

# CLAIM PRESENTATION

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# MOPH'S GOAL

**The goal of MOPH National Service Officers is to obtain all possible VA benefits for his or her client in the shortest possible time. (MOPH P&P Manual)**

# CLAIM PRESENTATION

## OBJECTIVES

- Role of NSO and Claimant
- Define Types of Claim
  - ◆ Issues – Real or Imagined
  - ◆ Evidence needed
- Identify Forms, Paper - Electronic
- Discuss Fully Developed Claim Procedure

# CLAIM PRESENTATION

Every veteran has a right to file a claim  
for a VA benefit!

Every veteran does not have a right to  
MOPH representation!

# CLAIM PRESENTATION

- Who does the NSO represent?
- Whose credibility is at stake?
- What is the role of the NSO?
- What is the role of the client?
- How do you communicate responsibility?

# CLAIM PRESENTATION

## REVOCAATION

- If claimant is not acting in “good faith,
- is being dishonest,
- attempting to defraud,
- submitting information, claims or appeals w/o NSO review

# CLAIM PRESENTATION

## REVOCAATION

- Before BVA Certification (M21-1MR I.3.A.7.a)
  - ◆ Notify RFS for permission
  - ◆ Notify VA & Vet
- After BVA certification (38 CFR 20.608)
  - ◆ Notify RFS for permission
  - ◆ Make a Motion in writing to BVA

# CLAIM PRESENTATION

## CREDIBILITY IMPACTS

- NSO
- MOPH
- CLIENT

# TYPES OF CLAIMS

## DEFINITION OF “CLAIM”

**"Claim"- "Application" means a formal or informal communication in writing requesting a determination of entitlement or evidencing a belief in entitlement, to a benefit. (38 CFR 3.1 (p))**

# TYPES OF CLAIMS

## FRIVOLOUS CLAIMS

- VA can terminate accreditation of an NSO who knowingly submits a frivolous claim, issue or argument. 38 C.F.R 14.633(c)(4)
- If the client wants to claim “frivolous” issues i.e. a “good faith argument” cannot be made in support of the claim, then the MOPH NSO should not represent the individual.

# TYPES OF CLAIMS

## FRIVOLOUS CLAIMS

- No basis in law
- No facts
- No diagnosis
- No medical probability

# TYPES OF CLAIMS

## ORIGINAL CLAIM

*An initial formal application on a form prescribed by the Secretary. 38 CFR 3.160(b)*

### Types of original claims

- Pre-discharge
- Post-discharge

# TYPES OF CLAIMS

*38 CFR 3.160 (c) Pending claim.*

*An application, formal or informal, which has not been finally adjudicated.*

# TYPES OF CLAIMS

38 CFR 3.160(d) *Finally adjudicated claim.*

An application,

- decided by the agency of original jurisdiction,
- the action having become final by the expiration of 1 year after date of decision or
- by denial on appellate review, whichever is the earlier

# TYPES OF CLAIMS

38 CFR 3.160(e) *Reopened claim*

Application for a benefit

- received after final disallowance of an earlier claim, or
- any application based on additional evidence

# TYPES OF CLAIMS

38 CFR (f) *Claim for increase*

Application for

- increase in rate of a benefit currently paid under a current award, or
- resumption of payments previously discontinued

# TYPES OF CLAIMS

## PRE-DISCHARGE BDD CLAIM

- Active duty
- 180 – 60 days remaining
- Examination completed before separation.
- Rating (paperless) made at
  - ◆ Winston-Salem – East of Mississippi
  - ◆ Salt Lake City – West of Mississippi

# TYPES OF CLAIMS

## BDD EXAMPLE

Soldier with retirement date of August 30<sup>th</sup>. STR's reveal following: TBI, asthma, back condition, knee condition, ankle condition. Carpal tunnel, GERD, hypertension, ED, pneumonia, hyperlipidemia, positive TB test, hearing loss, defective vision, stomach condition, depression, personality disorder and PTSD. List the disabilities as you would on the 526 and attachment.

- What disabilities do you suggest the soldier add?
- What disabilities do you not claim?
- What evidence do you submit?

