



**DISABILITY  
COMPENSATION**

**THE VETERANS GUIDE**

**VOLUME II**

**THOMAS VAN HEES**



Disability Compensation  
The Veterans Guide

Volume II

by

Thomas van Hees

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## **Dedication**

To all veterans who serve and have served. You will never know how the American people appreciate what you do and have done to preserve our freedom.



## **Introduction**

**M**any books have been written about filing claims with the VA for benefits. In addition, there are many veteran chat rooms and military websites on the internet where veterans can vent their likes and dislikes about the Veterans Administration's way of handling claims for benefits.

While there are many wonderful informational websites on the internet that provide a wealth of information, there are also those that are only there for individuals to bash the VA. They have the opportunity to voice their opinion, which usually includes a lot of anger and distrust directed toward the VA.

I hope the information in this book will help change some of the anger and distrust that these individuals have toward the VA and show them that the VA is indeed here to help them, as well as all veterans.

I became a Veteran's Advocate to help veterans with their problems in dealing with the VA. I do not claim to be an expert on all subjects. I do claim to know what it will take to get what the veteran has earned and deserves by their service in the military.

The information in this book has been compiled from a vast assortment of books, websites and above all personal experience in dealing with veterans seeking benefits from the VA. Also, my own knowledge of going through the VA claim-filing process over a four-year period has taught me a lot.

Certain information throughout this book was compiled from internet websites and will be noted for future reference. Some topics of discussion in this book have briefly appeared in my previous book *Disability Compensation The Veteran's Guide*. Due to the importance of these topics, I will discuss them in depth, because I feel that these topics deserve to be scrutinized further since they are at the forefront now.

## **The VA's Past History**

**O**ver the years, when helping veterans with their service-connected issues I have heard just about every excuse about how the VA has gone out of its way not to help the veteran. This is especially true with the veterans from WWII and the Korean War. Veterans from the Vietnam era have had their own set of problems when seeking benefits from the VA.

World War II and the Korean War not only resulted in an increase of the veteran population, but also a large increase of veteran's benefits enacted by Congress for veterans of the wars. One of these benefits, the WWII G.I. bill signed into law in 1944, had more impact on the American way of life than any law since the Homestead Act 100 years earlier.

Since the inception of the VA, it has been difficult for veterans to receive what the VA offers. Call it poor communication, inadequate advertisement campaigns, unqualified personnel or the outright lack of trust by veterans toward the VA.

The veteran's main concern was to receive treatment for their medical issues immediately following WWII and the Korean War. Veterans did not care, nor gave a thought to, whether or not these medical conditions could be related to their time of service. They just wanted treatment for them. It was a common belief of that time, that if a person served in the Armed

Forces they were entitled to whatever benefits that were available from the government, which was true to a point.

It was a common practice for the veteran during the post war years to become estranged from the VA. The veteran returned to civilian life and wanted to forget about the war and just get back to a normal life. During these years, there were very few medical facilities that catered to just the veteran. If a veteran needed medical care, they would go to their civilian doctor, not the VA.

Those veterans requiring medical care from the government, who had problems getting it for one reason or another, formed a bad opinion from the start. The government told these veterans that they would take care of them and now they were not doing it. It was much easier for them to handle their medical needs themselves than go through all the problems to seek help from the government. The veteran at that time did not understand why the government was failing to help them; they just saw that their government had failed them.

It is be safe to assume that during these years, with the lack of facilities required to handle the veteran's medical needs and the lack of interest to seek care from the government, that the promises made by the government to help veterans just disappeared, or so it appeared. I would think that this lack of trust and the thought that the government was not going to help was not any one party's fault. It just happened, and the damage was done. That damage still has not been repaired as far as senior veterans are concerned.

For the Vietnam era veterans it was tough. Medical treatment was available but an unpopular war and the treatment received because of the war kept many Vietnam veterans from seeking help until many years later. It was not until the Gulf War period that the Vietnam veteran has actually recognized for what they did as soldiers and not which war in which they participated.

If anything good has come out of the Gulf War, it is recognition of the veterans and putting them first - not just the

Gulf War veterans but also all veterans. Veterans of past wars are finally getting their due.

