REPRESENTING WASHINGTON VETERANS:

BASIC LEGAL AND CULTURAL CONCEPTS

Northwest Justice Project

THE ALLIANCE for Equal Justice MEMBER

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REPRESENTING WASHINGTON VETERANS:
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[1] Please send an email to rep.wa.vets@gmail.com with any and all suggested corrections or additions.

Background

The Project:

The Northwest Justice Project (NJP) is Washington State's largest provider of civil legal services to low-income Washington residents and a proud member of Washington's Alliance for Equal Justice. With state and federal funding, NJP has 17 offices around the state, and serves between 16,000-20,000 low-income clients annually. This group of clients has historically included veterans, but no focused outreach and capacity focused exclusively on assisting low-income veterans as a distinct population with unique needs and abilities. Growing recognition of this gap in services inspired NJP attorneys to begin focusing on veterans. Concurrently, the Equal Justice Works AmeriCorps legal fellowship program perceived this same gap in services at the national level and in 2010 began offering one-year fellowships to legal aid organizations to fill the gap. NJP received one of those fellowships, supplemented by funding through the King County Veterans Levy, Washington State Department of Veteran Affairs, the Washington State Bar Association's LAMP (Legal Assistance to Military Personnel) section, and the Osborne Family Foundation. NJP's Veterans Project is the product of this collaborative funding and community support that enabled NJP to hire in August 2010 one full-time attorney to work exclusively with veterans.

The People:

Lauren Peach is the Equal Justice Works AmeriCorps Legal Fellow and attorney coordinating the Veterans Project at the Northwest Justice Project in Seattle, WA. Lauren created this project from the ground up, providing outreach to veteran organizations and their service providers, including trainings and legal clinics; taking individual client cases and referring cases to partner organizations and pro bono attorneys; working with law students to support their development and increase project capacity; and technical support to NJP advocates on veterans legal issues. Before law school, Lauren was a HIV/AIDS Peace Corps Volunteer in Namibia.

Leo Flor is a student law clerk at the NJP Veterans Project and a class of 2013 J.D. candidate at the University of Washington School of Law, where he studies as a William H. Gates Public Interest Law Scholar. In addition to his client work at the Veterans Project, Leo served as author and researcher for this manual. Before coming to law school and NJP, Leo was an U.S. Army Infantry Officer for eight years. He led a Stryker Platoon in Iraq and commanded an Airborne Company in Afghanistan.

The Manual:

When Lauren started at NJP, she had a lot to learn about veterans services and referrals in Washington State. It took more than six months to begin to understand the multitude of services and benefits available to veterans. In that time she realized two things: first, that there is no one place a veteran or an advocate can go that gives one an overview of the military, veteran services, or referrals in Washington State. Second, Lauren spent a lot of her time answering the same technical legal questions from other advocates at NJP and partner organizations. There were no written materials she could send to the advocates explaining the answers to these questions. This manual attempts to fill these gaps. Under Lauren's supervision, Leo has spent the majority of his volunteer and externship time at NJP researching and writing this manual from scratch.

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INTRODUCTION

1 in 9 Washington State residents is a veteran.[2] Although veterans make up more than 10% of Washington's population, veterans law and veterans resources remain unfamiliar for most attorneys and advocates. Veterans benefit and support programs can seem like impossible bureaucracies, particularly when serving those veterans who most need support. The complexity and unique nature of this system discourages or confounds many attorneys and advocates.

This guide introduces attorneys to the basic concepts of culture and law that underpin effective assistance of veterans.

Unlike representation of other at-risk populations, representation of veterans is often made difficult by the *abundance, variety,* and functional *specificity* of agencies, jurisdictions, statutes, and programs that offer veterans support or relief. The VA is the second largest department in the U.S. Government. The VHA runs the nation's largest hospital network. Between the VA and WDVA, at least 49 separate programs or benefits exist—each with its own eligibility criteria—to meet the housing, education & employment, financial, physical & mental health, and legal needs of the more than 600,000 veterans in Washington State. Veterans benefits appeals are initially adjudicated in a unique administrative process and then appealed to a special Article I federal court. This manual discusses in greater detail these and many more examples of the abundance, variety, and specificity that complicates and enriches the service of veterans.

