.vba.va.gov/bln/21/Benefits/Herbicide/index.htm#bm05>.

### **New Conditions Associated with Exposure to Agent Orange**

**Diabetes mellitus type 2** has recently been added to the list of presumptive conditions for those veterans who have served in Vietnam. Diabetes is a condition that carries with it a number of secondary conditions. Should a Vietnam veteran be diagnosed with diabetes, he/she should file a claim for service-connection. Conditions that are secondary to diabetes are rated separately from diabetes itself.

On January 23, 2003, Secretary of Veteran Affairs Principi said that there was compelling evidence in the scientific community that exposure to herbicides such as Agent Orange is associated with **chronic lymphocytic leukemia (CLL)**. At this writing, rules for service-connecting the condition have not been written. Should a Vietnam veteran have this condition, it is recommended that application be made as soon as possible and that the claim be accompanied with medical evidence that supports the diagnosis. If medical evidence is not available, file the claim anyway and submit the evidence later or wait for the VA to schedule the compensation examination.

## **Children of Veterans with Birth Defects**

### **Benefits for Children of Veterans Who Served in Vietnam and Korea**

Children of veterans who served in Vietnam and along the DMZ in Korea from September 1, 1967 to August 31, 1971, who suffer from spina bifida, including related complications, may be entitled to a variety of benefits. Such benefits include compensation, vocational training, medical and dental care, medical equipment, and mental health services.

### **Benefits for Children of Women Vietnam Veterans with Birth Defects**

Public Law 106-419 has made allowance to pay compensation and care for the birth defects of children of women Vietnam veterans that “1) are associated with Vietnam service; and 2) result in permanent physical or mental disability.” Not included are birth defects that are the result of a familial disorder, a birth-related injury, or a fetal or neonatal infirmity with well-established causes. The child, to be eligible, must have been conceived after the veteran first entered Vietnam. Age and marital status are not a consideration for this benefit.

The monthly allowance under this benefit ranges from \$105 for a level one disability to \$1,373 a month for level 4. The levels are based upon the degree of permanent impairment.

## **How to Apply**

Application for children with birth defects and Spina bifida are made on [VA Form 21-0304](#), Application for Benefits For Certain Children of Vietnam Veterans with Disabilities. This form is also available at any VA office. Once the form is completed, send it with the appropriate medical evidence that confirms the disability to:

Department of Veterans Affairs  
VA Regional Office (339/21)  
PO Box 25126  
Denver, CO 80225

If there are any questions, contact the VA at 1-800-820-1756 or e-mail the VA at [Birthdefects@VBA.VA.gov](mailto:Birthdefects@VBA.VA.gov). Health care information is also available by calling 1-888-820-1756.

## **Desert Storm Syndrome**

Many veterans who served in the Gulf War have experienced severe medical problems. Desert Storm Syndrome has also affected the spouses and children of its victims. Gulf War veterans who experience, or whose spouses or children experience, the symptoms listed below should report to a VA Medical Center for an examination. The veteran should also file a claim with the VA for disability compensation. When the VA identifies what conditions are presumed to have occurred as a result of serving in the Gulf War, the effective date of compensation will be the date of claim, provided the veteran meets the criteria for service connection. If there is a question that the current condition was caused by service in the Gulf War, a claim should be filed anyway to protect eligibility.

### **Symptoms**

Fatigue, signs or symptoms involving skin, headaches, muscle pain, joint pain, neurological signs or symptoms, neuropsychological signs or symptoms, signs or symptoms involving the respiratory system (upper or lower), sleep disturbances, gastrointestinal signs or symptoms, cardiovascular signs or symptoms, abnormal weight loss, menstrual disorders (38 CFR 3.317 Compensation for Certain Disabilities Due to Undiagnosed Illnesses)(b)).

## **Service-Connection of Non-Presumptive Conditions**

If a veteran, dependent, or survivor believes that a condition is a result of an exposure to an environmental hazard but the condition is not listed as presumptive, a claim may still be filed and be successful, provided that the veteran has cited or submitted competent scientific or medical evidence that the claimed condition is a disease caused by exposure to Agent Orange. This medical evidence must be of two types: medical statements that link the veteran's disease to exposure and scientific evidence that establishes a linkage of the disease to Agent Orange. Veterans who served in-country in Vietnam no longer have to prove exposure; that is now assumed.

## **Eligibility Requirements for VA Compensation**

### Requirements Based on Military Service

The veteran must be discharged or released from service under conditions other than dishonorable. The veteran must also have a recognized disabling injury or illness that was incurred or aggravated in the line of duty during active service. This also includes Guard and Reserve duty. The veteran may also qualify if diagnosed with one of the presumptive conditions listed above.

## **How to Establish Proof of Service-Connection**

### Establishing a Well-Founded Claim

Since the passage of the Veterans Claims Assistance Act of 2000 (VCAA), the need to establish a well grounded claim is no longer as stringent as it was when the VA was forced to apply it by the Court of Appeals for Veteran Claims (CAVC). However, it is still important to understand the basics of a well grounded claim. A well grounded claim is one that has supporting evidence that is deemed sufficient enough to justify "a belief by a fair and impartial individual that the claim is plausible."

### Medical Discharge

Veterans who receive a medical discharge from service may qualify easily. The VA will usually accept the discharge as proof of service-connection, especially when either severance pay or disability retirement is granted. Please note that the VA must recoup severance pay before VA compensation can be paid. In the case of those who receive military retired pay, the veteran must waive that portion of retired pay that is equal to the VA compensation or waive retired pay to receive VA compensation as the

greater benefit. This waiver only affects compensation and retired pay; no other benefits from the VA or military are affected. The sooner the VA starts re-cooping the severance pay, the sooner the veteran will get the compensation. Also, should the disability increase in severity at any time after separation, the veteran should apply for an increase in disability.

### Medical or Psychiatric Examination

If the veteran did not receive a medical discharge, service-connection still may be granted provided the veteran is able to provide enough evidence to show that the claimed condition had its start in the military. If the claim is considered well grounded by the VA, they will schedule a compensation and pension examination. If, in the opinion of the examining physician, the disability in question is related to military service and the Service Medical Records indicate that treatment for the condition occurred while on active duty, the claim may be granted. In the case of PTSD, the service records must show that the veteran was involved in combat or some other life-threatening or similar stressor.

### Other Important Factors to Consider

#### **Establishing Linkage – A Key Element in Proving Service-Connection**

It is critical to the veteran to be able to show evidence that will prove a link between something that happened during service and the present disability. In attempting to establish this “linkage,” military records should be reviewed to see what entries in the medical or personal records might support the claim. Look for any entry which might show some connection to the claimed condition. If there are no such entries, consider developing witnesses who may have knowledge of the injury or condition. The witness may be an individual who served with the veteran or who knew the veteran shortly after separation from the military. Letters the veteran may have written home that discuss the event or injury are also a good source. Another good source of service information are unit morning reports obtainable from the Record Processing Center in St. Louis. Operational Journals are a good source especially for PTSD claims.

**VRB Tip: Keep records of visits to private physicians for treatment of the condition that might be service related. These records can help greatly in determining the linkage and progression of a disabling condition. There have been several cases won in which lay statements were used to describe symptoms of conditions believed to have occurred in the military or within the one year presumptive period. These are most effective when backed up by a physician statement.**

### **Understanding What “Incurred or Aggravated” Means**

A condition that was **incurred** during military service refers to a wound, injury, or illness that the veteran suffered during service. In some cases the incident is immediately disabling; in others the condition can worsen later and become disabling after separation from the military.

Disabling conditions that are **aggravated** during service also qualify the veteran for compensation. If a person enters service with a known medical condition and if during service that condition is aggravated as a direct result of service, the individual would qualify for compensation. Even if a condition pre-existed service but manifested itself while on active duty, it may still be service-connected. (38 C.F.R. § 3.303)

### **Understanding the “Line of Duty” Requirement**

The veteran’s disability must have arisen **“in the line of duty.”** This means that if a veteran is injured (disabled) during active service, but during the commission of a crime, or while engaged in other “willful misconduct,” he/she will be turned down by the VA for the disability rating. Where doubt exists as to whether a disability was incurred in the line of duty, the claim is carefully reviewed. The VA may make a determination of “extenuating circumstances” and approve the claim, or it may deny the claim. If the claim is denied, the veteran may appeal.

### **The Veterans Claims Assistance Act of 2000 (VCAA) and The Duty to Assist**

Prior to the passage of VCAA, the VA had to first “well ground” the claim before the duty to assist was triggered. This placed a tremendous hardship on the claimant. The passage of the VCAA firmly establishes the VA’s duty to assist in the development of a claim for benefits. The VA still has the right not to assist the claimant if there is no reasonable possibility of the claim being successful. The duty to assist has two main parts. Once the VA receives a claim, it will notify the claimant by letter of the information needed to “substantiate” the claim. In that same letter, the VA will inform the claimant of the evidence they, the VA, are required by law to obtain.

**38 U.S.C. § 5103A**. **Duty to assist claimants** mandates that the VA make “reasonable” efforts to assist those claiming VA benefits in the development of evidence needed to substantiate their claim. This “reasonable effort” includes requesting military records and private records that are identified by the claimant. However, the VA is not mandated to pay for those records. Additionally, 38 C.F.R. § 3.159 (a) states in part that the VA “shall assist a claimant in developing the facts pertinent to his or her claim.” This means that the VA must help the veteran develop evidence. They can do this by requesting military personnel records or Service Medical Records (SMRs). They can also request after action reports, morning reports, or any other government information that may assist the veteran in proving the claim.

The VA can also (if authorized by use of release forms), obtain records from private hospitals, out-patient treatment facilities, and private physicians. Having the VA obtain records can save a lot of aggravation and research. It can also save money in copying fees. Many times private agencies that would charge for copies of medical records will waive the fee if the VA asks for them. Sometimes, however, it is quicker for the veteran or his representative to obtain records on his or her own rather than wait for the VA. Remember that under the Freedom of Information Act of 1974, veterans may obtain complete copies of all records pertaining to their service. It also allows for the veteran or representative to review the records prior to submitting them to the VA.

## **How to Apply for Disability Compensation**

- Write and mail a letter to the VA stating the benefit the veteran wishes to apply for and the circumstances surrounding the benefit acts as an informal claim. The VA will then send the proper claim form. An informal claim protects the date of the award.
- Fill out [VA Form 21-526](#), “Veteran’s Application for Compensation or Pension.”
- If a VA Form 21-526, “Application for Compensation or Pension,” was already completed, a letter or VA Form 4138 “Statement in Support of Claim” is all that is necessary. In the case of compensation or pension, the veteran or representative should simply state the benefit sought. If it concerns an increase in compensation, the veteran or representative should simply state the service-connected disability and how it has increased in severity.
- Apply at the nearest VA or IDVA office. (Be aware that the IDVA may only forward a claim to a Veteran Service Organization. This was mandated by an internal memorandum. If the veteran does not want representation, the IDVA service officer is instructed to give the claim to the veteran for forwarding to the VA on his/her own.)

## **Non-Service-Connected Disability Pension (NSC Pension)**

“Disability pension” is a monthly payment made to wartime non-service-connected veterans who are permanently and totally disabled. The amount of the payment depends on the veterans’ total family income from all sources.

## **Eligibility Requirements**

The veteran must have been discharged or released from service under conditions other than dishonorable after 90 days or more service unless separated from service earlier because of a service-connected disability. At least one day of service must have been during wartime. (For dates of official Wartime Eras, see Chapter 2).

The veteran must be permanently and totally disabled, but not due to willful misconduct or vicious habits. The veteran's personal assets and income (combined, veteran, spouse, and dependent children) must be below levels specified by the VA.

## **Description of Benefits**

### **Improved Pension**

This is the only pension allowed to recently disabled veterans. The improved pension program provides for annual rates paid in monthly allotments. The annual amount is reduced by the amount of the annual countable income of the veteran, spouse, and dependent children. Call the VA to get help in determining your monthly rate.

The following pension programs are still in effect for those veterans who were awarded while the pension law was in effect.

### **306 (Public Law 86-211) Pension**

Countable income includes all income received by the individual, less specific exclusions. The income received by the veteran's spouse is countable income under certain circumstances. The income limitations vary each year; call the VA for the current rate.

### **Old Law Pension – Entitlement Prior to July 1, 1960**

Countable income includes all income received by the individual, less specific exclusions. The income of the veteran's spouse is not countable.

### **Reduction While in Hospital, Nursing Home, or Domiciliary**

When a veteran without a spouse or child is being furnished hospital, nursing home, or domiciliary care by the VA, the pension is reduced.

## **Aid and Attendance or Housebound**

A veteran who is a patient in a skilled care nursing home, is otherwise determined by the VA to be in need of the regular aid and attendance of another person, or is permanently housebound may be entitled to higher income limitations or additional benefits, depending on the type of pension received.

**VRB Tip: Veterans who are eligible for a VA pension should investigate whether they might not be better off receiving Supplemental Social Security Income and Medicaid. The acceptance of a VA pension could cause the veteran to lose these other allowances which, in some cases, could be greater. Discuss this matter thoroughly with your representative before filing a claim.**

In counting income, the VA will use medical expenses, including over-the-counter medicines, as a deduction. If the veteran's income is excessive and if medical expenses can be shown by receipt, the veteran may be able to lower the income enough to receive pension benefits.

## **How to Apply for Disability Pension**

- Fill out VA Form 21-526 "Veteran's Application for Compensation or Pension."
- Apply at the nearest VA or IDVA office.

## **STATE BENEFITS**

There are no State of Illinois disability compensation or pension programs for veterans.

## **SUMMARY**

Compensation and pension benefits are two very important benefits. Having either one gives the veteran eligibility to other benefits that can be of great help to a veteran and his/her family. As mentioned in previous chapters and throughout the rest of this book, service-connected veterans always get priority treatment for their service-connected disabilities. If the service-connected disability/disabilities is/are severe enough, a wide range of other benefits become available to the veteran and his/her family.

Veterans who receive pension benefits also become eligible, or more eligible, for medical care by the VA. This is becoming more and more important as eligibility for VA medical care is tightened by the cutback in VA funding.

**If you believe that you have a service-connected disability, DO NOT WAIT TO FILE. DO IT NOW.** The sooner you file after separation, the easier it is to service-connect your disability. Conversely, the longer you wait, the harder it is. Also, seek help in filing and developing your claim. This cannot be stressed enough – Veteran Service Organizations can be a great help. Read Chapter Three: Sources of Help in Obtaining Benefits.

If you are totally disabled as the result of a non-service-connected disability and are a war era veteran, you may be eligible for a non-service-connected pension. The effective date of the pension is the date your claim reaches the VA Regional Office, so do not wait to file your claim.

## **CHAPTER SIX: HOW TO APPEAL A DENIAL OF BENEFITS**

# HOW TO APPEAL A DENIAL OF BENEFITS

It's always a shock when you are notified that your claim has been denied. If you believe that the VA acted incorrectly, take advantage of your right of appeal. Both the VA and the IDVA have an appeal process designed to review such denials and where the denial is shown to be wrong, to reverse the decision and award the benefit. The purpose of this chapter is to familiarize you with how the appeal process works and how you can best make it work in your favor.