Now that all of this is noted, let us get to the important issues and topics.



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## Who Qualifies For VA Healthcare

**T**here are millions upon millions of veterans receiving benefits from the VA every day. Many of these veterans qualify for VA Healthcare while some do not. Those who do not qualify for healthcare do qualify for many other VA benefits. Which veterans do and do not qualify for healthcare is in my first book, *Disability Compensation The Veterans Guide*, but I will elaborate further in this book to clarify a few things.

All veterans who served in the Armed Forces qualify for VA benefits of some sort. What benefits a veteran qualifies for depends on certain qualifications. A veteran who has a service-connected injury or condition, with at least a 0 percent disability rating, qualifies for all benefits including healthcare. Let me elaborate further on this. A veteran who has a disability rating of 0 percent may get VA Healthcare but will not receive monetary compensation for that injury. The veteran who has a 0 percent rating can get healthcare, but will be required to pay co-pays on medications and services rendered. A veteran with a 0 percent rating may only qualify for certain procedures because of the low rating. Service-connected Veterans 10 percent or greater are exempt from co-pay requirements for inpatient and outpatient medical care for service-connected and non-service-connected treatment.

It is hard for a veteran to understand that if they do not have a service-connected disability, they may or may not qualify for

VA Healthcare. A veteran who has received a Purple Heart for wounds in combat, even if not receiving compensation, qualifies for healthcare from the VA. In some cases, they may qualify, but the conditions that qualify them can be many. The one other thing that will make a veteran ineligible is if their income is beyond the established income threshold set by Congress. As of the writing of this book, the established income threshold is \$32,582. In certain circumstances, the veteran can exceed this amount by 10 percent, but there are guidelines that the veteran must meet.

If a veteran can establish a service-connected disability of even a 0 percent rating, they can get healthcare from the VA. Seventy-five percent (75 percent) of all veterans do not know that they may have a service-connected disability. A trip to their local Veterans Administration Office to meet with a VSO (Veterans Service Officer) or by contacting one of the military service organizations such as the DAV, American Legion, VFW or a host of other organizations, could lead to healthcare and possibly compensation, depending on the disability rating awarded.

Many thousands of veterans know they have some type of disability that is, or could be, service-connected but they do not pursue compensation for a number of reasons. The most common reason for not filing a claim for disability compensation (veterans have told me) is that it is too much of a problem and they just do not have the time to do it. This is probably the lamest excuse of all, and believe me, there are many more that rival this one. Remember the old saying "You can lead a horse to water but you can't make him drink?" Well, this really applies here.

There are thousands upon thousands of veterans who have filed claims and received a denial from the VA for one reason or another. About 50 percent of those veterans never pursue the matter after the denial. They just walk away. Many of them blame the VA for not helping them when all they had to do is pursue the matter further. The veteran hears "No" and they

just figure it is a dead issue. NOT SO. As I said in my previous book, "When it comes to the VA there is no such word as "No". There is always a way to turn a denial around. If you are persistent in your goal, you will be surprised how relatively simple it is to get what you deserve from the VA.

Another reason, veterans tell me, that they do not want to file a claim is because their condition is not that bad and state, "I don't want to take the money away from a guy whose injury is much worse than mine." Where this type of misconception came from is beyond me. No veteran is taking any money from any other veteran. The VA has appropriated funds to cover all veterans, even those who have not yet filed a claim. The VA knows the amount of funds needed when they figure their budget for this year, next year and a few years beyond that. The VA knows how many veterans it will be treating for the next 30 or more years. They also know how many dependents they will be taking care of in that amount of time, more or less.

The Vietnam veterans average age is about 60 years and the life expectancy could reach 80 years. Add to this the dependents of those Vietnam veterans and you will see that the VA is going to be taking care of many people for a long time. I do not even mention the Gulf War veterans and their dependents, which could be a scary statistic.



## **Some States Are Different**

I have been helping veterans with disability compensation claims for more than five years and have helped veterans from many states in the nation. I have found over the years when that some states are more difficult than others when filing claims. I cannot tell you why this is so. I can tell you that even though some of these states are more difficult than others, it is not impossible to get an award in these states.

