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Filing A Claim with the VA-What To Do

If you do the following you will have a better than average chance of winning your claim.

1. Gather All Military, Private and VA Medical Records

Gather all the military, private and VA medical records (get copies made). Make a Privacy Act Request at your VA Regional Office. They will have a copy of your Military Medical Record. Request Copies of Military Personnel Records http://www.archives.gov/research_room/vetrecs/ to include all restricted records, counseling statements and evaluation reports. Do not expect the VA to automatically have your medical records from your active duty. Those records will need to be requested either from your unit of assignment or the staging facility in St Louis, MO by completing an SF180. Call or visit your Service Officer from DAV, VFW, or American Legion for this form. Mail the SF 180 to the appropriate address listed on the back of the Form.

[http://contacts.gsa.gov/webforms.nsf/0/6A748D94A429DE1085256CB10043FB7B/\\$file/sf180_f.pdf](http://contacts.gsa.gov/webforms.nsf/0/6A748D94A429DE1085256CB10043FB7B/$file/sf180_f.pdf)

Written letters may be mailed to: The National Personnel Records Center (Military Personnel Records) 9700 Page Avenue St. Louis, MO 63132-5100. Response time varies dependent upon the complexity of your request, the availability of records, and workload. Please do not send a follow-up request before 90 days have elapsed as it may cause further delays.

http://www.archives.gov/research_room/vetrecs/index.html

2. Obtaining medical records that are already within the VA system

Obtaining medical records that are already within the VA system can be achieved by faxing or mailing a written request providing a "release of information" to the VA Records Section. State the dates of records you're looking for, doctors' reports, lab and X-ray reports; your name, address, phone number, social security number, and signature. Label your request as a Privacy Act Request.

3. Go to your civilian doctor

Go to your civilian doctor, have him/her perform a C&P exam. Download a copy of the exam from the VA web site <http://www.vba.va.gov/bln/21/Benefits/exams/index.htm>. Have your doctor perform all the test you should have. The VA rarely does the necessary tests. You need to have this done because the VA will not do a complete C&P examination. See #4 for further explanation

4. Get statements from all private doctors or other medical provider

Get statements from all private doctors or other medical provider, have them state that your problems and how they could be service connected. Get more than one doctor to say the same thing then write if two doctors say the same thing, then the reasonable doubt (§3.102) rule should apply and you state the probability is slim that the issue ISN'T service connected. Doctors don't like to be pushed to give tenuous opinions - unless they are lousy doctors who will swear to anything. And the bottom line is that the opinion won't be worth spit unless he has medical findings to support it. It is awfully easy to disregard a "definite" opinion given by some yo-yo who hasn't made a decent exam nor recited any findings to give that opinion a sound basis. You need to tell the doctor what you were exposed to in the military. If you have documentation, then show that to the doctor, then ask the doctor to assume you

were exposed to this hazard in service, and this is his work and personal history where he did not have other similar exposures, then assuming those things to be true ask the doctor to express his opinion based on reasonable medical certainty as to the cause of his condition? If the doctor is uncertain, then you need to him/her to say he/she it is probable. Obviously the more evidence the better. The fact is that one opinion of probable, based on the right assumptions and medical facts and findings, is enough to carry the proof because probable means that it is more likely than not, and the legal system operates on belief that truth is that which is most likely. Medical facts means the doctor can't say it's a particular disease with out the required blood tests, cat/MRI scans, and whatever is necessary to prove the doctors opinion.

An example would be, if the doctor says you have cancer and when there has been no cat scan, no biopsy, no blood test of antigen - looking pale, or an undocumented complaint doesn't cut it. Or, to state it differently, when there are complaints that are not documented by physical findings, the doc can talk all day about how disabled this man is (because he says he is), and that really is unpersuasive.

There are exceptions. Connective tissue diseases exist which cannot be documented. There a doctor can say in his/her letter to the adjudicator: "the complaints are persistent, and this person who used to be happy and outgoing and very active has now adopted a very restricted lifestyle. There is a recognized medical condition called xxx. It causes the kinds of things which force a person into that sort of lifestyle." There is no known test to identify and diagnose this illness (the doctor needs to be direct the comments to either a Judge or adjudicator by talking in the first person) The doctor should state he "believes in this person" and he/she should state "If you also believe her complaints and that she now lives this lifestyle, then you have to believe she has this disabling condition."