Only 10% of the national population has served in the military. When the incredible variety of veterans benefits and programs—already confusing in their own right—then depends upon equally obscure designations from the military with which so few are familiar, the difficulty for the average attorney or advocate compounds. Even when veterans confront common, non-veteran issues like divorce, homelessness, and depression; competent representation is complicated by the additional resources available to veterans. Competent representation of veterans requires familiarity with these diverse federal, state, and local veterans benefits in addition to familiarity with the set of benefits available to at-risk populations generally.

This guide introduces attorneys and advocates to the basic concepts that enable effective representation of veteran clients. This guide does not offer comprehensive treatment of topics, but it does provide enough information to help attorneys and advocates identify which questions to ask and where to look more detailed information. **Connecting a veteran to the most appropriate programs or benefits is difficult but essential.**

Thank you for doing this work.

[2] Washington State Department of Veterans Affairs, 5035, *A report to the Washington State Legislature on Improving Veterans' Access to Services* 2 (2010).

CHAPTER 1: VETERAN & MILITARY BASICS

FREQUENTLY ASKED QUESTIONS

What qualifies a veteran to receive benefits, services, or programs?
It depends on the benefit or program. Eligibility for almost every veterans benefit or program is a function of the veteran's military **discharge** and a requirement of **"qualifying active service."** A veteran may become eligible for some programs they would otherwise be ineligible for if the veteran is homeless[3], disabled, or indigent. In some cases, specialized services for women veterans are also available. Chapter 1 §A further discusses the criteria for establishing status as an eligible veteran.

What kinds of discharge can a veteran receive?
The term *discharge* is commonly misused. The common misuse of *discharge* actually refers to two things. When a veteran separates from the military, the veteran receives a **reason for discharge** and a **characterization of service (COS)**. The most common types of COS are: **Honorable**, **General Under Honorable Conditions**, **Other Than Honorable**, **Bad Conduct**, **Dishonorable**, and **Uncharacterized**. *Discharge* and the COS are commonly used interchangeably, but that they actually refer to different things. For example, veterans commonly misstate that they received an honorable discharge when they actually received an honorable COS upon discharge for satisfactory completion of their obligation. §A of this chapter further discusses characterizations of service.

What is "qualifying active service"?
Eligibility for veterans programs and benefits may require "qualifying active service." The type, era, duration, or location of service that "qualifies" as "active service" may differ by benefit or program. Some benefits require wartime service; others do not. Some may require physical presence in a combat zone; others only require service during the "era" of a particular conflict. **Requirements for the Reserves and National Guard differ from requirements for Active Duty members.** §A of this chapter further discusses this topic.

How can I verify a veteran's reason for discharge, COS, or qualifying active service?
All veterans are issued discharge papers that list this information. For most veterans, the discharge papers are called a DD-214 (Department of Defense Form 214).[4]

In This Chapter:

- What does it mean to be a veteran?
- Qualifying active service
- Discharges
- Understanding ranks & grades
- A methodology for veterans needs
- Techniques for working with veterans

[3] http://www.va.gov/HOMELESS/index.asp#veterans-tab
[4] Sample DD-214's are included in Appendix 2 & 3 of this manual.

1 §A: WHAT DOES IT MEAN TO BE A VETERAN?

Is being a veteran a Social Status or Legal Entitlement? Must a veteran have fought in a war? Does service in the Coast Guard, Washington State National Guard, or the National Oceanic and Atmospheric Administration qualify a person as a veteran? Does a dishonorable characterization of military service take away a person's veteran status? Can a person be ineligible for veterans benefits and still be a veteran? The answers depend on the context.

Social Veterans: Conversationally and socially, military service in a war usually makes a person a veteran, regardless of the type of military discharge or duration of service. In this sense, to recognize a person as a veteran is to recognize their experience, even if that experience does not yield legal eligibility for federal, state, or local veterans benefits. These social veterans may exhibit the same characteristics, tendencies, and sensitivities as legally-recognized veterans, but they may not have access to the same support and resources.