For example, Tinnitus (ringing in the ears) is the most common condition that veterans suffer from and it is the easiest one to get an award of compensation. I will use Minnesota as an example, not because this is where I am from, but because I have found that if a claim is filed for Tinnitus in this state you can expect an award decision in about 60 to 75 days. If in Missouri, a claim filed for Tinnitus could take as much as a year. I cannot say, or even guess, why it takes so long in Missouri or in some other states. This timeline, in my mind, is unacceptable. It frightens me to think how long it would take to get an award for a more complex condition in one of these states. This is where the VA may be dropping the ball and they should investigate this.

I must say, in defense of the VA, that there are places (states and counties in these states) where this happens more than one can imagine but not all VA offices are like this. As big as the VA

is, one must expect some of this to happen. I can only guess, or assume, that the counties that have this problem may be because of the number of veterans and their cases in relation to the amount of population. This is only a guess on my part.

Though I cannot make any suggestions on what needs to be done to speed things up in certain states, I can make a suggestion that if you run into a county where this problem exists then you can always go to another county to file your claim(s). You, as a veteran, have the choice of going to the county of your choice. You do not have to use the county in which you reside and do not let anyone tell you that you have to, because you do not. Remember it is your choice.

## **Processing Periods for Claims**

**O**ne of the major concerns of veterans after filing their claim(s) for disability compensation benefits is the waiting period that it takes to get a decision. The following will give you a better idea of how long each step of the filing process can take. These individual steps in the process, and the time it takes to get a decision, can vary widely depending on a number of things: such as the complexity of the claim, amount of evidence provided, single or multiple claims filed and the ratio of claims filed to the amount of population in that specific area.

The Secretary of the Veterans Administration, Eric K. Shinseki and President Obama have agreed to \$460 million and more than 4000 additional claim processors for benefits, which is an increase of 27 percent in funding and personnel from the previous two years.

Three new diseases and or conditions, (Ischemic Heart Disease, B Cell Leukemia and Parkinson's disease) which are presumptive to Agent Orange exposure, are now on the list of presumed conditions, which brings the total to 14.

The VA has predicted that 1.3 million new claims will be filed in 2011, up 30 percent from 2009 levels. They also expect that 100,000 to 200,000 claims will be filed for these three new conditions. A majority of the claims filed will be for Ischemic Heart Disease. In September of 2010, the VA approved adding

these three conditions to the Agent Orange list of presumptive diseases and conditions, but certain political figures were fighting to keep Ischemic Heart Disease off the list as one of the presumptive conditions related to AO exposure. The politician's reasoning and argument for doubting that IHD could be the result of exposure to AO, was that the public could be afflicted with this disease without exposure to AO.

Secretary of Veterans Affairs, Eric K Shinseki, made a decision on October 30, 2010 that made the correlation between veterans who served in Vietnam and being exposed to AO to those who did not serve in Vietnam. Those veterans who served in country (Vietnam) were more likely as not to contract Ischemic Heart Disease. Case closed it was a done deal.

It is the goal of the VA to get the length of time to process a claim to less than 125 days in which a decision on a disability benefit is made. This time period can all change if an appeal is necessary. Sometimes the appeal process can be lengthy due to the nature of the appeal. Each appeal is different and may involve several steps.

The following five steps provide information and the time period (in months) on average for each step that it will take for that step of the filing process.

### **What are the steps in processing your claim?**

Step 1- You file your claim.

Step 2- The VA obtains evidence.

Step 3- You receive an examination at a VA hospital.

Step 4- An evaluation of your complete record.

Step 5- A rendering of the decision.

### **Step 1: You file your claim.**

The disability claim process begins when you file a claim. If you have never filed a claim before with the VA, you need to submit VA Claim Form 21-526 (Veterans Application for

Compensation or Benefits). You may complete the form with the assistance of a VSO (Veterans Service Officer). Once the form has been completed set up an appointment with a VSO.

**Step 2: The VA obtains evidence.** (this step takes 1-4 months)

Based on the disability claim you submit, the VA begins compiling evidence to support your claim. Any evidence that you are able to secure and provide beforehand with your claim will expedite this step. Your disability evaluation is based on this evidence, so it is essential that the evidence you submit to the VA is complete and accurate information.