## FEDERAL APPEALS (VA)

When the VA makes a decision on a claim, they send a letter with a copy of the Rating Decision to the veteran and his/her representative. Along with the Rating Decision and letter, a notice of the veteran's right to appeal the decision is also sent. Should the veteran disagree with any or all of the Rating Decision, the veteran may choose to appeal. The start of the appeal process is a letter sent to the VA stating the disagreement. This letter is called a Notice of Disagreement (NOD).

The Notice of Disagreement informs the VA that the veteran disagrees with a decision made by the VA Regional Office or VA Medical Center. Upon receipt of the NOD, the VA will do one of two things. They will consider the NOD and if there is what they believe to be a reasonable complaint with the Rating Decision that would warrant further development. As an example, a veteran may state that certain evidence submitted was not considered or other factors such as the compensation and pension examination was too short or was not well done. This type of complaint may cause the VA to reconsider or further develop the claim. If they do, a new Rating Decision will be sent to the veteran upon completion and the process may start all over again, with the veteran accepting or rejecting the decision. If the VA accepts the NOD and does not further develop the claim, they will issue a Statement of the Case (SOC).

Along with the SOC, the VA will send a letter acknowledging the receipt of the Notice of Disagreement and ask the veteran if he/she would like to have the case considered by a Decision Review Officer. The letter will also contain instructions on how to appeal a VA Form 9. Form 9 is the most important part of the appeal process. Submitting Form 9 within the time limit stated in the letter will ensure that the appeal will go forward after review. Not submitting the Form 9 within the time period given in the letter could result in a loss of the right to continue the appeal. **Be sure to get the Form 9 in to the VA as soon as possible; do not delay sending it.**

The Decision Review Officer (DRO), unlike the old VA Hearing Officers, are given several options. A DRO may:

- Call the veteran and discuss the case over the telephone informally.
- Conduct a formal hearing in which the veteran and witnesses are put under oath.
- Review the claim and issue a new Rating Decision awarding the veteran everything claimed, award part of the claim, or deny the claim.

Some veterans want to appear in person before a DRO. These DRO hearings are treated like any hearing. The veteran and any witnesses will be placed under oath. The veteran and his/her representative will present an argument and submit any new evidence in support of the claim. The DRO may question the veteran and any witness. The proceedings are recorded and the veteran may request a copy of the transcript if desired. Once the DRO makes his decision, the veteran and his/her representative will get a copy of the decision. If a Statement of the Case was issued prior to the DRO decision, a Supplemental Statement of the Case will be issued and the veteran will be given a time period to submit an additional statement or new evidence. If a Statement of the Case was not issued prior, a Statement of the Case will be issued along with the VA Form 9 discussed above.

Should the veteran still disagree with the decision, the claim may be forwarded to the Board of Veteran Appeals (BVA) for final VA consideration. The BVA is the final stop in the VA appeal process and ends the informal appeal process. Should the veteran wish to continue the appeal, the claim file will be sealed in preparation for being sent to the Court of Appeals for Veterans Claims. No new evidence may be considered by the Court. The veteran will be given 120 days to appeal to the Court of Appeals for Veteran Claims. If after 120 days the veteran has not acted to continue the appeal, the BVA's decision becomes final.

The Court of Veteran Appeals (CVA) is completely independent of the VA. The court considers only the evidence of record when the BVA made its final decision. No new evidence may be added to the record. The Court may only review the case on matters of law and regulation. In other words, the Court will consider whether or not the VA followed its rules and regulations appropriately. The Court has full authority to award all or part of the benefits sought, confirm the VA's denial, or remand the case back to the VA for further processing. Since inception in 1989, the court has forever changed the way the VA considers claims brought before it.

Probably the greatest change is that the VA must apply the rules of evidence when considering a claim. They can no longer pick and choose which evidence to use when they rate a claim. Nor can they ignore evidence submitted by a claimant including private medical records. The court has forced the VA to consider several doctrines that help veterans in the claim process.

The veteran may, at any time during the VA appeal process, develop new evidence and have it considered by the VA Regional Office (VARO) or waive Regional Office consideration and have it considered by the BVA without VARO looking at the evidence. This type of tactic should be discussed with a Veteran Service Officer.

## **Before Appealing**

Before filing a Notice of Disagreement and starting the appeal process, take a look at the denial letter and the enclosed copy of the Rating Decision. The Rating Decision explains, in the Reason and Basis for Decision, the reasons for awarding or denying the claim. It will include the VA Regional Office's interpretation of the evidence considered including the compensation and pension examination. When reviewing the Rating Decision, consider the following:

- Is all the evidence submitted listed under the evidence section of the Rating Decision? If not, the VA should be contacted by letter and asked to review the unlisted evidence and issue a new Rating Decision.
- Is each piece of evidence listed under the evidence section of the Rating Decision discussed in the Reason and Basis? Simply listing the evidence is not enough – it must be discussed in context and in relationship to the disability and all other evidence considered by the Rating Specialist.
- Would statements from friends or people the veteran served with help explain the case?
- Does the VA have all of the information needed to rate the claim favorably?
- Are there medical records that were not submitted?

It is strongly suggested that veterans contact one of the sources listed in Chapter Three to obtain help in reviewing the denial. Veterans Organizations are skilled in representing veterans before the VA. They can also help in developing information that may cause the VA to view the claim favorably. If, however, the veteran chooses to “go it alone,” remember the VA bases its decisions on evidence. Therefore, the more hard evidence given in support of the claim the better.

The first step in the appeal process is the Notice of Disagreement. The Notice of Disagreement is a letter from the veteran or his/her representative stating a disagreement with the decision. The letter may be as long or as short as desired. All that is necessary is a brief statement that could be as simple as, “I disagree with the Rating Decision. Please send me a Statement of the Case,” or it could be a point-by-point statement that lists each issue and the reasons for the disagreement.

## **BVA Consideration of a Claim**

Once a claim is appealed to the BVA, the appeal process takes on some new rules and procedures. These rules and procedures are found both in 38 U.S.C. and 38 C.F.R. Generally, the VA operates in a similar manner except the case is now in Washington, D.C.

Veterans are given several options concerning their case. They may choose to appear before a BVA Hearing Officer and present their case personally or with a representative. These hearings take several forms. A veteran may appear before the Traveling Board of Veteran Appeals at a local Regional Office, have a video conference, or even go to Washington, D.C., to appear in person. The veteran may also choose to allow the case to be decided without an appearance. In this case, if there is a Veteran Service Organization representing the veteran, the VSO will file a formal brief and argue the case for the veteran.

### **Personal Appearance in Washington, D.C.**

Choosing a personal hearing in Washington, D.C., has the same advantages of appearing before a video conference or the Traveling Board of Veteran Appeals at your local VA Regional Office. However, it costs a lot more.

### **Personal Hearing with BVA Traveling Board**

You can eliminate the time and expense of a trip to Washington by requesting a hearing before a BVA traveling board. The members of the BVA go to VAROs throughout the country to sit in personal hearing sessions. On the plus side, this option provides all the advantages of a face-to-face meeting. A disadvantage of a personal hearing before the Traveling BVA is that you may have to wait as long as a year or more for the hearing. The wait could be six to eight months, not counting the time for the decision.

### **Video Conference Technique**

The video conference is a new method of appearing before a member of the BVA. It works the same as a face-to-face hearing except the BVA member is in Washington, D.C., and the veteran and his/her representative are at the local VARO. Video conferences are a little quicker to be scheduled, at this writing, and have the same effect of a face-to-face hearing, yet some veterans and advocates would rather wait for a face-to-face hearing.

## **BVA Review Without a Personal Appearance**

Another option open to you is to request a BVA review of your claim without a personal appearance. The BVA will review the facts contained in the claims file and make a decision as described earlier. It is here that VSOs can be very helpful. Trained National Veteran Service Officers are highly skilled in writing appellate briefs to the BVA. It is strongly suggested that you have a VSO assist in the preparation of a written appeal, but if you choose to go it alone the information contained later in this chapter will prove helpful.

The advantages of a BVA review without a personal appearance are cost and time. You'll save on travel expenses. It's also likely that you'll get a faster decision, since your case will be processed without the long wait it takes for a personal hearing. By choosing this option, however, you will lose the advantage of pleading your case in a face-to-face situation. This means your written appeal must be especially strong in its presentation of your case.

## **Results of The BVA Review or Hearing**

Once the BVA has reviewed your case, you'll be notified that your claim has been decided in one of three ways.

First, the BVA may agree that you are entitled to the benefit and reverse the VARO decision. The BVA would then order your VARO (that denied the benefit) to correct its error and award your benefit. In this case, of course, you have won and your long appeal process is over.

Second, the BVA may "remand," or return, your case to your VARO. In effect, this is much like a BVA reprimand of the VARO. While not in the form of an actual ruling, the BVA "remand" indicates that something was wrong in the VARO's denial. The BVA is telling the VARO to develop the case further and/or consider the evidence that the veteran brought to the BVA appeal. When the BVA bounces a case back to the VARO, the chances are generally good that the VARO will reconsider and award the benefit.

Third, the BVA may uphold the original VARO decision and deny the appeal.

## Options After a BVA Decision

### Reconsideration by the BVA

A veteran may ask that the BVA reconsider his/her case. To do this, the veteran should send a letter asking the BVA to reconsider the claim. Occasionally, the BVA will overlook an important point or not have all the evidence that was submitted with the claim. The VA often establishes a temporary claim file and sometimes evidence in the temporary file does not connect with the claim file during the appeal process. A request to reconsider should state clearly why the claim should be reconsidered. It should be based upon some key issue such as evidence not being considered in the appeal or some part of the law that was not addressed.

### Review by Secretary of Veterans Affairs

Generally there are two situations in which the Secretary of Veterans Affairs may review cases and reverse a denial.

The **first situation** may occur if an appeal is denied due to administrative error “on the part of the Federal Government.” This usually refers to an error in the veteran’s military records that barred the veteran from receiving benefits. For example, a veteran claiming service-connected disability may have had his/her claim denied because appropriate entries providing the connection were not made in his records. If the veteran can prove that the service-connected medical condition should have been logged in his/her medical records, he/she has grounds for a new appeal. However, if such an administrative error by the government was the cause of the first denial, the veteran should not waste his/her time going all the way “up the ladder” of the appeal process. Early on, the veteran should try to correct the error; for example, by applying to his/her former branch of service for correction of military records.

The **second reason** for an appeal to the Secretary of Veterans Affairs (after you’ve been unable to sway the BVA) is if you have suffered a financial loss due to the VA error. In one successful case, a veteran asked the VA if he would continue to receive educational benefits if he transferred to a certain school. The VA replied that he would. Later, the VA notified the veteran that it had made an error. The school was not VA approved, and the veteran’s educational payments were cut off. The veteran made a successful case to the effect that he would not have made the transfer if the VA had not misled him.

As described above, you do have rights of appeal, even after you’ve lost an appeal to the BVA. But, before exercising such rights, you should be aware that this option is open only in certain specific situations. And second, you should be forewarned that it could be very difficult to win your case.

## Rules and Regulations to Consider When Appealing

### “Benefit of the Doubt” and “Time, Place and Circumstance of Service”

Under the provisions of 38 C.F.R. 3.102 Reasonable Doubt, the VA is mandated by law to give every veteran the “benefit of the doubt” when processing a claim. This means that “all things being equal” the claim must be decided in favor of the veteran.

In cases involving combat veterans, the VA must also consider what is known as “Time, Place and Circumstance of Service.” Found at 38 U.S.C. 1154, Consideration to be Accorded Time, Place, and Circumstance of Service is one of the most important parts of the law when claiming a disability that occurred as the result of combat. In combat situations, records are not kept of every incident. Sometimes a veteran may receive what may seem a minor wound or injury. He/she may even be treated for it at an aid station or field hospital. However, the record of the injury may never be associated with the veteran’s medical records. Being in combat may also be a factor in establishing the disability (as in PTSD cases). Under this doctrine, the VA must accept as fact lay evidence if it is consistent with the “time, place and circumstance of service,” or disprove it by “clear and convincing evidence to the contrary.” (38 U.S.C. § 1154 Consideration to be Accorded Time, Place, and Circumstance of Service; *Horvath v. Derwinski*, *Vet. App.* 1992, 2 *Vet. App.*.. 240, is a good case to help in clarifying the law.)

There are two parts to [38 U.S.C. §1154](#). Part (a) states in part:

(a) . . .(1) additional provisions in effect requiring that in each case where a veteran is seeking service-connection for any disability due consideration shall be given to the places, types, and circumstances of such veteran’s service as shown by such veteran’s service record, the official history of each organization in which such veteran served, such veteran’s medical records, and all pertinent medical and lay evidence . . .

Simply put in weighing evidence, the VA must consider if the circumstance under which the disability occurred is consistent with the veteran’s job at the time of occurrence.

Part (b) of this section places a stronger mandate on the VA if the disability occurred under combat conditions. Part (b) states in part:

(b) In the case of any veteran who engaged in combat with the enemy in active service . . . the Secretary shall accept as sufficient proof of service-connection of any disease or injury alleged to have been incurred in or aggravated by such service satisfactory lay or other evidence of service incurrence or aggravation of such injury or disease, if consistent with the circumstances, conditions, or hardships of such service, notwithstanding the fact that there is no official record of such incurrence or aggravation in such service, and, to that end, shall resolve every reasonable doubt in favor of the veteran. Service-connection of such injury or disease may be rebutted by clear and convincing evidence to the contrary. The reasons for granting or denying service-connection in each case shall be recorded in full.

This section directs the VA to more heavily weigh evidence if the claimed condition occurred under combat conditions. The VA may only deny a claim if there is “clear and convincing evidence to the contrary.”

The doctrines of “Benefit of the Doubt” and “Time, Place and Circumstance of Service” are two very important principles. Simply put, veterans do not have to prove conclusively that they suffered an injury or disease in the service. They just have to produce enough evidence to outweigh the evidence in the file that is against awarding the benefit.

### **Duty to Assist**

Found in 38 C.F.R. §3.159 Department of Veteran Affairs Assistance in developing claims, the VA has a “Duty to Assist” the veteran in developing facts “pertinent to his or her claim.” This does not mean that the veteran should expect the VA to do all the work. It does, however, mean that the VA must provide reasonable assistance in developing the veteran’s claim. This assistance includes contacting other government agencies; obtaining and requesting pertinent medical or psychiatric examinations, etc.; obtaining after action reports from the veterans branch of service; and obtaining any other reasonable information. When considering an appeal, one should review the evidence considered by the VA. Are military medical records listed in the evidence portion of the Rating Decision? What about other records that the veteran may have notified the VA about – were they obtained and considered? If they are not listed in the evidence section, did the VA discuss why the evidence was not obtained in the Reasons and Basis section? If not, this is a point to consider in appealing.

## **Presumption of Soundness**

Found in 38 U.S.C. § 1111, presumption of sound condition mandates that when the veteran entered service he/she was presumed to be physically and mentally sound, unless otherwise noted on the record. Entrance and exit examinations are a good source of review. Many times the entrance examination will have no physical defects listed, but the exit examination may show some physical problem. A good example is the hearing test. Often the entrance examination will be quite different from the exit examination. The same is true for blood pressure readings.