5. Get statements from anyone

Get statements from anyone who knows you and your issues. Write your own statement too! Have these individuals state how the problems affect you (example: It is hard to bend over, or squat, or hear, etc.). This includes your wife, kids, parents, co-workers even the guy/gal walking along the street. All of these people can contribute! All their statements are evidence that must be considered. If you have them put their phone number down on the statement and request the adjudicator to call (not if they have any questions), the adjudicator is required to call. If they don't call, you have grounds for appeal. The medical facts and findings speak louder than any of this testimony, and the veterans own testimony is quite powerful in describing the effect of this proven medical condition. The VA doctor's report that seeks to negate the claim is wide open to attack when he fails to do procedures or make determinative tests.

6. Get the Vet Center Records

If you have been going to a Vet Center, get their records. They are independent of the VA medical system (CAPRI) so you need to get a statement or copy of your provider's notes or both from your treating Social Worker.

7. Vocational Rehabilitation

If you have gone to Vocational Rehabilitation (Voc Rehab), you were evaluated by them too. Do a Privacy Act request and get all copies of evaluations and anything else (to include reports of contact [ROC]). The Voc Rehab evaluations carry some weight, since they are independent evaluations. Get copies of the contractor evaluations (the people that did the Voc Rehab screening) and the VA's Voc Rehab evaluations.

8. Legal Research

Go to <http://www.findlaw.com> or <http://www.veteransresources.net/database.html> or <http://www.va.gov/vbs.bva/> and look up all Board of Veteran Appeal, Court of Veteran Appeals, US District Court, US Court of Appeals and Supreme Court decisions that affect your issues. These legal opinions as well as the courts opinions narrows the focus of how the adjudicator can look at the evidence. Use these sites to support your other evidence. Do your own legal research! If you don't have access to the internet or are not internet savvy, you can get copies of any appeals and decisions from the VA. They can be requested from Veteran Benefits Office or the Adjudication Office. A simple phone call to one of those offices, explaining that you are requesting a copy of those records for your own file should be sufficient. Keep the information of who you talked with and their phone/fax numbers and addresses in your notebook for ready reference! Again, you may need to provide this request in writing, but this can usually be accomplished by phone or fax. Some Service Officers from DAV, VFW, or American Legion will do this for you, but don't depend entirely on them! Some mental health records are kept separate from the main medical records, so again, you may need to call the Mental Health Clinic in your VA to request copies of those records from that office.

9. Statements From VA Personnel

If you have been seeing a counselor at the VA Hospital, then get him/her to write you a statement of how bad they think you are. Plus, write up a statement on your own, let the adjudicator know about your background, your stressors and how this affects your daily life. Counselors are sometimes skeptical that people are acting out, pretending, not real. If the guy is really bogus, you might do better not to ask, but in truth, further questioning may well reveal that the skeptical counselor really believes the guy is pretty bad off or he wouldn't be going through all of this. That it is the stress of daily life that drives him to it. And NO counselor ever treats a death threat as anything other than real!

10. SF 180

Use our system to create a customized order form to request information from your, or your relative's, military personnel records. You may use this system if you are: A military veteran, or Next of kin of a deceased, former member of the military The next of kin can be any of the following: surviving spouse that has not remarried, father, mother, son, daughter, sister, or brother. If you are not the veteran or next of kin, you must complete the Standard Form 180 (SF 180). You can obtain this form from Fax-on-Demand, or download it, then mail or fax it to the appropriate address on the form.

The SF 180 may be photocopied as needed. Please submit a separate request (either SF 180 or letter) for each individual whose records are being requested. You may submit more than one request per envelope or fax. How to Initiate a Request for Military Personnel Records: Click on the "Request Military Records" button to start. This will launch a separate window. Enter the required information in the system to create your customized request form. There are 4 steps that you need to navigate. The system will guide you through the steps and tell you exactly which step you are on. Print, sign and date the signature verification area of your customized form. If you don't have a printer, have a pen and paper handy and we will guide you through the process. This is important because the Privacy Act of 1974 (5 U.S.C. 552a) requires that all requests for records and information be submitted in writing. Each request must be signed and dated by the veteran or next of kin. Mail or fax your signature verification form to us, and we will process your request. You must do this within the first 20 days of entering your request, or your request will be removed from our system.

11. Reviewing Your Military Records

Review your military medical records and make a list of every ailment that you had while on active duty. Note each biohazardous exposure you may have had. For example, If you used cosmoline on everything to protect it from rust, and then we would be in carbon tetrachloride up to the elbows because that was what used to clean it off. Carbon tet is cancer producing. I am sure there are many other examples.

12. Cross Reference All your Military Ailments With Your Civilian Ailments

Cross reference all you military ailments with your civilian ailments. If the problem persists or a secondary issue has cropped up as a result of the issue that developed during your time in the military then you need to apply for that issue (as a secondary issue). An example of a secondary issue would be if you hurt your right knee and had to put weight on your left knee and now the knee is damaged. You can claim the left knee as a secondary issue to the injured right knee.