The VA will assist you by verifying your service dates and will request your service medical records. You will need to sign a medical release form. The VA may also request your civilian medical records. The VA may request more information from you. This may include letters detailing certain experiences in service or information from your family members. In most cases, your VSO will direct you on what information the VA will be looking for or may require. Send requested information as soon as possible.

**Step 3: You receive an examination at a VA hospital.** (this step takes 1-3 months)

The VA will often request exams while waiting for other evidence to arrive. Sometimes the VA has to review the other evidence to be certain they request the proper exams. The exams that the VA requests will depend on your claim and treatment history.

The VA Medical Center will schedule you for the requested exam. They will contact you by mail to let you know when and what exams are scheduled. After each exam the results are sent to the VA. You can help expedite the process by keeping your appointments and by asking your private medical provider to send a copy of your records to the VA. Remember to include

your VA claim number and your full name in the upper right hand corner of every piece of paper you send to the VA.

**Step 4: An evaluation of your complete record is rated.**  
(this step takes 2-3 months)

As they receive evidence, the VA places the records in your claim file folder. When the VA has all of the necessary evidence, your claim is ready to be rated (reviewed). Due to the VA's current backlog, there may be a two or three month wait before your individual claim receives a rating.

The VA evaluates the medical evidence and other documents to support your medical condition. The VA then identifies how these conditions correspond to the rating schedule. This schedule designates what disabilities the VA can pay for and at what percentage. The VA will consider all evidence submitted and will pay the maximum benefit allowed by law for that particular condition.

**Step 5: A rendering of the decision.** (this step takes 2-3 weeks)

After the rating is completed, you will be notified of the decision. The VA will provide you with the reason for their decision to grant or deny benefits. If you do not agree with their decision, you then have the right to appeal.

## **Getting Your Claim Processed Faster**

**Y**ou must collect as much evidence as possible to support your claim. The more the better, but make sure that all evidence that you provide is directly relevant to the claim. Any information that is not relevant to the claim is dismissed. There will be a possibility that the reviewer working on your case will not read the remaining information contained on that page. Provide good accurate evidence and information that will “grab and hold” the reviewer’s attention. Try to place all pertinent information in the beginning of your statement. This will hold the reviewer’s attention.

In my previous book, *Disability Compensation The Veterans Guide*, I mentioned how filing multiple claims sometimes works better for some people. In certain cases it does. It worked for me, but this may not be the case for others. Ask your VSO if this may work for you. This only applies to a person filing more than two claims at one time. The processing time will increase as the number of claims increase and the documentation you must provide will be more. You should not file more than two claims at one time unless a VSO advises otherwise.

If you relocate, or winter in another state, do not move your application and records. This will only result in procedural delays.



## Writing Your Statement

**T**his subject was covered in my previous book, but I must elaborate more on this subject. Your personal statement that will support your claim is one, if not the most important, piece of evidence of your claim. Your statement should include all information about your condition, such as what caused the condition either factual or in your opinion. You can mention the effects that the condition has on your physical being. The VA is not interested in what you are able to do; they are only interested in what you are not able to do because of your condition. Tell them how the condition has changed your everyday life and how it may affect your future. Tell what medication(s) you are taking for it to help manage your life on a daily basis.

Photographs of an affected area (i.e., hand, foot, skin) are not necessary. The VA is not interested in any photos of your condition because it will be viewed at a C&P examination.

When explaining how the injury or condition may have occurred, it is not necessary to go into a long drawn out story involving facts, persons and situations that are not directly tied to the actual cause of the injury or condition. The VA is not interested in what you did that day or what may have led up to the actual situation, unless it actually was the cause of the injury or condition. Remember the direct facts, and only the

direct facts, because anything else may damage your chances to get an award of compensation.

The biggest mistake that a veteran can make is to include information in the statement that is not directly related to the condition for which the claim is being filed. First, whatever information that is put into the very beginning of the statement must capture the attention of the person who reads the statement. Any information that is not directly related to the subject or condition for which the claim is being filed should not appear in the statement.