The above are just a few of the legal points to consider when contemplating filing or when filing an appeal. However, your wisest move in considering an appeal is to obtain the best qualified service officer or representative from one of the veteran organizations to handle your case. Keep in mind that only after your case has been denied by the Board of Veteran Appeals (BVA) can you retain an attorney to represent you before the CVA.

## **STATE APPEALS (IDVA)**

The IDVA appeals board is convened by the director and meets at least every six months. It considers all appeals requested by whose case or application has been disallowed, or those instances where the appeal is made because of disagreement with the selection of beneficiaries, or any questionable claim referred to the board for adjudication. The board's authority is limited to the following programs:

- Vietnam Veterans Bonus
- Vietnam Prisoner of War Compensation
- WW II Bonus Program
- Korean Bonus Program
- Specially Adapted Housing Grants Program
- MIA/POW Scholarship Programs

To obtain a hearing before the Board of Appeals, contact the field officer, officer associate, or clerk/typist at any IDVA office and tell that person you wish to appeal an IDVA decision to the Board of Appeals. A written memo to the director will then initiate the appeals process and the claimant will be advised of his/her rights and the procedures to be followed.

Claimants may forward their case arguments in the form of a written memo or brief, or they may argue their cases in a personal hearing. If they wish, claimants may retain an attorney to represent them. The Board meets in Springfield, Illinois.

The appeal process for denial of a State of Illinois veterans' benefit is much simpler than that of the U.S. benefit. There is only one level: a Board of Appeals formed by the Director of the Illinois Department of Veterans' Affairs. The board hears appeals of administrative decisions made by IDVA personnel in the administration of grant and benefit programs. The board consists of no more than seven members appointed by the director, who also serves as the chairman of the board.

## **SUMMARY**

Both the VA and the IDVA operate appeal processes. Of the two, the appeal process of the VA is far more lengthy and complicated. The VA only reverses its benefit decisions in a minority of cases. The higher you go in the appeal process, the smaller the percentage of reversals. At the same time, the higher you go, the greater the time and costs involved.

When the VA denies you a benefit, the first thing you want to know is whether the VA was right or wrong. This requires an expert opinion from a veteran's representative. If the VA is clearly right, then that should end the matter. If, however, you and your representative feel that the VA was wrong, and you can explain why and prove that you are eligible for the benefit, then you should appeal.

The VA has set up the appeal system for the stated purpose of safeguarding the rights of the veteran. The Court of Veteran Appeals was developed so that veterans could get a fair, impartial hearing should they be denied by the BVA. But as many veterans have learned, to obtain those rights, you will likely have to do a little "safeguarding" of your own.

**CHAPTER SEVEN: BENEFITS FOR DISABLED  
VETERANS AND CERTAIN ACTIVE SERVICEMEMBERS**

## **BENEFITS FOR DISABLED VETERANS AND CERTAIN ACTIVE SERVICEMEMBERS**

Compensation is a gateway benefit. Being service-connected opens the gate to a variety of other important benefits, not only for the veteran but also for dependents and survivors. Veterans who are service-connected may be eligible for vocational rehabilitation, special housing grants, VA life insurance, medical insurance, preference in hiring, and many other benefits. The dependents and survivors of certain service-connected veterans may also be eligible for educational benefits, medical insurance and other benefits through the VA and or the Illinois Department of Veterans' Affairs. New laws have made some benefits available to those still on active duty.

Compensation is a monthly monetary benefit awarded to veterans who suffer a disability that is directly related to military service or that is secondary to a service-connected disability. Veterans who suffer a disability as a result of VA medical care or as the result of participation in a VA approved Vocational Rehabilitation program may under certain circumstances be eligible for service-connection.

Generally, to receive the monthly benefit the disability must be rated at 10%. However, under [38 C.F.R. § 3.324 multiple non-compensable service-connected disabilities](#), a veteran with two or more 0% rated service-connected disabilities may be eligible for a 10% rating. Veterans who are 30% or more disabled by the VA are entitled to an additional amount compensation for dependents. Veterans who are 50% or more disabled are entitled to free treatment of any disability from the VA including free medications. Dependents of veterans who are 100% service-connected and whose rating is considered permanent will be eligible for both state and federal educational and medical benefits. Spouses and dependent children of veterans who die as the result of a service-connected disability will be eligible for dependency and indemnity compensation. However, if the veteran was considered to be permanently and totally service disabled for at least eight years prior to the date of death, spouses and dependent children will be eligible for Dependency and Indemnity Compensation<sup>4</sup> regardless of the cause of death.

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<sup>4</sup>**38 C.F.R. § 3.5 Dependency and indemnity compensation which states in pertinent part:** This rate shall be increased by the amount set forth in 38 U.S.C. 1311(a)(2) in the case of the death of a veteran who at the time of death was in receipt of or was entitled to receive (or but for the receipt of retired pay or retirement pay was entitled to receive) compensation for a service-connected disability that was evaluated as totally disabling **for a continuous period of at least eight years immediately preceding death.** In determining the eight year period, only periods during which the veteran was married to the surviving spouse shall be considered. The resulting rate is subject to increase as provided in paragraphs(e)(3) and (4) of this section.

Compensation was discussed in the first part of this book (for more information, please see Chapter Five). The purpose of this chapter is to explain the various benefits available to service disabled veterans and their dependents and survivors. It is assumed that the veteran is already service-connected at some level. However, this chapter is also a good motivator for those veterans who are thinking about applying for service-connection but have put it off for some time. As explained above, compensation being service-connected for a disability opens the door to a number of benefits. So if you have a disability that is directly related to your military service, apply for compensation immediately. Use one of the sources of help in Chapter Three: Sources of Help in Obtaining Benefits.

## FEDERAL BENEFITS

Though health care was discussed earlier in the book, we will briefly discuss VA health care benefits for service-connected veterans here. As previously stated, health care for service-connected veterans is significantly enhanced. Veterans who are service-connected are entitled to medical treatment, prosthetic appliances, and free medications as prescribed by a physician for any service-connected disability. A veteran who is being treated for a non-service-connected disability may be required to pay for treatment and medications and will be required to complete a yearly "means test." Veterans being treated for a service-connected condition have no such requirement as long as they are being treated for the service-connected disability. A word of caution, however: the VA will bill service-connected veterans who are rated less than 50% for treatment of non-service-connected disabilities. It is therefore very important to review any bill received from the VA for accuracy in billing. Do not let the VA bill for treatment or medications given for a service-connected disability.

### Eye Glasses, Contact Lenses, Hearing Aids

[38 C.F.R. §17.149](#) Sensori-neural Aids authorizes a service-connected veteran who is rated at least 10% to receive contact lenses, eye glasses, and hearing aids from the VA.<sup>5</sup> This benefit could be very important to a veteran who is suffering a hearing loss or who is in need of glasses. All a veteran need do is apply at the nearest VA Medical Center. Veterans must be on status with the VA to receive this benefit. Usually eye glasses, contacts, and hearing aids will not be provided as a result of age. However, those veterans who are rated at 10% for a service-connected disability are eligible regardless.

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<sup>5</sup> "§ 17.149 Sensori-neural aids. (a) Notwithstanding any other provision of this part, VA will furnish needed sensori-neural aids (i.e., eyeglasses, contact lenses, hearing aids) only to veterans otherwise receiving VA care or services and only as provided in this section. (b) VA will furnish needed sensori-neural aids (i.e., eyeglasses, contact lenses, hearing aids) to the following veterans: **(1) Those with a compensable service-connected disability . . .**"

## **Prosthetic Appliances**

[38 C.F.R. 17.150](#) Prosthetic and Similar Appliances states that service-connected veterans shall be provided prosthetic appliances including wheelchairs, invalid lifts, special clothing, orthopedic shoes, and hearing aids necessary for treatment of any condition when receiving hospital, domiciliary, or nursing home care in a facility under the direct jurisdiction of the VA. Though non-service connected veterans who are on status with the VA are given the same prosthetic aids under certain circumstances, service-connected veterans are given them for their service-connected conditions free of charge. Apply for this benefit at any VA Medical Center.

## **Annual Clothing Allowance**

**An annual clothing allowance found at 38 C.F.R. 3.810 is provided to eligible veterans in the form of a lump sum payment.** To be eligible, the veteran must be entitled to receive compensation for a service-connected disability for which he/she wears or uses a prosthetic or orthopedic appliance, including a wheelchair. The VA must determine that use of the appliance tends to wear out or tear clothing. Apply at any VA Medical Center or VA Regional Office.

## **Aids and Services for the Blind**

[38 C.F.R. 17.154](#) Dog-guides and equipment for the blind. This section states in part: “Blind ex-members of the Armed Forces entitled to disability compensation for a service-connected disability may be furnished a trained dog-guide.” Veterans are eligible to receive special benefits for the blind if they are service-connected for blindness or are entitled to VA compensation for any service-connected disability and are determined by the VA to be blind. Veterans with best-corrected vision no better than 20/200 or less or field defect of 20 degrees or less are considered to be blind. Blind veterans may be eligible for Annual Visual Impairment Services Team (VIST) review (this is a total health and benefits review); adjustment to blindness training; and home improvements and structural alterations to homes. This includes admission to a VA Blind Rehabilitation Center or Clinic where they may receive counseling and training.

This means that a blind veteran who receives compensation for any disability may be eligible to receive a guide-dog and other aids to overcome blindness. Low vision aids include approved electronic and mechanical aids for the blind; their repair and replacement; guide dogs, including the expense of training the veteran to use the dog and the cost of the dog’s medical attention. Also included are talking books, tapes, and Braille literature (from the Library of Congress). Apply at any VA Medical Center.

*NOTE:* Blind veterans need not receive compensation or pension from the VA to be eligible for admission to a VA Blind Rehabilitation Center or Clinic.

## **Automobiles or Other Conveyances**

[38 C.F.R. 3.808](#) Automobiles or other conveyances authorize veterans who suffer the service-connected loss, or loss of use, of one or both hands or feet, or permanent impairment of vision of both eyes to a prescribed degree. Eligible veterans may also receive payment for adaptive equipment, its repair, replacement, or re-installation, required because of disability for the safe operation of the vehicle purchased with VA assistance, or for a previously or subsequently owned vehicle. Veterans who are entitled to compensation for ankylosis of one or both knees or one or both hips are authorized adaptive equipment only. Apply at any VA Regional Office or VA Medical Center.

## **Specially Adapted Homes**

The VA has a Web site that explains Specially Adapted Housing<sup>6</sup> in detail. [38 C.F.R. 3.809 Specially Adapted Housing](#) and [38 C.F.R. § 3.809a Special Home Adaptation Grants Under 38 U.S.C. 2101\(b\)](#). Under these provisions, certain disabled veterans may be provided a grant(s) from the VA for the purchase or adaptation of a home specially adapted to their needs. Application for both of these grants may be made to any VA Regional Office. The details on each grant and the eligibility requirements are as follows:

### **\$50,000 Grant (38 C.F.R. 3.809)**

Part one of the Specially Adapted Housing Grant means that the VA may approve a grant of not more than 50% of the cost of building, buying, or remodeling a specially adapted home, or paying indebtedness on such a home already acquired, up to a maximum grant of \$50,000. To be eligible for this grant, the veteran must be entitled to compensation for permanent and total service-connected disability, incurred after April 20, 1988, due to:

1. The loss or loss of use of both lower extremities, such as to preclude locomotion without the aid of braces, crutches, canes, or a wheelchair;
2. Disability which includes: blindness in both eyes, having only light perception, plus loss or loss of use of one lower extremity;

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<sup>6</sup> <http://www.homeloans.va.gov/sah.htm>

3. The loss or loss of use of one lower extremity together with: residuals of organic disease or injury, or the loss or loss of use of one upper extremity which so affects the functions of balance or propulsion so as to preclude locomotion without resort to braces, canes, crutches, or a wheelchair; or
4. The loss or loss of use of both upper extremities such as to preclude use of the arms at or above the elbow.

### **\$10,000 Grant (38 C.F.R. 3.809(a))**

The VA may approve a grant not to exceed the actual cost, up to a maximum of \$10,000, of making adaptations to a disabled veteran's residence as are determined to be reasonably necessary for his/her needs. To be eligible, the veteran must be entitled to compensation for permanent and total service-connected disability, incurred after April 20, 1988, due to:

1. Blindness in both eyes with 5/200 visual acuity or less; or
2. Anatomical loss of use of both hands.

### **State Benefits Specially Adapted Housing**

The State of Illinois also has a specially adapted housing grant for those veterans who qualify for the federal veterans' specially adapted housing grant.

[330 ILCS 65/Disabled Veterans Housing Act Illinois](#). Under this act, eligible veterans may be granted a single lump sum payment not to exceed \$15,000 to provide assistance in acquiring a suitable dwelling unit with special fixtures and/or movable facilities made necessary by the veteran's permanent and total disability. To be eligible, the veteran must be certified eligible by the VA for the Federal Specially Adapted Homes grant and the veteran must have been a resident of the State of Illinois at the time he/she entered the service. Apply at any IDVA office.

Veterans eligible for the Federal grant of \$9,250 for Specially Adapted Homes may be provided a State of Illinois grant of up to \$3,000 to help pay the cost of remodeling made necessary by the veteran's permanent and total disability. This does not, however, mean the veteran will receive the full \$3,000. For example, if the cost of remodeling is fully paid by the VA grant of \$9,250, the IDVA grant will pay nothing. But if the cost of remodeling is over \$9,250, the IDVA grant will pay remodeling costs not to exceed \$3,000 over the \$9,250 paid by the VA grant.

To be eligible for this grant, the veteran must be certified eligible by the VA for the Federal Specially Adapted Homes grant of \$6,500. The veteran must also have been a resident of the State of Illinois at the time he/she entered the service. Apply at any IDVA office.

### **Tax Exemption for Specially Adapted Housing**

35 ILCS 200/15-165 provides for an annual property tax exemption of \$58,000 of the assessed value of property owned and used by a disabled veteran as a home that is classified as Special Adapted Housing in the federal law. The exemption remains in effect as long as the veteran, his wife, or un-remarried widow maintains ownership of and resides on the property. To be eligible, a Federal Specially Adapted Home grant must have been made to the veteran and the funds used for the purchase or construction of the home. Apply at any IDVA office or fill out Illinois Form RLG-52. This exemption must be applied for annually.

### **Supplemental Financing**

Under the provisions [38 C.F.R. 809\(a\)](#), veterans who receive specially adapted home grants under [38 U.S.C. 2101\(b\)](#) who have available loan guarantee entitlement may also obtain a guaranteed loan or direct loan from the VA to supplement the grant to acquire a specially adapted home. Apply at any VA Regional Office.

### **Veterans Mortgage Life Insurance**

[38 C.F.R. Part 8 a – Veterans Mortgage Life Insurance](#) provides a \$90,000 Mortgage Life Insurance for veterans who are given a specially adapted housing grant. Protection is automatic unless eligible veterans decline in writing or fail to respond to a final request for information on which their premium can be based. Premiums are automatically deducted from VA benefit payments, or paid direct if the veteran does not draw compensation, and will continue until the mortgage (up to the maximum amount of insurance) has been liquidated, until the home is sold, until the coverage terminates when the veteran reaches age 70, or until the veteran dies. If a mortgage is disposed of through liquidation or sale of the property, any unused portion of the life insurance coverage may be used on the mortgage of a second or subsequent home. Apply at any VA Regional Office.

