

This article was written by Jim Strickland, Veterans Advocate, and is posted on the VA Watchdog at <http://www.vawatchdog.org/>.
With Jim's permission I have placed it in PDF format.

VA CLAIMS FOR THE DO-IT-YOURSELF -- Veterans' Advocate Jim Strickland with advice

for those who want to DIY.

Many readers have let me know that they are handling or want to handle their own disability claims. I hear various reasons that they've decided to go this route. Most often it's that they didn't feel like the Veterans Service Officer (VSO) they started the process with has done anything to help them or their claim was denied and the VSO doesn't seem interested. That's my story too and it's why I taught myself how to navigate the Veterans Benefits Administration (VBA) system.

I'll begin today with a do-it-yourself series of the very basic steps you must take to have a successful outcome. Applying for benefits at VBA couldn't be easier. Getting a swift, favorable adjudication requires plenty of attention from you, the claimant. I've covered most of this in previous columns but it's always worth revisiting for newer readers. If you have a condition caused by or aggravated by your military service and if you're willing to put in the time and effort to read the regulations and follow guidelines, it's likely you will see good results. I'll caution you that if you take shortcuts, if you don't follow instructions provided by VBA, if you don't respond precisely to their requests in a timely fashion, you lose. VBA doesn't game you but they do play hardball.

I've learned that the single most important piece of the disability claims puzzle is that first application. If you get that right, the rest of the process should fall neatly into place. If you're haphazard and sloppy from the beginning, you've set the scene for the future.

Begin by giving serious thought to your claimed condition. What is the condition? Define it once and don't vary with other terminology. If you had a "fractured femur", don't write that on one page and then use "broken bone" on another. Consistency is important. There may be a lot of very busy people who must read your application and then make decisions. Don't add to their confusion by being vague. Are you sure you can verify your condition and how it occurred? Do you recall when and where it happened? Where were you treated? Do you think that records were made of treatments? Even better, do you have copies of records that support your alleged condition? Did you do as you were told that many years ago and safeguard your DD214?

If you feel good about all that, you should download and print VA Form 21-526 by clicking here...

<http://www.vba.va.gov/pubs/forms/21-526.pdf> . You'll want to read the Important Information form here

<http://www.vba.va.gov/pubs/forms/21-8764.pdf> . I recommend that you use a paper copy (as above) if you're new to all this unless you're confident of your computer skills and have a good connection to the Internet. Then you can use the on-line system provided by VBA here

<http://vabenefits.vba.va.gov/vonapp/main.asp> . Most other VA Forms you'll need may be found here

<http://www.va.gov/vaforms/> . You'll be able to ask for copies of these forms at your local VA facility or you may call 1-800-827-1000 from anywhere in America and VA will mail the forms to you.

You can begin your claim without the forms. You may write a letter to your Veterans Affairs Regional Office (VARO) and tell them you are filing a claim for disability benefits. You can find the mailing address of your VARO or other facility by clicking here <http://www1.va.gov/directory/guide/home.asp?isFlash=1> . If you take this route you must be sure to include a statement that says, "By this document I am filing a claim for disability benefits due to (your reasons). I anticipate that the VBA will adjudicate my claim in my favor and assign to me an appropriate rating of disability for my condition of (state your condition). I request that you assist me in developing my claim." You may request that VBA retrieve any and all service records that may apply to your case and then copy and mail them to you. After your application is received and begins to process, you will receive form letters and statements from VBA that will instruct you how to proceed and exactly what else is needed from you.

It's been my experience that it is extremely rare that VBA fails in its duty to notify you of the rules. In fact, they go way overboard to ensure they are in compliance with regulations. If your condition originated 35 years ago, you may get a request from VBA to provide them with names, dates, unit designations, locations and other details you've long since forgotten. Don't let that frustrate you. Simply respond with a true statement that the passage of time has made it impossible for you to fulfill that particular request. Never ignore the impossible requests; just reply that you can't do that and move on. In the logic of the VBA, they make those requests to fulfill their obligation to assist you to develop your claim. The more evidence you supply, the more likely you will win.

You should include a Statement In Support of Claim. Find it by clicking here <http://www.vba.va.gov/pubs/forms/vba-21-4138.pdf> . VA Form 21-4138 may be used by you to tell your story in your own words or it may be used by another person to support your allegation of a disability. If written by another individual who has knowledge of the circumstances of your condition, it is often called a "Buddy Letter". A Buddy Letter will be considered as evidence to support your claim and may be useful where records are scant or missing. You may make a Statement In Support Of Claim without the form. If you choose to submit a narrative either handwritten or printed off a computer, be sure that it ends with the statement, "I certify that the statements on this document are true and correct to the best of my knowledge and belief." There isn't any requirement to have this notarized but I recommend that you do...it can't hurt.