When I work with veterans and ask them to prepare their statements before contacting their VSO to file their claim(s), they ask me to review their statements before they submit it. It is quite shocking and comical at times, to read what they have placed in their statements to support their claim(s). Information such as the medical diagnosis and the definition of the condition from the internet for which they are filing for is not necessary. The VA already knows everything that applies to the condition including, the definition of the disease, what causes it, the ramifications of the condition, what the condition may lead to and what it will take to treat or keep the condition in check.

When submitting statements from friends, co-workers and family members they should follow the same scenario with a few exceptions. Friends and co-workers usually are not around you all the time. Their statements should reflect the times to which they are around and conditions they noticed.

Statements from family members should delve more deeply into the subject matter of the claim. Your family members actually see first-hand how this injury or condition affects your everyday life. They know that you are unable to do things that only a few years before you were able to do with little effort. They see your deteriorating condition and how it affects you.

The number of statements that a veteran should submit with their claim all depends on their personal decision. If they believe that three statements would be enough to substantiate their claim, rather than submitting six that repeat the same

information over and over, then three would be the answer. If they believe that six, eight or even ten statements presented to them provide enough different information that will help the claim, then submit them. A lot of information that covers all areas of the condition without repetition is always best. Each claim should have its own separate statement(s). Never, ever, combine different conditions in one statement for which you intend to file a claim.

Although keeping your statement as brief as possible is just not that simple at times, especially if the condition is complex and the amount of information in the statement must be thorough enough to support the claim. This may come into play when filing for some conditions. The statement for a claim should be as short and to the point as possible with correct information to support it. Remember to word your statement so that all very important information and facts are in the first few paragraphs of the statement. If you capture and hold the reviewer's attention all the way through to the end, then you have done the best that you could have done. A satisfied reviewer who reads your statement through to the end cannot possibly have missed anything and this is a plus for you.

When you file a claim for disability compensation the evidence you provide to substantiate your claim, in my opinion and experience, is 40 percent of the claim while your personal statement portion makes up the other 60 percent. This is how important your personal statement is. The evidence you provide for your claim is important, however, if your statement is weak and the information in it does not state the facts of how it happened, why it happened, what caused it to happen and how it affects your everyday life, then your statement is not complete and will not support your claim.

When writing your statement there is a danger of giving too much information. There are times when too much can be a good thing, but there is also the chance that too much can be damaging to your claim. If a claim is complex and a large amount of information is required to substantiate the claim,

then this would be the only time that “Too Much” information applies. If a detailed explanation of how and why a situation may have led to the injury or condition is needed, then this is what should to be in the statement.

On the other hand, too little information can be just as damaging. When a statement has too little information to substantiate the claim it may be denied. When the VA denies a claim, they explain the reason for the denial and why they came to that decision in the paperwork that they send to the veteran. In their explanation they will state medical facts and guidelines that they must follow that supports their decision. Sometimes they will state that their reason for denial was that there was insufficient evidence to substantiate the claim. When the VA tells the veteran this, they are actually asking the veteran for more evidence so they can make a fair decision on the claim.

It is very easy for the veteran to blame the VA for a decision of denial. The VA makes its decision on a claim by the evidence, personal statements, medical information and diagnosis from the doctors. If the information is strong enough to support the claim, then an award of compensation may be granted. If the material is too weak or too little, then a denial is evident.

As important as your evidence is, how you present it and compose your statement is the most important thing of all. For example, how an injury happened is very important to the case but just as important are all the other factors surrounding the situation that led to the injury or condition. When saying this you must remember that too much irrelevant information can hurt what you are trying to convey. The following are the Do’s and don’ts of writing a statement.

### **Don’ts**

Do not fabricate any evidence. Only give true accurate information and evidence.

Do not ramble on and on when trying to explain about a situation on how it happened or occurred.

Do not quote a person's conversation or conversations between two people about how or why the situation happened. Any quote or conversation about the situation, whether it is about how or why it happened, would be considered hearsay evidence and will be quickly dismissed by the person reviewing your claim. An example of hearsay evidence is, "The doctor at the infirmary told me that my injury was caused by me climbing in and out of the trucks all day long." Although this may be true, if the doctor did not write a statement of diagnosis and an explanation of fact-telling about why this condition exists, then this is considered hearsay evidence, and it will be ruled out.