## **Independent Living Program (ILP)**

The Independent Living Program (ILP) is an individually tailored program that is geared to helping severely disabled veterans live independently. The VA will use a number of resources to help disabled veterans reach this goal. In addition to assistance available through the VA Medical System, these resources may include assistive technology, independent skills training, and referral to community support groups.

Generally, the VA Vocational Rehabilitation staff makes the determination that it is not feasible for a disabled veteran to pursue gainful employment. They then focus on developing a program specifically for the veteran, which includes a detailed assessment of the veteran's needs. This assessment will include consulting with a variety of service providers, family members, and other professionals in the veteran's community. From this assessment, an Independent Living Plan will emerge. Veterans who are or who believe they are unable to pursue gainful employment as a result of their service-connected disabilities should complete a VA Form 28-1900 or apply at any VA Regional Office or VA Medical Center.

## **Vocational Rehabilitation**

Vocational rehabilitation is governed by [38 C.F.R. §21 – Vocational Rehabilitation and Education](#), which provides veterans who have a service-connected disability with a wide range of services designed to help the individual with vocational or academic training.

A veteran is eligible if at least one of the following conditions is met:

- The veteran has a service-connected disability and is receiving at least a 20% disability rating, or would be but for receipt of military retirement pay. Veterans with a 10% disability rating may be eligible if they have a serious employment disability.
- The veteran was honorably discharged for a service-connected condition or is home awaiting orders for such a separation or is hospitalized awaiting separation for a service-connected disability.
- The veteran has a serious employment impairment as the result of a service-connected disability.
- Those veterans with less than honorable discharges may be qualified if they have a service-connected disability and are approved by the VA. (See Chapter One: Exceptions and Limitations.)

## Rehabilitation Program Period

- Veterans must complete a rehabilitation program 12 years from the date of the veteran's discharge or release from active duty.
- This period may be extended if a medical condition prevents the individual from training or if the veteran has a serious employment disability.
- Disabled veterans may receive services until they have reached their rehabilitation goal, generally up to 48 months.
- The VA may provide counseling, job placement, and post-employment services for up to 18 additional months.

## Rehabilitation Program Costs

- While in training and for two months after completing training, veterans may receive a subsistence allowance besides their disability compensation or retirement pay.
- The VA may pay the cost of tuition and required fees, books, supplies, and equipment.
- The VA may also pay for special support such as tutorial assistance, prosthetics, lip-reading training, and signing for the deaf.
- Service members cannot receive a subsistence allowance until they leave active duty.

Disabled veterans will be given vocational counseling prior to having an educational objective approved for eligibility. A veteran may receive employment assistance and self-employment assistance after completing the educational objective.

**VRB Tip:** If eligibility is established for more than one educational benefit, only one may be used. A VA counselor will discuss the available options and help to determine which benefit is best suited to the veteran's needs. However, the veteran must make the final decision.

If a veteran is rated totally disabled, he/she may qualify for training and other services offered by the VA's Vocational Rehabilitation program. The veteran should also check eligibility to use other state benefits, such as those offered through the Illinois Department of Rehabilitation Services. Disabled veterans may be able to use both state and federal programs at the same time. Apply at any VA Regional Office using VA Form 1900.

### **Educational Advance Payment**

On occasion, veterans may require advance payment of educational benefits to pay tuition, housing, etc. Such payment may be authorized if the following conditions are met:

- Individuals receiving an advance payment must have the institution that he/she is attending verify enrollment.
- The educational institution must "Verify delivery of the advance payment check to the veteran." Subsequent verifications are done by the veteran.

If a veteran would like an advance payment, he/she must tell the certifying official at the institution to check the advance pay box on the VA certification form. The veteran will receive the first month's pay in advance plus a partial month if the semester started mid-month. For example, if a semester starts on January 15, advance pay will be given for the period January 15 through the month of February. The veteran would receive the next check for education on April 1. The VA pays one month behind (i.e., February is paid on March 1). (Reference [38 C.F.R. 21.7151 Advance Payment Certifications](#).)

### **Employment Benefits for Service-Connected Veterans**

As with the other benefits available for service-connected veterans, employment assistance also carries special considerations for those service-connected veterans seeking employment or those who are forced to change employment as a result of an increase in their service-connected disability. The service disabled veteran may use vocational rehabilitation to learn a new skill and, after completion of the program, the [VA's Employment Service](#)<sup>7</sup> online. The service offers a variety of resources for service disabled veterans.

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<sup>7</sup> [http://www.vba.va.gov/bln/vre/emp\\_resources.htm](http://www.vba.va.gov/bln/vre/emp_resources.htm)

## Disabled Veterans in Business

The [VA's Center for Veterans Enterprise](#)<sup>8</sup> is a Web site that offers a number of resources for veterans seeking to gain government contracts or learn more about running a business. In addition to what is provided by the federal government, there are many benefits for disabled veterans available through the State of Illinois.

## Veteran's Preference in Hiring

In addition to the services the VA offers, the [U.S. Department of Labor Veterans Employment and Training](#) monitors veterans preference in hiring laws. Generally, veterans are entitled to preferences in hiring in both federal and state government civil service positions and in some cases private sector jobs. Veterans preference in the federal government is governed by [38 U.S.C. Chapter 42, Employment and Training of Veterans](#). Generally, any private employer who has a contract with the U.S. Government over \$25,000 must have in place a program by which disabled veterans, Vietnam era veterans, or any other veteran who served on active duty during a war, campaign, or expedition will be considered for not only employment but advancement in employment.<sup>9</sup>

## Commissary/Exchange Privileges at Armed Forces Bases

This entitles 100% service-connected veterans, and their dependents and survivors, to shop and make purchases at military post commissaries and exchanges. This benefit may save those entitled in the purchase of groceries, liquor, sundries, non-prescription drugs, clothing, appliances, etc. Those who shop at post exchanges and commissaries may save thousands of dollars a year. Typically, the prices are lower and there is no sales tax. Some commissaries may assess a "user fee." **Please note:** Entitlement to this benefit overseas is governed by international law and is available only to the extent agreed to by the foreign governments concerned.

All that is needed to obtain this benefit is a commissary letter from the VA Regional Office. Take the letter to your nearest military base and present it to the ID card section. If getting an ID for a spouse or dependent child, a marriage certificate and birth certificate is also needed.

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<sup>8</sup> <http://www.vetbiz.gov>

<sup>9</sup> 38 U.S.C. Sec. 4212. Veterans' employment emphasis under Federal contracts (a) any contract in the amount of \$25,000 or more entered into by any department or agency for the procurement of personal property and non-personal services (including construction) for the United States, shall contain a provision requiring that the party contracting with the United States shall take affirmative action to employ and advance in employment qualified special disabled veterans, veterans of the Vietnam era, and any other veterans who served on active duty during a war or in a campaign or expedition for which a campaign badge has been authorized.

## SUMMARY

Service disabled veterans are entitled to a variety of special benefits because of their sacrifice for this nation. These benefits are governed by the U.S. Department of Veterans Affairs as well as the U.S. Department of Labor, Veterans Employment and Training. Additionally, the State of Illinois has passed into law benefits for service disabled veterans. These laws are governed by the Illinois Department of Veterans' Affairs and range from tuition payment for state supported colleges and universities to free camping permits at state parks.

However, to obtain all of this available assistance, disabled veterans and their families must become educated consumers. Help is but a telephone call away. Trained veteran service officers from both the VA and the IDVA are available to answer questions. Additionally, Veteran Service Organizations located in VA hospitals and at the VA Regional Office are also available to assist. There are countless books and pamphlets available. Lastly, but perhaps most importantly, are the Web sites created especially for disabled veterans and their dependents. Use all of the resources available to find out and apply for all the benefits and services to which you are entitled.

## **CHAPTER EIGHT: BENEFITS FOR SURVIVORS AND DEPENDENTS**

## **BENEFITS FOR SURVIVORS AND DEPENDENTS**

Survivors and dependents of veterans are probably the most uneducated as to their rights and benefits. In fact, millions of dollars in veterans benefits go unclaimed every year because survivors and dependents are simply not aware of all the benefits available. Survivors of veterans discharged under conditions other than dishonorable are eligible for some very basic burial benefits. These include the right to burial in a national cemetery, an American flag to drape the coffin, a Presidential Memorial Certificate, and partial reimbursement of burial costs. Additionally, The Veterans Benefits Act of 2003 changed the law so that survivors of veterans who were entitled to benefits at the time of death are now allowed to receive the full amount of that entitlement. Previous to the Act being signed into law, survivors were only entitled to receive two years of back benefits.

The VA has a Web page devoted solely to [Survivors and Dependents](#) of veterans.<sup>10</sup> This Web page is a gateway to all the benefits offered to dependents and survivors of veterans, especially those who are survivors of veterans who were 100% service-connected at the time of death.

A broad range of benefits are available to families of veterans who died as the result of a service-connected disability. These benefits are extremely important to surviving spouses. Such benefits may include financial help in the form of death compensation (commonly called DIC), VA health care, federal and state educational assistance, and a VA home loan guarantee. Certain benefits may be extended to children and in some cases dependent parents. The survivors and dependents of members of the Armed Forces Reserve or Illinois National Guard who die while performing, or as a result of performing, active duty or active duty for training may also be eligible for these benefits.

This chapter will provide a benefit by benefit review of the assistance available to survivors and dependents. For simplicity's sake, the benefits are listed by category – Health Care, Education, Compensation/Pension, etc. – with federal and state benefits within each category presented separately.

Survivors' and dependents' eligibility for a benefit begins with the veteran's eligibility. For this reason, every veteran's family should have access, at the very least, to his/her DD 214 and/or Discharge Certificate. Equally important is the family member's eligibility as a bona fide dependent or survivor. Perhaps the best place to start is with a summary of the VA's ground rules in this area.

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<sup>10</sup> <http://www.vba.va.gov/bln/dependents/index.htm>

## Eligibility

Obviously, a veteran's "survivor" may be a spouse, child, or parent. In general, however, "survivors" and "dependents" may be defined according to the following VA guidelines, which are also recognized by the IDVA.

- **Spouse.** The person who is legally married to the veteran under local laws (in this case, a legally recognized marriage in the State of Illinois). If there is any question whether the marriage is legal, the VA may rule that it is a "deemed valid" marriage so long as the spouse entered the marriage in good faith.
- **Surviving Spouse.** The person who was legally married to the veteran at the time of his/her death. The spouse must have lived continuously with the veteran from the time of the marriage until the time of the veteran's death. If there has been a separation, it must have been through no fault of the spouse. The surviving spouse is no longer eligible for benefits if he/she remarries, or if he/she lives openly with a member of the opposite sex and holds him/herself to be a spouse. If the surviving spouse's second marriage is void or annulled, or ended by death or divorce, then he/she may reapply for benefits.
- **Dependent Children.** Eligible children may be legitimate or illegitimate. They may be the veteran's natural children, adopted children, or stepchildren. They are generally considered dependent children until age 18. They will be considered dependents up to a later age if they are disabled or become disabled before they reach age 18. Children attending school are considered dependents until age 23. If a dependent child is attending school with VA financial assistance, he/she remains eligible for this benefit until age 26.
- **Parents of Veterans.** Eligible parents of the veteran may be natural or adopted. The veteran may be legitimate or illegitimate. The VA may take a liberal view on who qualifies as a parent. For example, a guardian "who acted as a parent" before the veteran entered service may qualify as a parent. In general, parents can qualify to receive a deceased veteran's death compensation if they can prove financial need.

If the spouse or dependent is already on record with the VA, there will be no problem in establishing eligibility for survivor benefits. However, if a parent, spouse, or dependent child is not on status all that need be done is to furnish the VA with a valid marriage license, birth certificate, or, in the case of a parent(s), proof of dependency or other supporting documents. If some legal question about a relationship should arise, the dependent should seek assistance from one of the Veteran Service Organizations.<sup>11</sup> If the veteran can travel, it will expedite matters if the veteran accompanies the dependent to the VA or IDVA office at the time the benefit is applied for to present his/her DD 214 and Discharge Certificate. If the veteran is deceased, the dependent should be able to present these documents.

## **Benefits Available to Survivors and Dependents**

Burial, non-service-connected death pension, dependents indemnity compensation, health care, education, and housing benefits described below correspond to the same benefits for veterans. Except where noted, the terms and conditions of each benefit are generally the same for the eligible dependent/survivor as for the veteran.

### **Burial/Death Benefits**

The basic burial benefits represent a “package” designed to ensure proper recognition of the deceased veteran’s service to his country and to assist next of kin with burial expenses. The basic burial benefits consist of the following:

- |                                     |  |
|-------------------------------------|--|
| * American Flag                     | * Headstone or Grave Marker            |
| * Presidential Memorial Certificate | * Monetary Allowance                   |
| * Burial in a National Cemetery     | * Memorial Marker and Memorial Plot    |
| * Headstone or Grave Marker         | * Plot or Interment Monetary Allowance |

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<sup>11</sup> See Chapter 3 for a list of Veteran Service Organizations.

In general, eligibility for these benefits is extended to survivors and dependents of any veteran discharged under other than dishonorable conditions. The Veterans Benefits Act of 2003 now allows all Filipino veterans who passed away while residing in the United States to receive burial benefits. Some have additional eligibility requirements. The specifics for each benefit and how to obtain them are addressed as follows:

- **[American Flag](#)**. A ceremonial American flag is provided to drape the casket or accompany the urn of any honorably discharged veteran who served after January 31, 1955 or to any wartime veteran who served prior to January 31, 1955, after which it may be presented to next of kin, friend, or close associate of the deceased veteran. Apply at any VA or IDVA office or most local post offices. Application is made on VA Form 07-2008.
- **[Presidential Memorial Certificate](#)**. A certificate is provided to the next of kin expressing the nation's gratitude for the individual's service. It is signed by the President of the United States. The funeral director or loved ones may request a certificate. Apply at a VA Regional Office or at the address below:

Presidential Memorial Certificates (402E12)  
Department of Veterans Affairs  
810 Vermont Avenue, NW  
Washington, DC 20420-0001

- **[Burial in a National Cemetery](#)**. Generally, honorably discharged veterans are eligible for burial in a national cemetery. Spouses and dependent children of eligible veterans are eligible for burial in a National Cemetery even if the veteran is not buried in one. Unmarried spouses or those whose remarriage has ended are also eligible for interment.

Illinois has several National Cemeteries:

[Abraham Lincoln National Cemetery](#)  
[Alton National Cemetery](#)  
[Camp Butler National Cemetery](#)  
[Danville National Cemetery](#)  
[Mound City National Cemetery](#)  
[Quincy National Cemetery](#)  
[Rock Island National Cemetery](#)

Illinois has one State Veterans Cemetery located at the Quincy Veteran's Home:

Sunset Cemetery  
Illinois Veterans Home  
1707 N. 12<sup>th</sup> Street  
Quincy, Illinois 62301  
(Michael Hutmacher, Administrator)  
Phone: (217) 222-8641  
Fax: (217) 222-9621

- **Headstone or Grave Marker.** Provided by the VA at no charge for the grave sites of veterans buried in either private or national cemeteries. Shipped at government expense to the consignee. The cost of placing the headstone or marker in a private cemetery, however, must be borne by the applicant. A VA headstone or grave marker is also available to deceased members of a veteran's family who are buried in National Cemeteries, or in veterans cemeteries owned by the state. Apply at any VA or IDVA office. Applications are made using VA Form 40-1330 and are forwarded to the Director, Monument Service (42) Department of Memorial Affairs, Veterans Administration, Washington, D.C. An application is not required if the deceased is to be buried in a National Cemetery.
- **Memorial Markers.** A memorial headstone or marker may be furnished on application of a close relative recognized as the next of kin to commemorate any eligible veteran (including a person who died in the active military, naval, or air service) whose remains have not been recovered or identified; were buried at sea (whether by the veteran's own choice or otherwise); were donated to science; or were cremated and the ashes scattered without interment of any portion of the ashes. The memorial may be erected in a private cemetery in a plot provided by the applicant or in a memorial section of a national cemetery. Apply at any VA or IDVA office.