13. Downloading

Go to the VA web site and down load all the Fast Letters, Memo's and any other documentation that will support your case. www.va.gov.

14. Go to the DAV, PVA and any other VSO Web Site

Go to the DAV, PVA and any other VSO web sites and bookmark them (and down load anything related to your claims).

15. WARMS

Go to <http://www.warms.vba.va.gov/bookc.html>. Look up what your issue is and determine the percentage that you want to apply for. Now 98% of the Veteran Service Rep's (VSR's) will tell you not to give a percentage, but if you don't ask for a percentage and you are awarded 0% for an issue, you can't complain because they gave you exactly what you asked for. If the adjudicator denies your issue and you did not ask for a certain percentage, then you have to prove the VA didn't follow proper procedure (this is very hard to prove). Your VSR will tell you that the law can change. If it increases then just fax, email (w/receipt) or mail in an updated request. If the percentage decreases, you don't need to do anything. The Veterans Claims Assistance Act of 2000 allows the law that is most favorable to you to be applied to your claim so don't change your percentage.

16. Current law favors the Vet.

The VA fights it but you can use this to your advantage. Invoke VCAA. Read, understand and learn what VCAA can do for you. If you are within a year of the VCAA letter you received, then you have rights to reopen old cases, don't let the time limit pass.

17. You need to tell your story

You need to tell your story as to how you were injured. You need to compile all your evidence by issue. Yellow highlight those portions that pertains to you and your issues. Cite this in your narrative. You need to write up a narrative of how you were injured, under what circumstances (Who, What, When and How). List anyone who might have witnessed it. If you have a phone number or address, you need to provide that with your statement, cite the times you went to the medial facility, and later the follow-up care you have received from your private doctor. Invoke the reasonable doubt clause as well as all legal citations and regulations that support your claim VCAA. Site VBA and Court of Appeals legal cases that

support your claim that you are entitled to a certain percentage rating. You will refer to evidence that you collected. Review the ratings percentages. Think of your worst day (pain, etc.) and rate yourself on that basis. After a few years your pain will probably be at that level, unless you can get the symptoms reversed somehow. Look up medical studies to support your claim and provide those studies to help in the adjudication process. VA or DoD or NIH medical studies are the best. It's hard to argue with yourself when yourself (the government) has come to the conclusion that the problem exists and what the symptoms are (which are the same symptoms you're reporting).

18. Eligibility

You are entitled to claim all periods of active duty, all periods covered under Vocational Rehabilitation and any injuries suffered under the care of the VA for the purposes of disability claims (issues). You need to list all periods of active duty, to include ADT and reserve time. There are limited benefits for non-active duty personnel. By stating the periods of active duty, and providing documentation (such as copies of orders), you will increase your chances of winning your claim.

19. C&P Examinations

Go to the C&P office at your local VA Hospital (if you're too far away, having them either email or fax to you the exam criteria). Go to your private doctor. Have him do the C&P exam the correct way. Make sure he is a specialist (preferably board certified) in the field. Then show him the exams you were given by the VA as well as all your personal medical records on this issue. Ask him if he concurs with their exam. If he doesn't, get him to put it in writing and cite the different tests that he performed to support his conclusions. If he can cite any medical studies, that would make his statements stronger too. Thus you beat them at their own game. When you write it up, make sure you had the "COMPLETE" C&P exam done by a private doc and the VA doc's refused to perform the proper tests. Under the reasonable doubt rule, you have proven your case, and they failed to prove theirs. Get the doctor to explain the disease and the disease process, and the way it develops and what it can lead to, as well as describing the tests that prove or disprove its existence. Let the doctor describe a little of the misery involved. Then after you have agreed as to what needs to be done schedule the client for that examination. That raises you to a reasonable level of function as to the medical aspects. This way the doctor is explaining the disease to the adjudicator so the adjudicator will understand the disease and better informed and able to make a fair decision.

20. Idiot Proofing Your Claim

List every time you went to the doctor, provide a copy of that medical record, highlighted the medical record and bunched them together in a group so the claims examiner does not have to hunt for the information. You need to idiot proof the claim! You need to give your claim to a third party and see if they can find holes in your arguments. Try and anticipated the weaknesses in the claim and find the law or regulation that turned the weakness into a strong point.

21. Finalizing Your Claim

After you finished pulling your information together, you need to find an organization that will represent you before the Veterans Administration. If there is any supporting evidence you can not find, either the veterans representative can try and find it or the VA is required under the Veterans Claims Assistance Act to find the documentation for you. You need to point out what documentation they need to assist you and you need to provide them enough information necessary to find it (Who, What, When, Where and How Much).