

Developing a Compensation Claim

Claims Office Productions

The Primary Paths

- Direct
- Secondary
- Aggravation
- Presumptive
- 1151

Service Connection

- Start with the 3 elements of service-connection
 - Current disability (Established by medical diagnosis or lay testimony)
 - Event in service (injury, exposure to toxic substance, noise, trauma)
 - Nexus (A link between the in-service event and the current disability)

Current Disability

- Current Medical Diagnosis or
- Detailed statement to include:
 - Current symptoms and how it relates back to service

Event In Service

- Specific incident or injury where disability began
- Specific exposure to substance or trauma that caused the current disability
- Often the VA will be looking for STR/Personnel record of this. We do not usually need to provide this kind of evidence.
 - A buddy statement can help provide in-service event/onset if needed

Nexus

- A link between the in-service event and the current disability
 - Medical opinion WITH RATIONALE
 - Rationale is the why the in-service event and the current issue are connected
 - Continuity of Care
 - Evidence of medical visits spanning the years between the in-service incident and the current claim

Direct Service Connection

Issues that are direct cause of in-service injury/trauma

Disability can develop or get worse many years after service and can get more difficult to prove years after service

Examples: Hearing loss, shrapnel related issues, knees, back, PTSD

Secondary Service Connection

- 38 CFR 3.310(a)
 - Service-connected disability CAUSES another disability
 - Disability is rated the same as if directly service-connected
 - **Example: Anxiety due to hearing loss or Anxiety due to wearing a CPAP**
 - **Example: Traumatic brain injury causes Parkinsonism, Seizures, Depression, certain dementias and certain hormone deficiencies**

Aggravation

- What if you had the same or similar condition before service?
- Presumption of Soundness
 - When accepted into the military you are considered be “sound” or healthy EXCEPT FOR
 - Conditions clearly documented on entrance physical or,
 - Clearly and unmistakably existing before service
- 38 CFR 3.304 (b)

Aggravation

- 38 CFR 3.306
 - If accepted into service with pre-existing disability AND
 - Disability worsens during active service
 - Evidence must show aggravated **beyond the natural progression** of the condition

Presumption

- There are many presumptions in veterans' law (Title 38 USC and Title 38 CFR) **38 CFR 3.309**
- Examples
 - Agent Orange Exposure
 - Ionized Radiation
 - Particulate Matter Exposure

1151

- If the veteran suffered an added disability while getting VA medical care or taking part in a VA program designed to help find, get, or keep a job
- **At least one of these must have led directly to an added disability:**
 - VA carelessness or negligence, **or**
 - VA medical or surgical treatment, **or**
 - A VA health exam, **or**
 - A VA vocational rehabilitation course (under 38 U.S.C. Chapter 31), **or**
 - VA compensated work therapy (CWT)(under 38 U.S.C. 1718)
- 1151 is rated and paid as direct service connection

Reserve and National Guard

- It is important that a veterans Reserve and National Guard service is reported.
- If you do not report the Reserve and National Guard Service the VA will not do requests for these records.
- Look at the DD214 if it says Reserve or National Guard report the service on the 21-526EZ.

BDD Claims

- All STR's and any private treatment records that support the claim must be sent with the original claim.
- SHA form.
- If all these documents are not provided the claim can be kicked out of the BDD process.
- Must be filed no sooner than 180 days no less than 90 days before discharge.

Medical Records STR/Private Treatment Records

- STR are important to the Veterans claim. VA will request these records if the Veteran does not have them. If you have them provide them with the claim.
- Private treatment records are very important to the claim. Provide all treatment for conditions the veteran is filing for, not just the cover pages or problem lists.
- 21-4142 and 21-4142a
- Medical opinions

21-0781

- Stressor statements are very important for a Veterans claim. The VA researches the dates and units to verify the stressor statements.
- Read the form and if the veteran checks the boxes in that report evidence useful to the claim provide the evidence with the claim.

11. WAS AN OFFICIAL REPORT FILED? (Note: When reporting a sexual assault during military service, the Department of Defense offers two different reporting options, restricted or unrestricted. Knowing the report type will help VA report. If you are unsure which report was filed, VA may send you a follow up letter with additional information. Submitting a restricted or unrestricted report was not an option prior to 2005.)

- ☐ YES (If "Yes," check the appropriate box below indicating which type of report was filed)
- ☐ NO (If "No," skip to Item 12)
- ☐ RESTRICTED ☐ UNRESTRICTED ☐ NEITHER
- ☐ POLICE REPORT (Provide location, if known)
- ☐ OTHER (e.g., After Action Report (AAR), incident report, formal complaint, Judge Advocate General (JAG), Criminal Investigative Division (CID), Naval Criminal Investigative Service (NCIS), etc.)