Legal Veterans: In contrast to the experience-based, social definition, the federal Department of Veterans[5] Affairs (VA) defines *veteran* as a legal entitlement that is both more and less inclusive[6]. A veteran is entitled to federal VA benefits if he is "a person who served in the active military, naval, or air service and who was discharged or released under conditions other than dishonorable."[7] This definition's two elements are (1) **qualifying "active service"** and (2) a **non-disqualifying discharge** from that service.

Veteran Status =

Qualifying "Active" Service
e.g., federally activated National Guard deployment to Afghanistan

+

Non-disqualifying Discharge
e.g., a discharge with an Honorable characterization of service

A veteran must satisfy this definition of "veteran" to be entitled to apply for federal VA benefits. However, some benefits define "qualifying active service" and "non-disqualifying discharge" differently than others.[8] For example, a person who served in the Army from 2001 to 2005 and received a General Under Honorable Conditions Discharge may satisfy the service and discharge requirements for Disability Compensation (a VBA income benefit) but may not satisfy the time or discharge requirements for the GI Bill (a VBA education benefit).

[5] This manual uses the attributive noun construction of *veterans* instead of the plural or singular possessive noun constructions (*veterans*' or *veteran's*) except where possession is intended. See http://nasje.org/news/newsletter0901/03-features03.php

[6] Under the VA's entitlement-based definition, a former Marine who fought in Iraq but was discharged dishonorably would not be a veteran for legal purposes while an honorably discharged former Air Force doctor whose service did not include a combat deployment would be a veteran. Most people would likely consider both to be veterans in the social sense.

[7] See 38 CFR §3.1(d).

[8] For example, a more detailed treatment of VBA eligibility determinations for specific programs is available at M21-1MR, Part III, Subpart ii, Chapter 6.

It is also possible for a person to be a legal veteran for state purposes but not for federal purposes.[9] Understanding this distinction is essential for competent representation of veterans because satisfaction of the varying state and federal definitions of legal veteran status may impact substantially the range of resources and benefits to which the veteran is entitled.

The VA or WDVA refers to a veteran's military discharge paper, the DD-214[10], for proof of service and discharge information. Sample DD-214's are included in Appendix 2 and 3.

[9] A Washington Army National Guardsman who never participates in a federal activation may be a veteran for state purposes (such as eligibility for a State Soldier's Home), but not for federal purposes.

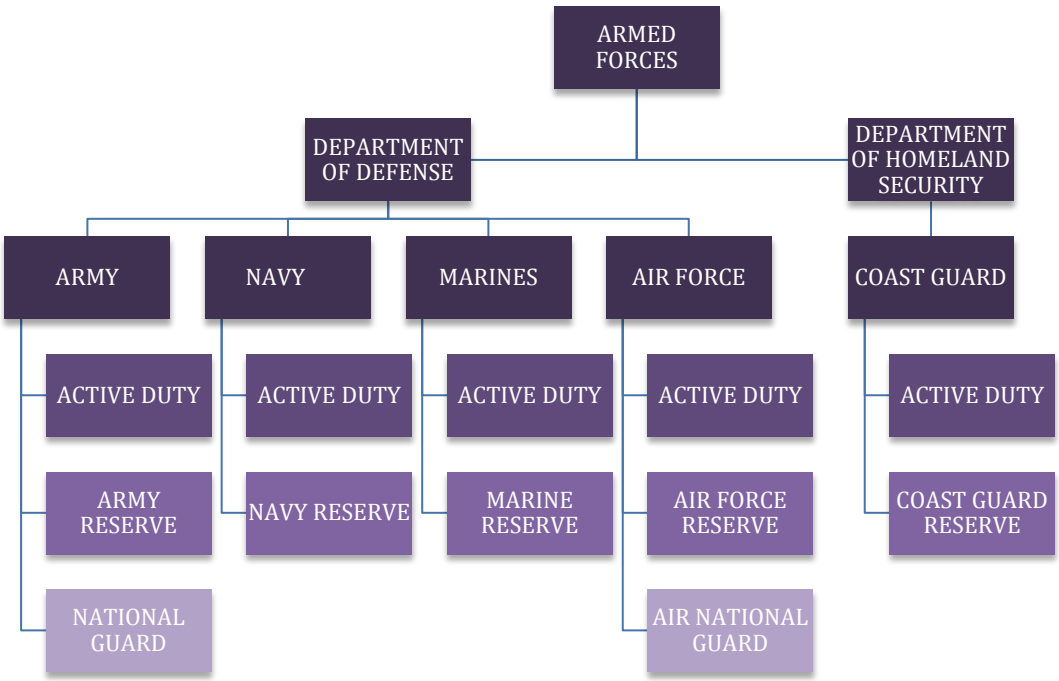
[10] The Department of Defense Form 214 (DD-214) is issued to every military member who separates from the military. The DD-214 catalogues the military member's service period, including service and discharge information. Detailed information about reading a DD-214 is available at: http://dd214.us/. Veterans who do not have a copy of their DD-214 may request one at: http://www.archives.gov/veterans/military-service-records/.