## Interment or Plot Allowance

- **Service-Connected.** If the veteran died of a service-connected disability or if the service-connected disability was the primary cause of death, the VA may reimburse up to \$1,500 toward burial expenses for deaths prior to September 10, 2001 and \$2,000 for those who died after September 11, 2001. If the veteran is buried in a national cemetery, the VA may reimburse the cost of transportation. The Veterans Benefits Act of 2003 now allows payment of burial benefits for peacetime veterans who are not otherwise qualified and allows payment of the plot allowance to survivors of veterans buried in a state veterans' cemetery.

The VA may provide an allowance to help pay for the purchase of a grave plot for any veteran who served during a period of war or was discharged with a service-connected disability. Burial or plot allowance may not be paid to the extent that they were paid by the deceased's employer or by a state agency or political subdivision of a state. The difference between the entire expense and the amount paid by the employer or the state, if any, may be reimbursed to the limit of the allowance. The allowance is normally arranged for by the funeral director. Apply at any VA or IDVA office. Application is made using VA Form 21-8834.

- **Non-Service-Connected Death.** The VA may pay up to \$300 toward burial and funeral expenses. There is a \$150 plot/interment allowance for deaths prior to December 1, 2001. The plot/interment allowance is up to \$300 for deaths on or after December 1, 2001. If the death occurred while the veteran was a patient in a VA hospital or while under contract nursing home care, some of the costs for transporting the deceased's remains may also be reimbursed. Apply at any VA or IDVA office or by filling out VA Form 21-530, Application for Burial Allowance. Attach proof of the service, a death certificate, and copies of funeral and burial bills.

## **STATE (IDVA)**

### **Headstone or Grave Marker Supplementary Allowance**

The state will provide next of kin with up to \$500 in reimbursement for the cost of cartage and placement of VA-provided headstones or memorial markers. This payment will be made only after the headstone/marker has been received and placed and local cartage and placement fees paid. Apply at any IDVA office with VA Form 3 WVGR.

### **Grave Registration**

The IDVA maintains a “Roll of Honor” for all veterans buried in the state. Every cemetery or burial place is required to keep a permanent record of the burial of each U.S. veteran.

## **COUNTY**

### **Indigent Burial Benefit**

County boards are required by state law to provide an allowance up to \$600 and to appoint a suitable person to take charge of the burial of indigent veterans and their mothers, fathers, wives, widows, or minor children. Dependent relatives receiving Public Assistance are not eligible.

For further information, apply to the County Veterans Assistance Commission, or if your county does not have one, to any IDVA office, or directly to the county board.

## OTHER FEDERAL BURIAL/DEATH BENEFITS

- **Burial at Arlington National Cemetery.** This cemetery is under the jurisdiction of the Department of the Army rather than the VA. Eligibility for burial in this cemetery is more restrictive, being limited to: those who died while on active duty or Armed Forces retirees eligible to receive compensation; veterans discharged under other than dishonorable conditions who later held elective office with the U.S. Government, were members of the Supreme Court or cabinet, or who served in an office salaried at Level 11 under the Executive Salary Act; veterans separated from the service for physical disability of 30% or more prior to October 1, 1949; veterans discharged under other than dishonorable conditions who were awarded one of the following decorations:
  - Congressional Medal of Honor
  - Distinguished Service, Air Force, or Navy Cross
  - Distinguished Service Medal
  - Silver Star
  - Purple Heart

Spouses and dependent children of those eligible for burial or now buried at Arlington are also eligible. Those spouses who have remarried are also eligible for burial in a national cemetery provided the veteran is buried there and the death occurred after January 1, 2000. There is no limit on age for remarriage. Normally arranged for by the funeral director; you may also apply at any VA or IDVA office, or write or call Arlington National Cemetery, Arlington, VA 22211, (703) 607-8000.

- ***Congressional Medal of Honor Recipient Gravestone or Marker.*** Although not specifically mentioned in the VA or IDVA brochures or benefit booklets, this special gravestone with Medal of Honor engraving has been available since 1976. In many cases, next of kin of deceased Medal of Honor recipients, unaware of the special CMH gravestone, have opted for a private headstone rather than a government-provided marker. May be arranged for by the funeral director. Or, you may apply at any VA or IDVA office, using VA Form 40-1330.

- ***Free Passport to Next of Kin of Those Buried in Overseas Military Cemeteries.*** Immediate family members who wish to visit the grave of, or memorial to, former members of the Armed Forces in overseas U.S. military cemeteries are eligible for a U.S. Passport free of charge. Those interested should obtain a statement of the location of the deceased's burial site or memorial from the American Battle Monuments Commission, Room 5127, Pulaski Building, 20 Massachusetts Avenue, Washington, D.C. 20314. Upon receipt of the statement, the passport may be applied for at most post offices, with the clerk of courts, or at any office of the Passport Agency, U.S. Department of State. For assistance, contact any VA or IDVA office.
- ***Federal Death Benefit (Gratuity).*** This benefit is paid to surviving spouses and dependents not by the VA, but by the branch of service of military personnel who die in service (providing death is not due to willful misconduct), or from service-connected causes up to 120 days after separation from service. The benefit amounts to a sum equal to 6 months of military pay of the deceased, and is to be not less than \$800 or more than \$3,000. The branch of service pays this gratuity to the beneficiary designated by the deceased as entered in his/her service records. If survivors do not receive this benefit within a reasonable time, they should inquire not at the VA, but directly to the commander of the deceased's last assigned unit.

## **Dependents Compensation and Pension Benefits**

### **Dependency and Indemnity Compensation (DIC)** ***(Death Due to Service-Connected Disability)***

**DIC payments** are authorized for surviving spouses, unmarried spouses, unmarried children under 18 (as well as certain helpless children and those between 18 and 23 if attending a VA approved school), and certain parents of service personnel or veterans who die:

1. While on active duty; or
2. From a disease or injury incurred or aggravated in line of duty while on active duty or during active duty training; or

3. From an injury incurred or aggravated in line of duty while on inactive duty training; or
4. From a disability otherwise compensable under laws administered by VA.

Note: Death cannot be the result of willful misconduct.

### **Additional Eligibility Requirements for Surviving Spouse**

In addition to the requirements noted in “Definition of Surviving Spouse” at the beginning of this chapter, to be eligible for DIC payments for service-connected death, the surviving spouse must also meet one of the following requirements:

- Must have married the veteran within 15 years of veteran’s separation from service.
- Must have been married to the veteran one year or more.
- Must have had a child by the veteran, either before or after the marriage.
- Must not be remarried. H.R. 2297 signed into law December 16, 2003, entitled The Veterans Benefits Act of 2003, restores dependency and indemnity compensation (DIC), VA home loan guarantee, education, benefit eligibility for spouses remarried after age 57, and burial eligibility for all remarried spouses.

### **Death Due to Non-Service-Connected Cause**

DIC payments are also authorized for surviving spouses, unmarried children under 18 (as well as certain helpless children and those between 18 and 23 if attending a VA-approved school) or veterans who were 100% service-connected at time of death and whose death was not the result of their service-connected disability if:

- The veteran was continuously rated totally disabled for a period of 10 or more years;
- If so rated for less than 10 years, was so rated for a period of not less than five years from the date of discharge from military service; or

- If a former Prisoner of War who died after September 30, 1999. To qualify under this provision, a spouse must have been married to the veteran at least two years. Payments under this provision are subject to offset by the amount received from judicial proceedings brought on account of the veteran's death.

If death occurs after service, the veteran's discharge must have been under conditions other than dishonorable.

### **DIC Payments**

The amount of the DIC may be increased if there are dependent children. If the surviving spouse is receiving a Survivor Benefit Plan (SBP), then only the difference between the two is received. If the DIC is greater than the SBP, the spouse receives the DIC in lieu of the SBP. To apply for DIC benefits, fill out [VA Form 21-534](#) Application for Dependency and Indemnity Compensation, Death Pension and Accrued Benefits by a Surviving Spouse or Child, or apply to any VA Regional Office or IDVA office.

### **Additional Monetary Benefits for Dependents/Survivors**

#### Aid and Attendance

Surviving spouses and parents receiving DIC may be granted a special allowance for aid and attendance if they are patients in a nursing home or require the regular aid and attendance of another person. Application may be made at any VA Regional Office; complete VA Form 21-2680 Examination for Housebound Status or Permanent Need for Regular Aid and Attendance.

#### Housebound

Surviving spouses qualified for DIC who are not so disabled as to require the regular aid and attendance of another person but due to disability are permanently housebound may also be granted a special allowance in addition to the DIC rate otherwise payable. Application may be made at any VA Regional Office. Complete VA Form 21-2680 Examination for Housebound Status or Permanent Need for Regular Aid and Attendance.

## Reinstated Entitlement Program for Survivors (REPS)

Certain survivors of deceased veterans who died of service-connected causes incurred or aggravated prior to August 13, 1981, are eligible for benefits. The benefits are similar to the benefits for students and surviving spouses with children between ages 16 and 18 that were eliminated from the Social Security Act. The benefits are payable in addition to any other benefits to which the family may also be entitled. The amount of benefits is based on information obtained from the Social Security Administration. Apply using VA Form 21-534 Application for Dependency and Indemnity Compensation, Death Pension and Accrued Benefits by a Surviving Spouse or Child, or apply to any VA Regional Office or IDVA office.

## Death Compensation Relating to Deaths Before January 1, 1957

Death compensation payments are authorized for surviving spouses, unmarried children under 18 (as well as certain helpless children and those between 18 and 23 if attending school), and dependent parents of service persons or veterans who died before January 1, 1957, from a service-connected cause not the result of willful misconduct.

Survivors with eligibility for death compensation benefits may elect to receive DIC benefits. Generally, the DIC benefits will pay greater rates, especially for surviving spouses and children. More specific information about death compensation benefits may be obtained from your nearest VA or IDVA office. If a survivor has eligibility for both death compensation and DIC, the VA office processing the claim will notify the survivor about the dual entitlement and will explain how to elect payments under the DIC program. Complete VA Form 21-534 Application for Dependency and Indemnity Compensation, Death Pension and Accrued Benefits by a Surviving Spouse or Child or apply to any VA Regional Office or IDVA office.

## **Non-Service-Connected Death Pension**

Certain surviving spouses and children of deceased eligible veterans may qualify for non-service-connected death pensions. The veteran must have been discharged under conditions other than dishonorable and, unless discharged or retired sooner for service-connected disability, must meet one of the following requirements:

- If a veteran of WWI, WWII, or the Korean War, must have served at least 90 days.

- If a veteran of the Vietnam War, must have served at least 181 days.
- If a veteran who served after January 1, 1977, must have fulfilled his/her enlistment contract (served full enlistment period).

Surviving spouses and unmarried children under age 18 (or until age 23 if attending a VA-approved school) of deceased veterans of the wars referred to above may be eligible for pension based on need if they meet the applicable income standards.

Qualified children who became permanently incapable of self-support because of mental or physical defect before reaching age 18 may receive a pension as long as the condition exists or until they marry.

Pension is not payable to those whose estates are so large that it is reasonable they look to the estates for maintenance.

A surviving spouse who is a patient in a nursing home or otherwise determined to be in need of the regular aid and attendance of another person, or is permanently housebound, may be entitled to higher income limitations or additional benefits, depending on the type of pension received.

## **Additional Eligibility Requirements for Surviving Spouse**

In addition to the requirements for “Surviving Spouse” defined at the beginning of this chapter, to be eligible for non-service-connected death pension, the surviving spouse must have been married to the veteran at least one year prior to his/her death, unless a child resulted from the union. If married to a Vietnam era veteran, the surviving spouse must have been married prior to May 8, 1985.

## **Amount of Non-Service-Connected Death Pension Payments**

To apply for this benefit, use VA Form 21-534 Application for Dependency and Indemnity Compensation, Death Pension and Accrued Benefits by a Surviving Spouse or Child, or apply to any VA Regional Office or IDVA office.

The amount of pension paid depends upon whether the surviving spouse and children are receiving payments under the Improved Pension Program or the Protected Pension Program. The differences are described below.

### Improved Pension Program

Effective December 1, 1985, the Improved Pension Program provides for annual rates, generally payable monthly. The annual payment is reduced by the amount of the annual countable income of the surviving spouse or dependent children.

### Protected Pension Program

All surviving spouses and children who were on the rolls December 31, 1978, who do not elect improved pension, may continue receiving pension under the prior law at the rate they were receiving on that date. Monthly payments shall continue as long as their income does not exceed the applicable income limitation or they do not lose a dependent.

## **STATE (IDVA)**

### **Vietnam Era Survivors Benefit**

The nearest eligible survivor of a veteran who died as a result of service in Vietnam may receive a payment of \$1,000, providing the veteran did not claim his/her Vietnam service state bonus. Apply at any IDVA office and ask to fill out Illinois Form 2.

### **Health Care Benefits**

The health care program is known as [CHAMPVA](#) (Civilian Health and Medical Care Program of the VA). It is the usual VA practice to refer dependents to non-VA medical facilities and reimburse these facilities for treatment/care provided. However, dependents should apply first to the VA and obtain approval.

### **Who May Be Eligible**

- Spouse or dependent child of a veteran with a total and permanent service-connected disability.
- Surviving spouse or child of a veteran who died as a result of a service-connected total disability, or who, at the time of death, had a total and permanent service-connected disability.

- Surviving spouse or child of a person who died while on active duty.
- Applicants must not be eligible for health care under CHAMPUS (Civilian Health and Medical Program of the Uniformed Services) or under Medicare.

### **How to Apply for CHAMPVA**

To apply for benefits, submit:

- Application for CHAMPVA Benefits, VA Form 10-10d.
- Other Health Insurance Certification VA Form 10-7959c. (This is for individuals who are eligible for Medicare.)
- Copy of the Medicare card.

If age 65 or older and not entitled to Medicare, applicant must send documentation from the Social Security Administration which confirms that non-entitlement.

Processing of the application may be speeded up if information that shows the veteran was permanently and totally disabled is submitted along with the application. A copy of the VA rating decision that shows the veteran is permanently and totally disabled or the death rating for a survivor will suffice. Also be sure to send copies of the marriage license and/or birth certificate/adoption papers. Always send copies—never originals.

If a widow/widower remarries and that marriage is dissolved by death or divorce, the surviving spouse must provide a copy of the legal documentation that terminated the remarriage. The legal documentation of termination of a remarriage may be a divorce decree, death certificate, or annulment decree.