If you're accomplishing all this so far, you're getting off on the right foot. We'll take a moment now to review a few important points.

Nomenclature is important. Be consistent in identifying and naming conditions, dates, places and events. Try to learn how the VBA phrases things and then use their language. Study the layout of the documents and letters you receive from VBA and use that when you write back to them. Be brief. Put yourself in the chair of the individual who will read your documents and see it from that perspective. Is what you say easy to understand and to the point? Have you provided accurate, true statements to support your claim? If you are unable to account for certain information or documents, have you explained that?

Do you understand your condition? For example; If you are claiming that you injured your back while jumping from a perfectly good airplane, did you tell the VBA you have "a painful back problem"? Or did you look through your medical record to determine that you have "spondylolysis and spondylolisthesis of the 5th lumbar vertebra on the sacrum"? Have you told VBA "it hurts" or did you say, "My back pain is chronic and I suffer every day. It becomes worse if I attempt to lift more than 5 pounds. I have difficulty with

activities of everyday living and need assistance in dressing and grooming."

Get organized. You should prepare yourself by getting your records in order. Use a spiral notebook to record any facts from telephone conversations; Who did you speak with? At what number and extension? What date and time? Were any commitments by this contact person made to follow through on actions for you? You won't remember these details when you need to, write them down. That also applies to mailing and receiving letters or documents from VA.

Learn to love your local Post office. You'll be using Registered Mail, Return Receipt Requested for everything.

When you write a letter of any sort to VA, don't rant. There is nothing you can say that they haven't heard hundreds of times and although they are required to read it, it won't have any impact on what you want done. Any emotion, any anger, any frustration you vent to them just uses up your paper and ink. If you must, write them a really abusive letter 4 or 5 pages long, revel in the glory of it all for a day or two and then throw it away. Then write something similar to this below.

Date

Department of Veterans Affairs Regional Office
4567 Old Boy Highway
In The Big City, State 11111-0987

REFERENCE: DOE JOHN M
C 123 456 789

Dear Sir/Madame:

Please accept this document and enclosures as my application for benefits. (Or as a supplement to an already filed claim) I was injured while on active duty, here are some details.

Here are dates/Occurrences;
11/11/1956 / What happened where
12/12/1957/ Again and again
1/1/1964/ This got worse than ever. Here are the addresses of my doctors.

This is information that you need to know but there was no appropriate space on the form 21-526.

Details, more details, strictly facts.

More details with dates and so on.

Thank you for your kind attention to my claim.

Respectfully Submitted,

John Doe
Home Address

Email Address
Telephone Number

(Enclosures)

When you write, only state facts. Don't repeat hearsay evidence like, "My Doctor in Germany told me I was lucky to be alive. He said one more inch to the left and that broken beer bottle may have pierced my gizzard." If you don't have that statement in writing from that doctor, you're wasting time telling the story.

Seek out your own evidence. VBA has a duty to help you retrieve medical records, lab reports, x-ray reports etc. It's a cumbersome process if you wait on them. It's much more effective if you go ahead and provide VBA all needed documentation to retrieve your records but then do it yourself. Almost 20 years after the fact I recalled a doctor who had treated my injury within a month of my discharge. VA wrote that doctor and got the request returned telling them the doctor had moved away a decade before. VBA doesn't usually call and work hard to get your record, their duty is complete if they mail a request. I called the office where the doctor had treated me and asked some very nice people for their help. They dug through a storage room and found my chart within a few days. Another doctor in that office reviewed the records and wrote a letter confirming that these were the real deal and they mailed it all on to me. That was a turning point for one of my claims. If I had left that to VA, it wouldn't have happened.

Provide VBA with scientific evidence that supports your claim of disability. One of my claims was based on the cause and effect relationship of my primary service connected condition to a secondary disability. Although my rationale was a bit obscure, my allegation of cause and effect was supported in medical literature I found on the Internet. I printed 3 articles and highlighted the parts that supported my claim and referenced those in a letter to my VARO. In my award letter the literature that I provided was quoted and was at least partly responsible for the favorable decision.

Finally, read all you can on the VA sites. Start at the main page at <http://www.va.gov/> . Look around, explore and learn the language. Head over to the GPO site here <http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?c=ecfr&tpl=%2Findex.tpl> and then using the site or this link go here http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?sid=78d9ba8a7d4f6a84d882e2ad25f86cbd&c=ecfr&tpl=/ecfrbrowse/Title38/38tab_02.tpl to search around in Title 38. Take a quick trip to Thomas Search Engine here <http://thomas.loc.gov/> and use it to find out about bills that affect Veterans right here <http://thomas.loc.gov/beta/topicresults2.jsp?congress=110&subject=Root%2FMilitary+and+Defense%2F%40Veterans&swr=true&searchCurrent=true> .