Do not include an unfounded diagnosis of the condition or disease. A diagnosis will be determined during an examination.

Do not give any definitions or explanations of medical conditions or diseases as stated from books, literature or the internet. You are not a doctor, and besides, you may misdiagnose the condition or disease for which you are filing. A correct diagnosis of your condition or disease will be determined at an exam and they do not need you telling them what you think it is.

Do not include with your claim material any photos showing an affected area of the injury or condition. Your statement and evidence tells them the reason you are filing, besides they will see everything pertaining to the condition or injury at the examination.

Do not tell the history of your active duty service unless it has a direct correlation to the cause of the condition or disease (i.e. my diabetes is a direct result of my exposure to Agent Orange during my tour of duty in Vietnam). The VA is not interested in hearing about what countries you visited or the name of the ship you served on unless these facts actually pertain to the case at hand. If it does not apply, forget about it.

Do not talk about or offer information about post-service activities. What you did for a living and what your hobbies are is of no concern to the person reading your material. Unless they apply to the case, forget about them.

Do not include stories about how your condition or injury prevented you from participating in activities during your service years unless it prevented you from doing your daily duties or your job. Unable to play on the battalion baseball team as a player and now you can only coach the team is evidence that will do nothing for your case. As good as the team and you appear in championship uniforms, well, forget about it!

## **Do's**

When preparing to write your statement do a rough draft first. Include all pertinent information in the statement that you feel will best represent the claim. After you have written your statement, you can review it and can add or eliminate evidence as you see fit. It is better to change your statement material now rather than discovering that you may have missed something that is very important to your case and you forgot to include it. If you have missed putting something into your statement it is not difficult to add it later, but this will definitely slow the process.

When composing your statement it is very important to make sure that the most important and pertinent facts be placed in the first few paragraphs of the statement. The first paragraphs and the information they contain will make or break your claim. You must remember that the person reviewing your claim reviews many claims in one day. You want to make sure that of all the claims they will be reviewing that day, your claim was the best. With this in mind, the first few paragraphs of your statement must grab and hold the reviewer's attention.

The first paragraph should tell the person reviewing the claim what condition or injury for which you are filing. The wording that starts the paragraph is very important. This is an example of how the paragraph should be worded : "This statement and the information and evidence within are in direct support of my claim for disability compensation benefits for my condition of Tinnitus (ringing in my ears)." In this one

simple sentence, it tells that your statement contains what condition or injury you are filing for, evidence to support the claim, information about how it happened and more.

Now that you have established the reason for the claim, you must explain how you believe the condition developed or what situation caused your condition. An example of this is, "I firmly believe that my condition of Tinnitus (ringing in the ears) is a direct result of my MOS (job) while on active duty in the Armed forces." As with any injury or condition you must explain what you believed caused it. Sometimes the person is not 100 percent confident that the situation really caused the condition, but they presume that it did. If this happens, the evidence provided may not prove to be the exact cause of the condition. The evidence may be strong enough though to show that what may have caused the condition is presumptive. A presumptive condition means that as likely as not the situation is presumed to have caused the condition.

Now that you have established what caused the condition or injury, you must explain about your MOS (job) and how performing it caused your condition or injury. An example would be, "I believe that my condition of Tinnitus (ringing in my ears) is a direct result of being exposed to the firing of the artillery pieces ( 105mm Howitzer artillery) when I was an ammunition loader." Another example is: "I believe I developed Tinnitus (ringing in the ears) while on the flight deck of the aircraft carrier USS Lexington in 1967 as an aircraft refueling specialist." To explain further about your job, you can add, "My duties on the flight deck were to refuel the jet aircraft. I did this for four hours a day, six days a week for six months. When I refueled aircraft I was exposed to the noise of the aircraft jet engines on take-offs and landings. I was also exposed to the noise of the aircraft catapult system on the flight deck." This portion of the statement tells them what, where, why and how the condition developed.

Now that you have established the what, where, when and how points of the condition or injury it is now the reviewer's job