It is also good to provide a copy of the Veteran's DD 214 or Military Separation papers if available. Finally, if there are children age 18-23 attending school, provide a copy of the school certification of full-time enrollment.

Send everything (be sure to keep copies for personal record) to:

CHAMPVA-Eligibility  
P.O. Box 409028  
Denver, CO 80206-9028

## **STATE (IDVA)**

Eligible and surviving spouses may apply for residency at the Illinois Veterans (retirement and nursing) Home at Quincy. The description in Chapter 5 includes eligibility requirements for admission. (95 ILL. Admin. Code 107.20-30.)

### **Educational Benefits**

Dependents of totally disabled service-connected veterans or of those veterans who died as the result of a service-connected disability (discussed earlier in this chapter), are eligible for educational benefits under 38 U.S.C. Chapter 35 Survivors' and Dependents' Educational Assistance. Dependent children can generally qualify from age 18 to 26. Under specific conditions, the child's educational assistance can start at an earlier age or be extended beyond age 26.

### **Who May Be Eligible**

- Spouse or dependent child of a veteran with a total and permanent service-connected disability. Application must be made within 10 years of the date the veteran was found to be service-disabled.
- Surviving spouse or child of a veteran who died as the result of a service-connected disability, or who, at the time of death, had a total and permanent service-connected disability. Application must be made within 10 years from the date (1) of the veteran's death, or (2) the VA determined the death was due to a service-connected disability, whichever is later.
- Spouse or child of a veteran who has been listed as missing in action for more than 90 days or was captured in the line of duty and is being detained by a foreign power.

Apply at any VA or IDVA office or complete VA Form 22-5490 Application for Survivors' and Dependents' Educational Assistance.

The State of Illinois offers several educational assistance programs for spouses, surviving spouses, and children of veterans as follows:

## **POW/MIA Scholarship**

The spouse, surviving spouse, or child of a veteran who was declared a prisoner of war or missing in action or who is permanently and totally disabled from a service-connected disability or who died as a result of a service-connected disability, and who was an Illinois resident for at least six months before entry into service, may receive a four-year scholarship to a state-controlled college or university. (95 Ill. Admin. Code 116.10 *et. seq.*) Apply at any IDVA office. Fill-out IDVA form POW-1.

## **Educational Opportunities for Children of Veterans**

A child of a veteran who is in grade school or high school may receive up to \$250 per school year in educational assistance if the veteran is totally disabled as a result of a service-connected disability or died as a result of military service. Apply at any IDVA office. Fill out VA Form ED I.

## **COUNTY**

### **Honorary Scholarship, University of Illinois**

Each Illinois county may provide one honorary scholarship per year to children of wartime veterans. Children of veterans of WWI, WWII, the Korean War, or the Vietnam War and those who served in the Gulf War and other areas of conflict all qualify, with preference given to children of deceased or disabled veterans. (See 110 ILCS 305/9 Honorary scholarships – number from each county.) Apply to any IDVA office or to a State Senator or Representative.

### **Housing Benefits**

A variety of housing benefits are offered on federal and state levels as follows:

## FEDERAL

### Home Loan Guarantee

Eligible surviving spouses may obtain a VA-guaranteed home loan. To be eligible, the spouse must be the surviving spouse of a veteran who:

- \* Was in service any time between September 16, 1940 and the present and died as a result of service-connected disabilities; or
- \* Was on active duty when officially listed as missing in action or prisoner of war and has been on such status for more than 90 days.

Apply at any VA Regional Office or any IDVA office. Or, apply directly by filling out a VA Form 26-1880 and sending it along with proof of military service to:

VA Loan Eligibility Center  
P.O. Box 20729  
Winston-Salem, NC 27120

For overnight delivery, send applications to:

VA Loan Eligibility Center  
21 N. Main Street  
Winston-Salem, NC 27155

The VA uses two Eligibility Centers for the Loan Guarantee program. The center for Illinois is given above for questions or direct contact; applicants may also call the toll-free number or send an e-mail:

Toll-free number: 1-888-244-6711  
E-mail: [nceligib@vba.va.gov](mailto:nceligib@vba.va.gov)

## STATE (IDVA)

### Housing Tax Exemption

The spouse or unmarried surviving spouse of a veteran with a 100% service-connected disability may be exempt from the first \$58,000 of assessed value of property providing the property is purchased or specially adapted housing for which federal funds were used. [35 ILCS 200/15-165](#).<sup>12</sup> Eligibility must be reestablished on an annual basis by certification through the Illinois Department of Veteran Affairs. The Department will forward the certification to the assessing official. Apply at any IDVA office.

#### Who May Be Eligible

- Unmarried spouses of deceased veterans who suffered a war service-connected death.
- Unmarried spouses of veterans with a war service-connected disability that prevents the veteran from qualifying for civil service employment.
- One parent of an unmarried veteran who suffered a war service-connected disability which prevents him/her from qualifying for civil service employment. The first parent to receive a civil service appointment shall be the parent entitled to the preference.

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<sup>12</sup> (35 ILCS 200/15-165) Sec. 15-165. Disabled veterans. Property up to an assessed value of \$58,000, owned and used exclusively by a disabled veteran, or the spouse or unmarried surviving spouse of the veteran, as a home, is exempt. As used in this Section, a disabled veteran means a person who has served in the Armed Forces of the United States and whose disability is of such a nature that the Federal Government has authorized payment for purchase or construction of Specially Adapted Housing as set forth in the United States Code, Title 38, Chapter 21, Section 2101. The exemption applies to housing where Federal funds have been used to purchase or construct special adaptations to suit the veteran's disability.

The exemption also applies to housing that is specially adapted to suit the veteran's disability and purchased entirely or in part by the proceeds of a sale, casualty loss reimbursement, or other transfer of a home for which the Federal Government had previously authorized payment for purchase or construction as Specially Adapted Housing.

However, the entire proceeds of the sale, casualty loss reimbursement, or other transfer of that housing shall be applied to the acquisition of subsequent specially adapted housing to the extent that the proceeds equal the purchase price of the subsequently acquired housing.

For purposes of this Section, "married surviving spouse" means the surviving spouse of the veteran at any time after the death of the veteran during which such surviving spouse is not married.

This exemption must be reestablished on an annual basis by certification from the Illinois Department of Veterans' Affairs to the Department, which shall forward a copy of the certification to local assessing officials. (Source: P.A. 91-401, eff. 1-1-00.)

## **Where To Apply**

Apply at the personnel office of the Office of the Governor of Illinois.

## **Family Military Leave Act**

On August 15, 2005, the governor signed the Family Military Leave Act (FML). This act allows the spouse or parent of service-members who have been activated for military service either by the governor or the President of the United States to take unpaid leave. The service-member must be activated for at least 30 or more consecutive days with the State or United States. If an employer has between 15 and 50 employees, 15 days of FML must be granted during the time of deployment. If the employer has more than 50 employees, the family member shall be given up to 30 days unpaid leave. If an employee wishes to take five or more consecutive days of FML, 14 days notice must be given to the employer. If an employee wishes to take less than five consecutive days, notice must be given as practicable.

FML may only be used after all vacation, personal, and compensatory days have been used. This includes any other type of leave, excluding sick leave and disability leave. Employees who take FML are protected and must be reinstated with all seniority and benefits. If an employee wishes to continue employee benefits during FML, the employer must make provisions for the employee to continue those benefits at the employee's expense. Employees who use FML will have all accruable benefits continue during the leave (i.e., vacation and sick leave continue to accrue as does seniority). Any employer who refuses to comply with the provisions of the FML may have a civil action brought against them for damages and reinstatement.

## **SUMMARY**

There are many advantages available to the dependents of veterans and to their survivors. These advantages cover a wide variety of benefits ranging from health care to compensation or pension payments to preference in employment for state and federal jobs. However, just as with other veterans' benefits, you must be an educated consumer. There is little or no outreach by government agencies to veterans, dependents, and survivors. In the end, it is up to the individual to learn of and apply for the rights and benefits given by a grateful nation. If you think you or your dependents are or may become eligible for any of the benefits in this Chapter, apply for them. It is always a good idea to ensure that dependents are made aware of the benefits offered prior to the

death of a veteran and that the information necessary for application are kept in a safe place that is readily accessible by the survivors. We recommend keeping a copy of this book (or another book on veterans benefits), military discharge papers, proof of marriage, divorce decrees, birth certificates, Medicare information, Social Security information (including award letters), and any other necessary information in one central fireproof location, so that the survivors may easily access the information necessary for applying for VA and other survivor benefits.

Remember too, that if a deceased veteran was not eligible for benefits because of a “bad paper” discharge, a survivor or dependent may apply on behalf of the deceased veteran for an upgraded discharge. If the discharge upgrade is approved, eligibility for benefits may be established.

## **CHAPTER NINE: EDUCATIONAL BENEFITS**

## EDUCATIONAL BENEFITS

One of the greatest benefits of serving honorably in the U.S. Armed Forces is the educational benefits available to former service members. Since WWII, veterans have received educational benefits through both the state and federal government. These benefits range from monthly subsistence to tuition payments. The U.S. Department of Veterans Affairs (VA) provides educational benefits under the **Montgomery G.I. Bill, Vocational Rehabilitation** (for service-connected veterans), and the **Post Vietnam Era Veterans' Educational Assistance Program**. The State of Illinois also provides educational benefits through **the Illinois Veterans Grant, Illinois National Guard Scholarship** and, for qualified dependents, the **MIA/POW Scholarship, Educational Opportunities for Children, and Honorary Scholarships**.

This chapter provides a general description of educational and training benefits available at both the state and federal levels. It includes information to help veterans understand how to receive payments under these programs. Also included are Web sites so that those with access to a computer may use the VA's online services to apply for educational benefits and verify enrollment. Going online to the VA's Web site is a great way to keep up to date on all veteran benefits. The Web site for the VA's education home page is [http://www.gibill.va.gov/GI\\_Bill\\_Info/benefits.htm](http://www.gibill.va.gov/GI_Bill_Info/benefits.htm). This site lists all the U.S. Department of Veteran Affairs educational benefits and the latest news on educational benefits. The VA's Web site home page is located at <http://www.va.gov/>. This site is the gateway to all VA benefits.

The information in this chapter may help veterans in making a decision to seek training or to enter an academic institution. Please read carefully to understand the full range of benefits available.

### VA FEDERAL BENEFITS

#### Montgomery GI Bill (MGIB)

##### Description of Benefits

The MGIB may provide up to 36 months of education benefits to eligible veterans for a college degree, vocational/technical training, correspondence courses, apprenticeship/on the job training, or even flight training. There is a lot more to the MGIB than just the monthly subsistence allowance—the veteran may also seek tutorial assistance, reimbursement for some licensing and certification tests, and more.

A veteran must have been honorably discharged to be qualified for this benefit. The following are considered honorable discharges:

- Convenience of the government
- Disability
- Hardship
- Disability that pre-existed service
- A medical condition that is not considered a disability but that interfered with the performance of military duties
- Reduction in force

In addition to an honorable discharge or equivalent, the veteran must have a high school diploma, GED, or 12 hours of college credit. Finally, a veteran must meet one of the criteria categories below:

### **CATEGORY I**

- Entered active duty for the first time after June 30, 1985.
- Had military pay reduced by \$100 a month for first 12 months.
- Continually served for three years, OR two years if that is what veteran first enlisted for, OR two years if veteran entered the Selected Reserve within a year of leaving active duty and served four years.

### **CATEGORY II**

- Entered active duty before January 1, 1977.
- Served at least one day between 10/19/84 and 6/30/85 and stayed on active duty through 6/30/88 (or 6/30/88 entered Reserves within one year of leaving active duty and served four years).
- On 12/31/89 had entitlement left from Vietnam era GI Bill.

### **CATEGORY III**

- Not eligible for MGIB under Category I or II.
- On active duty on 9/30/90 AND separated involuntarily after 2/2/91, OR involuntarily separated on or after 11/30/93, OR voluntarily separated under either the Voluntary Separation Incentive (VSI) or Special Separation Benefit (SSB) program.
- Before separation, had military pay reduced by \$1200.

## CATEGORY IV

- On active duty on 10/9/96 AND had VEAP funds remaining on that date and elected MGIB by 10/9/97 OR entered full-time National Guard duty under Title 32 USC, between 7/1/85 and 11/28/89 AND elected MGIB during the period 10/9/96 through 7/8/97.
- Had military pay reduced by \$100 a month for 12 months or made a \$1200 lump-sum contribution.

Once declared eligible for the MGIB, the veteran will generally receive a monthly subsistence allowance. The amount depends upon the type of education being received and the length and type of service. Those who served on active duty for full enlistment will receive more than a national guard member or reservist will under the Montgomery GI Bill - Selected Reserve (MGIB-SR).

### Application

Apply by filling out [VA Form 22-1990](#), Application for Education Benefits. Application may be made online at <http://vabenefits.vba.va.gov/vonapp/main.asp>. This is an easily accessible site that walks the veteran or eligible dependent through the application process. New users must sign up to complete an application. Veterans may use the site to apply for compensation in addition to educational benefits.

### Vietnam Era GI Bill and VEAP Conversions

Montgomery GI Bill benefits are also available to those individuals who had remaining entitlement under the Vietnam Era GI Bill on December 31, 1989. The veteran must have served on active duty between October 19, 1984, and July 1, 1985. The veteran must have continued to serve on active duty to July 1, 1987, or to July 1, 1988, followed by four years in the Selected Reserve. A veteran who converts from the Vietnam Era GI Bill must have met the requirements for a high school diploma or equivalency certificate before December 31, 1989. Completion of 12 credit hours toward a college degree meets the requirement. Veterans who were eligible for post-Vietnam Era Veterans' Educational Assistance Program (VEAP) may elect to receive benefits under the Montgomery Bill and apply for a refund of the contributions to VEAP.

### Licensing and Certification Test Reimbursement

Veterans may receive reimbursement for licensing and certification tests after March 1, 2000. The tests must be approved for the GI Bill. The VA pays only for the cost of the test.

## **Eligibility**

To be eligible, the veteran must be eligible for the Active Duty MGIB or Dependents Educational Assistance (commonly called Chapter 35) or VEAP. This program does not include Reservists or National Guard members. However, many members of the National Guard and Reserves are or have been made eligible for the MGIB (active duty) because they have been called up for active service under Title 10 U.S.C. and meet the following requirements:

- The veteran must have no active duty prior to 7/1/85.
- The veteran must have been called to active duty under Title 10 U.S. Code after 7/1/85 (Title 10 is the law that governs the Armed Forces whereas U.S.C. 32 governs the National Guard).
- The veteran must have served a minimum of 24 months of continuous active duty.
- The veteran must have honorable service for the period of active duty.

To apply, complete DD Form 2366 Election to Participate in the MGIB Active Duty Program and pay \$1200 to Defense Finance and Accounting Service (DFAS) to enroll.

## **Montgomery GI Bill – Selected Reserve (MGIB-SR)**

### Description of Benefits

Generally, eligible veterans may receive up to 36 months of education benefits. MGIB-SR is for members of the Selected Reserve. This includes members of the active Reserves of all services or the National Guard. The program may be used for degree programs, certificate or correspondence courses, cooperative training, independent study programs, apprenticeship/on-the-job training, and vocational flight training programs just like the MGIB for those who served on active duty. It also includes remedial, refresher, and deficiency training available under certain circumstances.