Most of this applies to those who are the true do-it-yourselfers among us but the information also applies if you're using a Service Officer. Your service officer is busy helping a lot of Vets besides you and the more you pitch in, the better your outcome will be. Keep it in mind that nobody cares as much about your claim as you do.

I hear from Veterans who say they shouldn't have to all this complex stuff. VBA should just take their word for it and give them compensation. That's not realistic and it won't happen anytime soon. I agree that the system today is a mess. The application of rules has

gone far beyond the original intent. Rather than a Veteran friendly organization as it was intended to be, it's adversarial with no trust on either side of the fence. Having said all that, I'm confident that when a Veteran is willing to spend the time and labor investing in his own future, that Veteran will find the VBA not so difficult after all.

Part 2

VA CLAIMS FOR THE DO-IT-YOURSELFER, PART TWO --

More great advice from Veterans'

Advocate Jim Strickland.

Reading my daily email is always a pleasure. The majority of the stuff I get is positive. Some is inspirational and feeds my fire.

Mike Gayron of West Newbury, MA wrote a strong letter to me. Mike told me, "Like you I am thrilled with my VHA health care. DAV...did absolutely nothing for me except discourage me. I recently received a rating of 80% and I give no credit to anyone but myself. I went on the Internet and read every thing I could find about submitting claims and after my initial input I went to work gathering the data. I even went to the National Archives to get my unit information. By doing all that I could to submit a complete package I received my rating in 9 months. I am now waiting on the appeal and the IU rating. I did all this myself also. I have yet to find a VSO that knows as much as I do from my self education and would never recommend using one again."

Michael Mulraney is a Marine wounded in Vietnam in 1967. Michael worked with his DAV rep but told me, "I...filed with the DAV as my VSO...(I controlled) my claim by using my fax machine. By doing this I had a record of everything I sent. All faxes were sent Sunday because in the past it was difficult to get through. Since 12/04 I have been reevaluated to 170% only because I took the bull by the horns. There is more to this story but the bottom line is I did the ground work and kept on top of my claim."

I had a lot of mail from Vets like Mike who are choosing to obtain their benefits in a Do It Yourself mode. Mike is completing it alone, Michael worked successfully with his VSO by taking charge. I'll continue to develop the DIY approach in a stepwise fashion.

After you've submitted your application for disability benefits to your Department of Veterans Affairs Regional Office (VARO), you now wait for them to process your application. That wait may be as little as 6 weeks or it may be measured in months. If you have used registered mail, return receipt requested and you're confident that your application was received at the VARO, don't do anything until you have a reply. At this stage of the process, getting impatient and writing another letter to the VARO will lead to confusion.

If you have waited 90 days or so with no reply, call the VA at 1-800-827-1000. That number will connect you to a VA employee who will have some limited access to your file. They should be able to confirm that your benefits application was received and that it is in process. If they confirm that, you should continue to wait out the process. There is

nothing to gain by trying to speed things up.

Sooner or later you'll receive information from the VARO that provides you with a confirmation that they are working on your claim. Your case will have been assigned a unique "C-File" number. This letter will spell out details of what they're working on. Read this over carefully to ensure that their definition of your claim is the same as you intended it to be.

The letter usually will go on to tell you that the VARO has included information to inform you of what the VARO will do for you, what you must do to help in the process and how long the process should take. There may be one or more attachments describing your rights and how to help yourself in winning your award. For the most part these are form letters and your VARO will probably include these in every mailing you receive from them.

This letter will have a segment of "What Do We Still Need From You?" This is usually the beginning of a more personal level of information that a VA Ratings Officer or other designated VA staffer wants you to send to them. For example, if you've filed for an award based on PTSD, the letter may request that you provide specific details of the event or events that you claim initiated your condition. There may be a very detailed questionnaire that you'll need to complete.

Much of the information requested at this time may be repetitive. If you've already provided the information they're requesting, don't scribble a note to the effect that you've already given them that, just give it again. This is a way that the VARO satisfies its "Duty To Assist". They are giving you every opportunity to provide detailed evidence that will help you win that award.

It's been a few weeks since you filed and you've had a lot of time to think about it. If you're like most of us, you'll have thought of a dozen things you could have or should have submitted. Take advantage of this opportunity to review the evidence you've submitted earlier and provide supplemental information if you can.