# TYPES OF CLAIMS

## PRE-DISCHARGE QUICK START CLAIM

- Active duty
- Less than 180 days remaining and
- No Examination before separation.
- Rating (not paperless) made at
  - ◆ Winston-Salem – East of Mississippi
  - ◆ San Diego - West of Mississippi

# TYPES OF CLAIMS

## QUICK START EXAMPLE

Sailor with an anticipated RAD date of May 31<sup>st</sup> recovering from an IED attack with multiple wounds. After return to States spouse has left.

- What issues do you automatically claim?
- What issues do you infer from the situation and discuss claiming?

# TYPES OF CLAIMS

There is no time limit for a veteran to file an original claim. Obviously it is easier to show a medical nexus or continuity of symptoms between service event and current disability the sooner a claim is filed. However, various presumptive rules and “as least as likely as not” medical opinions can overcome any continuity concerns.

# TYPES OF CLAIMS

## POST DISCHARGE - ORIGINAL

NG female is claiming allergic bronchitis as ACDUTRA was at Ft. Drum in the Winter. She states she left the guard after her 6 months because she testified against her NCO for sexual harassment.

- What do you claim?
- What evidence should you review/submit?
- Where can she receive treatment?

# TYPES OF CLAIMS

## POST DISCHARGE - ORIGINAL

WW II Marine is brought in by daughter because he can't afford hearing aids. Never filed a VA claim, He participated in 6 landings in the Pacific.

- What do you claim?
- What evidence would be helpful?

# TYPES OF CLAIMS

## REOPENED CLAIMS

- The veteran can claim additional disabilities not previously claimed but needs to meet the requirements of current disability, event in service and medical nexus.
- The veteran can claim a condition previously denied if he submits evidence that is new (not previously considered) and material (relates to an un-established fact necessary to substantiate a claim).

# TYPES OF CLAIMS

## REOPENED CLAIM

The veteran's sleep apnea was denied at discharge because of no diagnosis. Following discharge, four months later, the veteran had a sleep study done and was diagnosed with sleep apnea.

- What do you do?
- What evidence would be helpful?

# TYPES OF CLAIMS

## REOPENED CLAIM

Veteran service connected for SFW 10% in Korea now has other issues. Had feet problems since the 50s. VA denied SC.

- What other issues do you discuss?
- What lay and medical evidence would be helpful?

# TYPES OF CLAIMS

- **Vet can file a claim for increase at any time.**
  - ◆ **be sure that the disability is worse.**
  - ◆ **Vet should state in writing that the condition has worsened**
- **VA or private medical reports submitted may also constitute informal claims for increase.**
- **In addition, inferred claims for increase may be in medical evidence like a social worker mentioning vet unable to work, or mention of loss of use of a creative organ.**

# TYPES OF CLAIMS

## INCREASE

The veteran in receipt of 30% for PTSD reports that advice by treating psychologist to retire from the Disney World job as it is not the “happiest place in the World” with the veteran working there.

- What should you do?
- How soon should you do it?

# TYPES OF CLAIMS

## INCREASE

60 yr. old vet, unemployed truck driver, wants IU.

What do you do? He is SC for

Back 40%

DM II 20%

HPN 10%

HL 10%

TMJ 10%

**COMBINED 70%**

# TYPES OF CLAIMS

## INCREASE

Veteran is 0% SC for migraines. Recently they occurring more frequently, at least once a month when the veteran has to turn out all the lights and lie in a dark room.

- What do you do?
- What evidence would you submit?

# PAPER APPLICATIONS

## Original Claim

- VA Form 21-526
- VA Form 21-526c
- VA Form 21-526EZ

# PAPER APPLICATIONS

## Other Claims

- VA Form 21-526b
- VA Form 21-4138
- NSO Memo
- Handwritten on a piece of paper

# ELECTRONIC APPLICATIONS

## ■ Veterans ON-line APplication –VONAPP

([https://vabenefits.vba.va.gov/vonapp/about\\_vonapp.asp](https://vabenefits.vba.va.gov/vonapp/about_vonapp.asp))

◆ Compensation, Pension & Education

## ■ Fast Track Claims Processing System

(<https://www.fasttrack.va.gov/AOFastTrack/home.do>)