## Eligibility

To qualify, the guard or reserve member must meet the following requirements:

- The member must have a six-year obligation to serve in the Reserves or National Guard enlisted after June 30, 1985. If an officer, the member must have agreed to serve six years in addition to the original obligation. For some types of training, it is necessary to have a six-year commitment that begins after September 30, 1990.

The member must complete initial active duty for training (IADT).

- The member must meet the requirement to receive a high school diploma or equivalency certificate before completing IADT. (Note: Unlike the active duty MGIB, the veteran cannot use 12 college credits as an equivalent.)
- The member must remain in good standing while serving in an active Selected Reserve unit.
- If the member's Reserve or National Guard unit is deactivated during the period October 1, 1991, through September 30, 1995, or was involuntarily separated (e.g., reduction in force) from Reserve or National Guard service during this same period, the veteran retains eligibility for MGIB-SR benefits for the full 14-year eligibility period.
- If the veteran was discharged for a disability, then the veteran retains eligibility.
- If the veteran was ordered to active duty, the member's eligibility period may be extended. Be sure to check if the activation made the veteran eligible for the active duty MGIB.

## How to Apply

Application is a two-step process. The first step is to obtain a DD Form 2384-1, Notice of Basic Eligibility, from the veteran's unit. The veteran's unit will code the eligibility status into the Department of Defense personnel system so that the VA may verify eligibility. The second step is to complete a VA Form 22-1990, Application for Education Benefits and send it to:

Chicago VA Regional Office  
2122 West Taylor Street  
Chicago, Illinois 60680

If the veteran does not live in Illinois, the forms should be submitted in the state where he/she resides. If the veteran has already started training or school, he/she should take VA Form 22-1990 and VA Form 22-1999 Enrollment Certification to the school or employer for completion and then send all the forms to the VA.

## **Veterans Educational Assistance Program (VEAP)**

VEAP is available if you elected to make contributions from your military pay to participate in this education benefit program. Your contributions are matched on a \$2 for \$1 basis by the government. Generally, participation in VEAP ended with the MGIB. Benefit entitlement is 1 to 36 months depending on the number of monthly contributions. Veterans who participated in VEAP may still be eligible for benefits provided the following requirements are met:

- The veteran was discharged under conditions other than dishonorable.
- The veteran completed first period of service.
- The veteran completed first service between January 1, 1977, and June 30, 1985.
- The veteran opened a contribution account before April 1, 1987.
- The veteran voluntarily contributed \$25 to \$2,700.

If the veteran is still on active duty and has a VEAP account, there must be at least 3 months of contributions available to use the VEAP benefits. The veteran has 10 years from release from active duty to use VEAP benefits. If there is entitlement not used after the 10-year period, the remaining money will be automatically refunded.

## Application for VEAP

To apply for educational benefits, complete a VA Form 22-1990. The form may be downloaded from [www.vba.va.gov/pubs/forms/22-1990.pdf](http://www.vba.va.gov/pubs/forms/22-1990.pdf). The form may be requested by calling the VA at 1-800-827-1000. This is a menu driven system that offers information on all available VA benefits and provides access to a Veteran Benefits Counselor if needed. Veterans have 10 years from the date of separation to use this benefit.

## Veterans Educational Assistance

The Veterans' Educational Assistance program (38 U.S.C. CH. 34) has all but ended. Those veterans who have had a discharge upgrade are still eligible for the program for 10 years from the date of the upgrade. Generally, this program was for those veterans who served from January 31, 1955, to December 31, 1976. Veterans eligible for this program had 10 years to complete their education using this benefit.

## Vocational Rehabilitation

As discussed in depth in Chapter 7: Benefits for Disabled Veterans, Vocational Rehabilitation (also commonly referred to as Chapter 31) provides veterans who have a service-connected disability with a wide range of services designed to help with vocational or academic training.

A veteran is eligible for Vocational Rehabilitation, or Chapter 31, if at least one of the following conditions are met:

- The veteran has a service-connected disability and at least 20% disability rating or would but for receipt of military retirement pay. Veterans with 10% disability rating may be eligible if they have a serious employment disability.
- The veteran was honorably discharged for a service-connected condition or is home awaiting orders for such a separation or is hospitalized awaiting separation for a service-connected disability.
- The veteran has a serious employment impairment as the result of a service-connected disability.

- Those veterans with less than honorable discharges may be qualified if they have a service-connected disability and are approved by the VA. (See Chapter 1: Exceptions and Limitations.)

#### Rehabilitation Program Period

- Veterans must complete a rehabilitation program within 12 years from the date of the veteran's discharge or release from active duty.
- This period may be extended if a medical condition prevents the individual from training or if the veteran has a serious employment disability.
- Disabled veterans may receive services until they have reached their rehabilitation goal (generally up to 48 months).
- The VA may provide counseling, job placement, and post-employment services for up to 18 additional months.

#### Rehabilitation Program Costs

- Veterans may receive a subsistence allowance besides their disability compensation or retirement pay while in training and for two months after completing training.
- The VA may pay the cost of tuition and required fees, books, supplies, and equipment.
- The VA may also pay for special support, such as tutorial assistance, prosthetics, lip-reading training, and sign language training.
- Service members cannot receive subsistence allowance until they leave active duty.

Disabled veterans will be given vocational counseling prior to having an educational objective approved for eligibility. A veteran may receive employment assistance and self-employment assistance after completion of the educational objective.

**VRB Tip:** If eligibility is established for more than one educational benefit, only one may be used. A VA counselor will discuss the available options and help to determine which benefit is best suited to the veteran's needs. However, the veteran must make the final decision.

## **Educational Advance Payment**

On occasion, veterans may require advance payment of educational benefits to pay tuition, housing, etc. Such payment may be authorized if the following conditions are met:

- Individuals receiving an advance payment must have the institution that he/she is attending verify enrollment.
- The educational institution must “verify delivery of the advance payment check to the veteran.” Subsequent verifications are made by the veteran.

If a veteran would like an advance payment, he/she must tell the certifying official at the institution to check the advance pay box on the VA certification form. The veteran will receive the first month's pay in advance plus a partial month if the semester started mid-month. For example, if a semester starts on January 15, advance pay will be given for the period January 15 through the month of February. The veteran would receive the next check for education on April 1. The VA pays one month behind (i.e., February is paid on March 1).

## **Tutorial Assistance**

Veterans may be eligible to receive a special allowance for individual tutoring if attending a post-secondary school at one-half time or more. The veteran must have the school certify that deficiency in a subject exists and that tutoring is necessary. Also, the school must certify the tutor's qualifications and the hours he/she tutors the veteran. Tutors cannot be the mother, father, child, or sibling of the veteran. If found eligible, the veteran will receive a maximum monthly allowance of \$100. The maximum benefit is \$1,200.

## **Work-Study Program**

Veterans may be eligible for an additional allowance under a work-study program. This program allows the veteran to do work for the VA or a veteran related program in return for an hourly wage. Veterans must be enrolled in an academic institution or vocational training program at three-quarters or full-time rate. The maximum number of hours that veterans may work is 25 hours times the number of weeks in their enrollment period. Payments will be at the federal minimum wage or the state minimum wage, whichever is greater. To apply, complete VA Form 20-8681, Applications for Work-Study Allowance. The form may be downloaded from [www.vba.va.gov/pubs/forms/22-8691.pdf](http://www.vba.va.gov/pubs/forms/22-8691.pdf). The form may also be obtained by calling the VA at (800) 827 1000. Complete the form and send it to the nearest VA Regional Office.

**VRB Tip:** If the veteran has an overpayment because of receiving VA benefits, he/she may be able to participate in a work-study program to reduce or eliminate the overpayment.

## **STATE BENEFITS (IDVA)**

The State of Illinois supports educational assistance programs for veterans and Illinois National Guard members in the form of two grant programs: the [Illinois Veteran Grant](#) (IVG) and the [Illinois National Guard Grant Program](#) (ING) for members of the National Guard. Both programs are designed to assist veterans and current National Guard members who are attending or who wish to attend state-controlled colleges, universities, and community colleges. The grants are administered by the [Illinois Student Assistance Commission](#) (ISAC).

### **Illinois Veteran Grant (IVG)**

Four calendar years of full-time enrollment, including summer terms, at any state supported college, university, or junior/community college. Entitlement to free enrollment in any extension course offered by state supported colleges without paying tuition or fees. No payment of matriculation or application fees, tuition, activities fees, graduation fees, or other fees. However, this does not apply to building fees or fees for supplies and materials. A qualified veteran who paid any of the above fees may be reimbursed upon application within two months following the school term.

It should be noted that the law makes it very clear that the Illinois Veteran Grant is an “entitlement which the State-controlled college or university or community college in which the holder is enrolled shall honor without any condition other than the holder’s maintenance of minimum grade levels and a satisfactory student loan repayment record pursuant to subsection (c) of Section 20.”<sup>13</sup> Any college who demands payment from a qualified veteran should be informed of this. The veteran should report any such incident directly to the Illinois Student Assistance Commission (ISAC). ISAC Client Services Representatives are available from 8 a.m. to 5 p.m. Monday through Friday. Bilingual (English/Spanish) representatives are also available during this time. The telephone number is 800-899-ISAC (4722). Hearing-impaired individuals may contact ISAC through the Illinois Relay Center at 800-526-0857 (voice) or 800-526-0844 (TTY). Veterans may also access ISAC’s Web site ([www.collegezone.com/informationzone/16.htm](http://www.collegezone.com/informationzone/16.htm)) for more information on the Illinois Veteran Grant and other types of student aid.

### **Eligibility Requirements**

The Illinois Veteran Grant is for any person who was a resident of Illinois for at least six months prior to entering the service. The veteran must have returned to Illinois within six months of separation from the service. If a veteran is married to a service member, that person has six months to return to Illinois after the separation of the spouse.

### **Service Requirements**

- The veteran must have been honorably discharged;
- The veteran must have served at least one year; or
- The veteran who “has served in the armed forces of the United States for less than one year in a time of hostilities in a foreign country, and who would be qualified for a grant under this Section if he had been discharged from such service shall be eligible to receive a Veteran Grant under this section.”

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<sup>13</sup> 110 ILCS 947/40

## **Who Is Not Eligible**

- Veterans who receive “a discharge from the Armed Forces of the United States under dishonorable conditions”<sup>14</sup>; or
- “Any veteran whose service with the Armed Forces was for less than one year unless he received an honorable discharge from such service for medical reasons directly connected with such service except for those veterans discharged prior to August 11, 1967, whose service may be for less than one year, and except for those veterans (i) who serve in the armed forces of the United States for less than one year in a time of hostilities in a foreign country and (ii) who receive an honorable discharge.”<sup>15</sup>

## **Illinois National Guard Grant Program**

Members of the Illinois National Guard who have served for one year and are enlisted persons or company grade officers including Warrant Officers, First and Second Lieutenants, and Captains are eligible for the grant program for as long as they are members of the National Guard. The grant is the same as for veterans except that members of the Guard may only use the entitlement as long as they are active members of the Illinois National Guard. Should a Guard member terminate his or her membership while attending school under this program, the grant stops immediately—even if the member is in the middle of a semester.

## **How to Apply for the Illinois Veteran Grant or National Guard Grant Programs**

- Fill out IVS Form 3 “Application for Veterans’ Grant.” Requires submission of a DD 214 or its equivalent and proof of meeting residency requirements.
- If a current member of the Armed Forces, submit a statement from current commander indicating length of service and home of record upon entry into service or an enlistment contract, CDD Form 4, or DD Form 1966.
- Contact the financial aids at the state-controlled school you wish to attend or the Illinois Department of Veterans’ Affairs Service Officer in your area.

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<sup>14</sup> 110 ILCS 947/40

<sup>15</sup> *ibid*

## **Office of Rehabilitation Services (ORS)**

Another state benefit that may be helpful for disabled veterans is the services offered through the Illinois Office of Rehabilitation Services (ORS). The Illinois Department of Human Services Office of Rehabilitation Services offers several programs for disabled citizens. Veterans often do not use these programs because of their use of the VA for rehabilitation from their service-connected disabilities; however, as citizens they may also qualify for numerous programs available from the State of Illinois. If a veteran is disabled, he/she may qualify for training and other services offered by the VA's Vocational Rehabilitation program. In addition, however, the veteran should check his/her eligibility to use other state benefits such as those offered through the Illinois Office of Rehabilitation Services (ORS). Disabled veterans may be able to use both state and federal programs at the same time.

### **SUMMARY**

Educational benefits are one of the most important benefits available to veterans who have served their country honorably. Education is the door to a better life. Statistically, those who have a college education or a trade do much better than those who do not have an education or specialized training. The effective use of educational benefits can, as no other benefit, bring to the veteran and his or her family financial stability and wonderful career opportunities. It is important to use these benefits effectively for a successful future.

**CHAPTER TEN: HOUSING AND SMALL BUSINESS BENEFITS**

# HOUSING AND SMALL BUSINESS BENEFITS

## Housing Loans and Resources

The VA Loan Guarantee program has helped thousands of veterans buy their first house. Typically when veterans think of a VA Loan Guarantee, they usually think of buying a home. However, the VA Loan Guarantee program may be used for many things. Veterans may use the guarantee to buy a home, condominium, mobile home, or manufactured home. A VA Loan Guarantee may also be used to build a home; repair, alter, or improve a home; refinance a mortgage; and even install solar heating or cooling and other such projects.

### Description of Benefits

The VA guarantees or insures a portion of a loan made by a participating lender to an eligible veteran for the purpose of buying a home, building a home, improving a home, or refinancing an existing mortgage. The advantage of the VA Loan Guarantee is that it increases the veteran's "borrowing power." Since the VA is guaranteeing part of the loan, there is less risk to the lender.

### Eligibility Requirements

As with all VA benefits, veterans must meet certain requirements to be eligible for the VA Loan Guarantee. Veterans who served during the following eras must meet criteria specific to the era:

#### Wartime Eras

- WWII: 09/16/40 to 07/25/47
- Korean War: 06/27/50 to 01/31/55
- Vietnam War: 08/05/64 to 05/07/75

A veteran with other than honorable discharge will require further adjudication by the VA to determine if the veteran's service was under other than dishonorable conditions. Veterans must have at least 90 days on active duty and must have been discharged under other than dishonorable conditions. Only those veterans who were discharged for a service-connected disability may have less than 90 days.

### **Peacetime Eras**

If a veteran served during one of the following peacetime eras, there must be a total of at least 181 days of continuous active duty. The veteran must have been discharged under other than dishonorable conditions.

- 07/26/47 to 06/26/50
- 02/01/55 to 08/04/64
- 05/08/75 to 09/07/80 (enlisted)
- 05/08/75 to 10/16/81 (officer)

If the veteran has less than 181 days of service, eligibility may still be established if the discharge was for a service-connected disability.

### **Veterans separated after 09/07/80 (enlisted) or 10/16/81 (officer):**

- The veteran must have completed 24 months of continuous active duty or the full period but at least 181 days for which the veteran was activated and been discharged under conditions other than dishonorable.

Or

- The veteran must have completed at least 181 days of active duty and been given a hardship discharge or an early out, or have been determined to have a compensable service-connected disability.