A few items to check on are the names of treating professionals, dates of treatments, addresses where these people may be reached and so on. If you have been treated at a Vet Center for your PTSD, include as much detail as you can about when and where and who. To the extent that you can, provide details about any and all treatments you've had and include an accurate address for that facility.

Don't write that you were treated at Our Lady of Perpetual Pain Hospital in Texas in 1994. Take the time to search out a specific mailing address where VA may write to request your records. You may even call that hospital to ensure that your records will be available to VA. Many civilian hospitals today use contractors to manage medical records and medical records requests. Your hospital may have long ago archived your treatment records with a vendor in another state and that vendor may charge you to seek out, copy and mail that all important document.

The VARO will rarely go beyond a simple letter to the facility you provided requesting your records. If they don't get a reasonable reply in a short time, they may not pursue it any further. If you don't pay attention to these details, you may be missing some important evidence that you could have easily retrieved for yourself.

Often enough it's to your advantage to retrieve these records yourself and copy them on to your VARO. The VARO has a duty to assist you in getting your important civilian medical records. This duty to assist doesn't require them to make numerous telephone calls. If they hit resistance, they may not get the documents you need to win.

I'll remind you that you are trying to prove to another person that your claim has merit. The person who is looking at your claim really doesn't care if you get a high rating and years of retroactive pay or nothing at all. All he or she cares about is that the letter of the law has been followed. You must prove that your claim is valid. That person sitting at their desk reviewing your claim can't simply accept that you say that a thing happened or that your medical condition exists. Although the VARO is required to give you the benefit of the doubt in instances where a claim isn't clearly supported by evidence, it rarely works that way. After the initial application, this is your best opportunity to submit evidence and information leading to evidence.

Use this time wisely. This should be the last time you submit evidence to your VARO. There's no hurry now. When you filed that initial application, you set the date that your benefits will be retroactive to when your award is granted to you. You now have one year from the date of this letter from VARO to reply. Take some of that time to get this done right.

Consider providing statements from people who knew you at the time of your injury or who served with you. It's important to remember that these "Buddy Statements" always end with a signature along with the sentence, "I certify that the information I have given is true and correct to the best of my knowledge and belief."

Have you provided the VARO with all of your pharmacy records? Have you had employment physicals that you should inform the VARO about? Have you ever been required to undergo a physical examination for insurance purposes or to obtain a license of some sort? Are there any police reports or an employer's "incident reports" that may provide evidence in support of your claim?

In most of these letters you'll find a "VCAA Notice Response" form. This refers to the Veterans Claims Assistance Act of 2000. Simply stated, the VCAA requires the VARO to notify the Veteran of all the evidence requirements to complete the claim and the responsibilities of the VARO and the Veteran. With this response form you are offered the opportunity to tell the VARO that you have not yet finished submitting evidence to them and you do not want them to adjudicate your claim until you have finished providing evidence.

Alternatively, you may tell your VARO you have provided them with everything you have and that you want them to adjudicate your claim as soon as possible.

If you've completed the required tasks to this juncture and you're satisfied that you've offered all the evidence that you're going to get, you should mail that form back and tell the VARO to move ahead with no further delay.

Even after you've mailed your VCAA Response, you may receive more requests for information from the VARO. You'll probably also receive notices that will tell you, "We're working on your claim. We're sorry for the delay." If you've mailed in all your evidence and you've sent the VCAA Notice Response, don't do anything. There's rarely any particular pattern to these mailings, they're simply the VARO's way of fulfilling their Duty To Assist. Save those letters along with your other VARO paperwork and wait it out.

At this juncture you may also receive a notice that schedules you for a Compensation and Pension (C&P) exam. We've discussed the C & P exam in other articles and we'll address it again in the near future.

You may be a year or more into this now and it's natural to become impatient. You might feel that your claim is being ignored or that it's been lost. If you need reassuring, dial the 800 number I gave you earlier. Don't begin a letter writing campaign to the VARO telling

them to hurry up or offering comments about their efficiency. Unless you are submitting “new and material” evidence to support your claim, every letter you write will slow your claim down.

This is no time to write to your Congressman. To be honest, I can't think of a good time to write your congressman about your VA benefits claim. I don't personally know of any instances where an inquiry by the Representative's office has had any substantial impact to resolving a routine claim. The fact is that it may delay your claim while your file is pulled out of the line for review. You'll get a form letter sent out by a Congressional Aide that tells you the VA is doing all it can.

If you've followed the instructions you've received from the VARO and you've filed your initial claim and now supplemented it with any additional evidence, you're done. Sit back and wait for that award you deserve.

Or the denial. We'll talk about that next.