12. POSSIBLE SOURCES OF EVIDENCE FOLLOWING THE TRAUMATIC EVENT(S) (Check all that apply) (Note: The following sources of evidence may provide additional information for your claim. This list is not all inclusive know(s) about the in-service traumatic event(s) or would have knowledge of a behavioral change you experienced after the personal traumatic event(s), and wants to provide a statement on your behalf, use VA Form 21-10210, Lay/Witn veteran, they may be requested to provide their DD Form 214, or other evidence of service.)

- | | |
|--|---|
| <input type="checkbox"/> A RAPE CRISIS CENTER OR CENTER FOR DOMESTIC ABUSE | <input type="checkbox"/> A CHAPLAIN OR CLERGY |
| <input type="checkbox"/> A COUNSELING FACILITY OR HEALTH CLINIC | <input type="checkbox"/> FELLOW SERVICE MEMBER(S) |
| <input type="checkbox"/> FAMILY MEMBERS OR ROOMMATES | <input type="checkbox"/> PERSONAL DIARIES OR JOURNALS |
| <input type="checkbox"/> A FACULTY MEMBER | <input type="checkbox"/> NONE |
| <input type="checkbox"/> CIVILIAN POLICE REPORTS | <input type="checkbox"/> OTHER (Specify below): |
| <input type="checkbox"/> MEDICAL REPORTS FROM CIVILIAN PHYSICIANS OR CAREGIVERS WHO TREATED YOU IMMEDIATELY FOLLOWING THE INCIDENT OR SOMETIME LATER | |

SECTION IV: TREATMENT INFORMATION

13A. HAVE YOU RECEIVED TREATMENT RELATED TO THE IMPACT OF THE TRAUMATIC EVENT(S) LISTED IN ITEM 9A?

- ☐ YES (If "Yes," complete Items 13B through 13E) ☐ NO (If "No," skip to Item 14)

13B. IDENTIFY WHERE YOU HAVE RECEIVED TREATMENT (Check all that apply)

- | | |
|--|--|
| <input type="checkbox"/> PRIVATE HEALTHCARE PROVIDER (including non-Federal records) | <input type="checkbox"/> VA MEDICAL CENTER(S) (VAMC) AND COMMUNITY-BASED OUTPATIENT CLINICS (CBOC) |
| <input type="checkbox"/> VA VET CENTER | <input type="checkbox"/> DEPARTMENT OF DEFENSE (DOD) MILITARY TREATMENT FACILITY(IES) (MTF) |
| <input type="checkbox"/> COMMUNITY CARE (Paid for by VA) | |

20-0995

- Read the form and if the veteran checks the boxes in that report new and relevant evidence useful to the claim provide the evidence with the claim if it is not VA or care in the community.
- 21-4142 and 214142a if it is private treatment.

SECTION V: NEW AND RELEVANT EVIDENCE

IMPORTANT: To complete your application, you must submit new and relevant evidence to VA or tell us about new and relevant evidence that VA can assist you in gathering in support of your **supplemental claim**. If you have records in your possession, attach the records to this form. List your name and file number on each page. If you would like VA to obtain non-Federal records, review your decision notification letter or read the instructions for this section on Page 3 that lists the appropriate forms to complete and submit those forms to VA with this request form. **Note:** Unless your **supplemental claim** is based on a change in law, you'll need to submit supporting evidence that's **new and relevant** for your application to be complete. You can also identify evidence you'd like us to gather for you.

22A. IDENTIFY WHERE YOU HAVE RECEIVED TREATMENT (Check all that apply)

- ☐ PRIVATE HEALTH CARE PROVIDER (including non-Federal records)
- ☐ VA VET CENTER
- ☐ COMMUNITY CARE (Paid for by VA)
- ☐ VA MEDICAL CENTER(S) (VAMC) AND COMMUNITY-BASED OUTPATIENT CLINICS (CBOC)
- ☐ DEPARTMENT OF DEFENSE (DOD) MILITARY TREATMENT FACILITY(IES) (MTF)
- ☐ OTHER (Specify):

Dependency

- Update demographics in VS.
- Send 21-686c with the claim.
- VA won't add the veterans' dependents if they don't know about them.

Final Thoughts

- It is always best to provide all the information required with the initial claim.
- Remember the 3 elements of service connection. And provide the evidence needed to satisfy these elements.
- Most claims do not require extensive development STR's normally will satisfy the three elements.
- More complicated claims and claims filed many years after service may require more development.

QUESTIONS?