Or

- The veteran may also be eligible if discharged due to an involuntary reduction in force or for certain medical conditions, or in some instances, for the convenience of the government.

### **Gulf War**

Those who served in the Gulf War (August 2, 1990, to date yet to be determined) must have: completed 24 months of continuous active duty, or the full period for which they were activated but at least 90 days, and been discharged under conditions other than dishonorable or must have completed at least 90 days of active duty and been discharged under the specific authority of 10 U.S.C.1173 (hardship) or 10 U.S.C. 1173 (early out), or have been determined to have a compensable service-connected disability, or have been discharged with less than 90 days of service for a service-connected disability. Veterans may also be eligible if they were released from active duty due to an involuntary reduction in force, certain medical conditions, or in some instances, for the convenience of the government.

### **Reserves or National Guard**

Members of the Reserves or National Guard are eligible once they have completed six years of active Guard/Reserve service, i.e., attended drills and annual training, even if they have been discharged, provided the discharge was honorable. This includes being retired or being transfused to the Standby Reserve. Veterans who completed less than six years may be eligible if discharged for a service-connected disability. Eligibility for reservists expires September 30, 2009.

### **Other Eligibles**

Veterans who served as officers of the Public Health Service; cadets at the United States Military, Air Force, or Coast Guard Academy; midshipmen at the United States Naval Academy; officers of the National Oceanic & Atmospheric Administration; and merchant seamen may also be eligible for a loan guarantee.

### **Other Eligibility Requirements for VA Loan Guarantee**

- Must have a good credit rating.
- Must have income adequate to support the mortgage payments.
- Must live in the home or on the property purchased.

## **Obtaining a VA Loan Guarantee**

Veterans should be careful when buying a home. Unlike most other veterans' benefits, a VA Loan Guarantee is a business contract with not only the VA but also with a private lending agency. As far as today's lender is concerned, it's strictly business. Defaults are viewed as a breach of contract and lenders are very good at processing foreclosures.

There are several "rules of thumb" about how much mortgage payments should be relative to income and expenses. Veterans should be frank with real estate agents and lending agents when buying a home; most are knowledgeable about what people can afford. Remember, once the contract is signed, it is binding and if payments cannot be made, the loan will go into default and it is very possible that the home will go into foreclosure. If this happens, credit can be ruined for years—so be careful. Again, if you have a computer or access to one, then the VA Web site is a great place to go for help about what to do should you default on your mortgage. **DO NOT WAIT FOR THINGS TO GET OUT OF HAND. If you get into trouble, act immediately before it is too late to save your credit and your home.** Go to [www.homeloans.va.gov/paytrbl.htm](http://www.homeloans.va.gov/paytrbl.htm) or call the VA at 1-800-827-1000 and follow the telephone prompts. There are counselors available to assist.

## How to Apply

### Step One – Get a “Certificate of Eligibility”

The first step in getting a VA Loan Guarantee is to get a “certificate of eligibility.” Getting a Certificate of Eligibility is fairly easy. The first step is to complete the 26-1880 and send it to the Winston-Salem Eligibility Center with proof of qualifying service. For Illinois veterans, the address is:

VA Loan Eligibility Center  
P.O. Box 20729  
Winston-Salem, NC 27120  
Toll-free number: 1-888-244-6711  
E-mail: [nceligib@vba.va.gov](mailto:nceligib@vba.va.gov)

Before sending the 26-1880 to the VA, be sure to include a copy of the most recent discharge or separation papers (DD 214). The separation papers must show the dates of service and type of discharge. If the veteran has previously used the VA Loan Guarantee, the separation papers may not be necessary. However, it is best to provide the discharge to ensure speedy processing. NEVER submit an original document.

Those veterans who are seeking to restore a previously used guarantee should include any evidence of payment in full of the prior loan. In most cases, the VA will receive a notification that a loan has been paid, but this doesn't always happen.

### **Reserves and National Guard**

If the veteran served in the Guard or Reserves, documentation must be provided that establishes a minimum of six years with points earned for weekend drills or active duty for training and/or received an honorable discharge. Since there is no uniform document similar to the DD 214 for proof of service in the Guard or Reserves, different forms may be accepted: National Guard members who are currently serving or who have been discharged may use NGB Form 22.

Those who served in the Reserves may use a variety of forms. Forms that verify an honorable discharge or that document retirement points, etc., may be necessary. Unless there is qualifying active duty, then the DD 214 will be due.

After all is said and done, the VA will determine eligibility. If the VA deems the veteran qualified, it will issue a certificate of eligibility.

## Step Two – Find a House

Find a house. The best way to do this is to use a licensed real estate agent to find the right home. Real estate agents can usually refer the veteran to a lender in the area who accepts VA Loan Guarantees. When considering a home, it is a good idea to have the home inspected by a licensed professional.

## Step Three – Find a Mortgage Lender

The real estate agent can help with this step, as can the VA. The VA has a Web site, [www.vba-roanoke.com/rlc/VA-E-Lenders/](http://www.vba-roanoke.com/rlc/VA-E-Lenders/) that lists by area lenders who make VA Loans.

## Determining the Amount the VA Will Guarantee

Entitlement means the amount of the guarantee benefits that are available to an eligible veteran. It is important to check with the VA for the most current guarantee rates prior to looking for a home. This information is available online at <http://www.vba.va.gov/ro/roanoke/rlc/>. This site contains a number of helpful pamphlets on VA home loans.

A veteran who previously obtained a VA Loan may use his/her remaining entitlement for any approved purpose. An exception to this is that veterans who use part of their entitlement to buy a mobile home must dispose of that mobile home prior to getting another VA Loan Guarantee to buy a second mobile home. Finally, veterans who do not have any entitlement left may still refinance an existing loan with a new VA Loan Guarantee at a lower interest rate, provided they are relieved of responsibility for the last loan guaranteed by the VA.

The amount of guarantee depends upon the amount of the total loan and the type of property bought, refinanced, or improved.

<b>Loan Amount</b>	<b>Percent Guaranteed</b>	<b>Maximum Amount Guaranteed</b>
Up to \$45,000	50%	\$22,500
\$45,000 to \$144,000	40-50%	\$22,500-\$36,000
\$144,000 or More	25%	\$60,000
Manufactured Home or Lot	40%	\$20,000

The VA requires payment in cash on all home loan closings, including title search and recording, insurance premiums, taxes, and a one percent origination fee or other costs as required by the lender. Loans made after March 1, 1988, must pay a fee to the VA of one-half of one percent of the balance of the loan.

<b>Type of Loan</b>	<b>Veteran's Percent of Loan</b>	<b>Reservist's Percent of Loan</b>
Loans with a down payment of less than 5% and refinancing and home improvement loans	2.0%	2.75%
Purchase or construction loans with down payments of at least 5% but less than 10%	1.5%	2.25%
Purchase or construction loans with down payments of 10% or more	1.25%	2.0%
Manufactured home loans	1.0%	1.0%
Interest rate reduction loans	0.5%	0.5%
Assumption of VA-guaranteed loans	0.5%	0.5%
Second or subsequent use without a down payment	3.0%	3.0%

## What to Watch for With a VA Loan Guarantee

### Release from Liability

Veterans should get a release from liability from the VA after selling a VA Loan Guaranteed home. Personal liability on the part of the veteran continues unless the related loan is paid in full or the veteran receives release from personal liability from the lender. Veterans should insist that the contract for sale includes a provision that the sale is contingent upon both parties—the veteran and the purchaser—filing the appropriate VA forms to release the selling veteran from liability, and that the sale is contingent upon the VA approving such release.

### Foreclosure

As was mentioned earlier, if you are late on your mortgage payments, you may very well lose your home. If you are having difficulty making your payments, there are a few things you should know:

- A mortgage company may not foreclose unless you are at least three months late with your payments.
- The mortgage company is obligated to accept partial payment under certain circumstances and must give the VA 30 days advance notice before foreclosing.
- Mortgage companies are supposed to extend all reasonable forbearance including consideration of temporary suspension of payments and extension of the loan (in actual practice, such leniency is rare).
- VA regulations require that it consider “assignment” (taking back the loan) within 30 days of receiving notice of an impending default. This means that the VA will pay off the mortgage company. The veteran then will make mortgage payments directly to the VA.
- A procedure known as refunding may also be used by the VA. Refunding lengthens the period of the mortgage.

- If foreclosure appears eminent, discuss the situation with a lawyer. If you cannot afford one, seek free legal assistance through one of the many legal aid organizations. Lists of local organizations are usually available from the local Bar Association. Veterans should also consider taking refuge in United States Code Chapter 13 (Protection From Creditors) or Chapter 11 (Bankruptcy) to save the home from foreclosure. Veterans should make sure that both the mortgage company and the VA are included in the list of creditors.

The VA Loan Guarantee Web site has a number of pamphlets and booklets available to veterans interested in the Loan Guarantee Program. Most are available online; however, those without online access may call the VA Hotline at 1-800-827-1000 and request them.

## **Business Loans and Resources**

Many veterans have dreamed of owning a small business. But for many, the dream ended because they just didn't know where to start or couldn't get the loan needed to start the business. Other veterans have actually started a small business but because of an obligation to the National Guard or Reserve lost it when they were called to active duty. Some veterans have suffered losses because, as small business owners, they have had key employees leave for active duty. Veterans in these situations may have many questions, such as: Where can I go to get some help? Are there programs for small business owners who have lost a key employee to active duty? I'm being called up—what can I do?

The answer to all of these questions may be found at the Small Business Administration. The SBA can help in every aspect of starting a business. There are two Veterans Business Development officers in Illinois.

Additionally, there are many sites online that will prove very helpful to anyone who wishes to start a small business or who has a small business and wants to expand it.

## **The Veterans Entrepreneurship and Small Business Development Act of 1999**

This act created several advantages for veterans who wish to start or expand a business. Generally, there are two categories of veterans: (1) service disabled, i.e., service-connected veterans (there is no set degree of disability for this provision); and (2) veterans. Both categories require that the business be at least 51% owned by a veteran and that the daily business operations be controlled by one or more—or in the case of a severely disabled veteran—the veteran's spouse or caregiver.

The act also established the Office of Veterans Business Development (OVBD). This office is responsible for the “formulation, execution, and promotion of policies and programs of the SBA that provide assistance to small businesses owned and controlled by veterans and service-disabled veterans (veteran small businesses).

It also established the National Veterans Business Development Corporation. The purpose of the corporation is to “improve access to technical assistance regarding entrepreneurship for veterans” and to work with and organize public and private resources and to assist veterans and service-connected veterans with the starting and or expanding of small businesses. They do this in part by using the expertise of the Senior Corps of Retired Executives, (SCORE) to provide advice and council to those veterans who wish to start or expand a business. This assistance may be in the form of counseling, referrals, or loans. The SBA has several loan programs.

## **Lending Programs**

[7\(a\) Loan Guaranty Program](#) – Provides guaranteed loans to qualified small businesses that are unable to secure financing through regular lending agencies. The program operates like the VA Home Loan Guarantee Program. The SBA guarantees a business loan and a private agency makes the loan. As with the Home Loan Guarantee, many lenders are aware of the SBA’s guarantee program. Those interested in this program should contact a lender for information and assistance in the loan application process.

Steve Konkle  
Illinois District Office  
500 W. Madison St., Room 1250  
Chicago, IL 60661  
Phone: (312) 886-4208; (312) 886-5688

Jim Ryan  
SBA Illini Financial Center  
511 West Capitol, Suite 302  
Springfield, IL 62704  
Phone: (217) 492-4416, ext. 109;  
(217) 492-4867

The SBA does, however, offer information, management, counseling, and training services. Check the SBA Web site [www.sba.gov/](http://www.sba.gov/) for further information. Or, you can write or call the SBA at:

### **SBA Offices**

Chicago District Office  
500 W. Madison Street, Suite 1250  
Chicago, IL 60651  
Phone: (312) 353-4528  
Fax: (312) 886-5688

Springfield Branch Office  
3330 Ginger Creek Road, Suite B  
Springfield, IL 62711  
Phone: (217) 793-5020  
Fax: (217) 793-5025

Certified Development Company (504) Loan Program – A Certified Development Company (CDC) is a nonprofit corporation whose purpose is to contribute to the economic development of its community. CDCs, the SBA, and private-sector lenders provide financing to small businesses. This program provides long-term loans to qualified businesses for the purchase or renovation of fixed assets.

Pre-Qualification Pilot Loan Program – The Pre-Qualification Pilot Loan Program uses agents to assist borrowers in developing loan packages and in securing loans. This program works like the VA Loan Guarantee in that the lender or other agent assists the business with the preparation of the loan application. Once the application is complete, it is submitted to the SBA for approval. If approved, the SBA issues a letter stating their intent to guarantee the loan. The lender then makes the loan.

LowDoc – This loan is guaranteed by the SBA to start or grow a business. The business may not have more than 100 people working for it, nor may sales be more than five million dollars for the preceding three years. LowDoc is a speeded-up loan processing procedure and the guarantee is decided usually about 36 hours from time of receipt. Generally, the lender and business completes the front of the one-page application and the lender completes the back. The application is then forwarded to the SBA through the SBA LowDoc program. As with most loans, there is a requirement for collateral. The borrower must put up as collateral either business or personal assets. However, most loans are not declined if collateral is the only negative factor. The loan may be for 5 to 10 years, unless the loan is for fixed assets in which case the loan may be for up to 25 years. Interest is set by the SBA.

SBA Export Express – The SBA Export Express combines the SBA's small business lending assistance with its technical assistance programs to help small businesses that have traditionally had difficulty in obtaining adequate export financing.

Microloan Program – The Microloan Program Provides small loans to start-up, newly established, or small businesses. The SBA makes funds available to nonprofit community-based lenders. These nonprofit lenders act as intermediaries who actually make the loans up to a maximum of \$35,000. Most loans are for about \$10,500. Applications are submitted to the local intermediary and all credit decisions are made by the intermediary. There are two intermediary groups that cover Illinois:

Accion Chicago, Inc.  
1618 W. 18<sup>th</sup> Street  
Chicago, IL 60608  
E-mail: [info@accionchicago.org](mailto:info@accionchicago.org)  
Phone: (312) 275-3000  
Fax: (312) 275-3010

Justine Petersen Housing & Reinvestment Corp.  
5031 Northrup Avenue  
St. Louis, MO 63110  
Sheri Fannigan-Vasquez  
E-mail: [sflanigan@justinepetersen.org](mailto:sflanigan@justinepetersen.org)  
Phone: (314) 664-5051, ext. 117  
Main Lobby: (314) 644-5364

## SUMMARY

The VA Loan Guarantee Program is one of the most valuable benefits available to veterans. Basically, the Loan Guarantee enables a veteran to buy a home without the substantial down payment. Veterans who decide to sell their home should remember to get a release of liability upon the sale of the home. If it appears that there will be a change in income that may make it difficult to pay the mortgage, veterans should consider selling the home. If a default on the mortgage occurs, get help and counseling from the VA, the lending institution, or a lawyer. The sooner the veteran takes action, the better the chances of saving the home.

The benefits afforded veterans through the SBA offer veterans a variety of special programs that are geared to assist veterans in either starting or growing a small business. The SBA offers a number of loan programs and a wide range of assistance to those interested in starting their own small business.