◆ Recent AO: Heart, B-Cell Leukemia,  
Parkinson's

# VONAPP CLAIMS

## ■ Compensation

- ◆ Original – Reopened – Increase - Dependents

## ■ Pension

- ◆ Original – Reopened – SMP

## ■ Education

- ◆ GI Bill – VR&E - DEA

# VONAPP CLAIMS

- **Burial Claims**
- **Ancillary Benefits**
- **Notice of Disagreement**
- **Can attach up to 5 electronic documents**

# VONAPP CLAIMS

## Advantages to the Veteran

- **Electronic transmission of claim to VA**
- **VA receives same day sent**
- **E-mail confirmation of VA's receipt**
- **Submitted 24/7**

# AO FAST TRACK CLAIMS

- **VN vets application for new AO conditions only**
- **Physician - submit evidence online**
- **Vet - view claims status online**
- **Vet - view a list of evidence VA has received**
- **Vet - send evidence (electronic files)**

# MOPH'S GOAL

- **Obtain all possible VA benefits for the client in the shortest possible time.**
- **Fully Developed Claim (FDC)**
  - ◆ 90 Day processing time
  - ◆ FL 10-22 dated 6-15-2010

# FULLY DEVELOPED CLAIM

## Requirements for a FDC Claim

- VA Form 21-526EZ
- Rating-related – live Comp claim
- Completed FDC Certification
- All relevant and pertinent evidence to “fully develop” the claim

# FULLY DEVELOPED CLAIM

Veteran's claim disqualified if

- Reserve & guard STRs must be developed,
- Vet fails to report for VAE,
- Additional information is required,
- Pending claim exists
- Supplemental claim is filed

# FULLY DEVELOPED CLAIM

## VA FORM 21-526EZ

- **No Dependency Information**

- ◆ Attach 686c

- **No VA Form 21-4142**

- ◆ If submitted, claim is not an FDC

# FULLY DEVELOPED CLAIM

## DISABILITY BENEFITS QUESTIONNAIRE

- Initially formatted for AO Conditions
  - ◆ VA Form 21-0960A - Heart
  - ◆ VA Form 21-0960B – HC & B Cell Leukemia
  - ◆ VA Form 21-0960C – Parkinson's
- Additional 72 planned
  - ◆ May substitute for VA Exam

# FULLY DEVELOPED CLAIM

## INFORMAL CLAIM

**“I intend to apply for compensation/pension benefits under the FDC Program. This statement is to preserve my effective date for entitlement to benefits. I am in the process of assembling my claim package for submission.”**

# FULLY DEVELOPED CLAIM

## EXAMPLE ONE

VN veteran, PH & CIB recipient, wants to claim hearing loss. Currently 10% for PTSD.

What do you do?

# FULLY DEVELOPED CLAIM

## EXAMPLE TWO

VN vet is SC for Radical Prostatectomy 10% and 10% for tinnitus. He is in receipt of \$243 monthly. He states he currently voids once/ every 1-2 hours and 2-3 times/night (20% requirements). He wants an increase.

- What do you do?

# FULLY DEVELOPED CLAIM

## EXAMPLE THREE

- PGW vet STRs indicated back problem – Master Jumper/w 60# jumps –full combat gear. DX - strain. Seen 2x in 91 and 1x in 92. Retired in 1992.
- 1999 – denied no continuity of treatment (self-medicated)
- 2002 denied no N&M evidence
- 2004 DDD L-2 thru L-5, w/ severe radiculopathy, can't work.

# CLAIM PRESENTATION

## CREDIBLE CLAIM

### ■ ISSUES

- ◆ Reasonable
- ◆ Supportable

### ■ EVIDENCE

- ◆ Consistent
- ◆ Corroborated
- ◆ Complete

# CLAIM PRESENTATION

- CLAIM PRESENTATION

- ◆ Complete
- ◆ Professional

- CLIENT

- ◆ Aware of responsibilities

# TYPES OF CLAIMS

## RECONSIDERATION - BVA

38 CFR 20.1000-1003

alleged obvious error, or errors, of fact or law in the applicable decision, or decisions, of the Board or other appropriate basis for requesting Reconsideration

# CLAIM PRESENTATION