1 §A(i): QUALIFYING "ACTIVE SERVICE"

To satisfy the VA's qualifying active service element, a veteran must have served in an **Armed Force** with additional requirements imposed depending on the **component** of the Armed Forces in which service occurred. Some benefits require qualifying service to be **wartime** service while other benefits also count **peacetime** service.

ORGANIZATION OF THE ARMED FORCES

Other than a few, uncommon instances specified by Congress[11], a veteran will have performed qualifying active service as a member of the **Armed Forces**. There are five Armed Forces. The Army, Navy, Marines[12], and Air Force are organized within the Department of Defense (DOD). The Coast Guard is organized within the Department of Homeland Security.[13]



COMPONENTS OF THE ARMED FORCES

All Armed Forces have an Active Duty Component and a Reserve Component. Additionally, the Army and Air Force, in partnership with each of the fifty states and some territories, also have National Guard Components. These components allow the United States to maintain a standing cadre of professional military members (Active Duty) who can be augmented by additional federal forces when necessary (Reserves). States also maintain inactive forces (the National Guard) that may be activated in the service or their state or federalized in support of the Active Duty forces.

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[11] See 38 CFR §3.7.
[12] The Marines are organized under the secretary of the Navy, but remain a separate Armed Force from the Navy.
[13] The Coast Guard is the only service within the Department of Homeland Security (DHS) in which service may qualify a person as a veteran. Employment in other organizations within DHS, such as FEMA, is not qualifying active service for the purpose of veteran status. Before the creation of DHS, the Coast Guard was organized under the Department of Transportation.

Despite popular stereotypes, Reserve or National Guard members bear heavy burdens, particularly during times of conflict. Far from mere "weekend warriors," members of the Reserves or National Guard become full-time military members who deploy to combat where they are indistinguishable from their active duty counterparts. Many of the members in the Reserve or National Guard were members of the Active Duty force at some point. *A veteran's component of service is listed in block 2 of the DD-214. The duration of service is listed in block 12 of the DD-214.*

ACTIVE DUTY[14]: The "full-time" members of the armed forces. They are federal employees who comprise the nation's standing military. **Service on active duty, so long as it is of sufficient duration for a particular benefit, will satisfy the "qualifying active service" requirement.**

RESERVES[15]: Reservists are federal employees who normally hold other full-time, non-military careers and may convene on a monthly basis for training. Reservists may be called to federal "active duty" and deployed with active duty forces (also called "activated federal service.") **When determining if a reserve veteran has "qualifying active service" only time spent in activated federal service (and not other reservist service time) may be counted.**

NATIONAL GUARD[16]: A modern vestige of state militias, the Army and Air National Guards are constituted under their state's constitution.[17] Like Reservists, National Guard forces may be called to federal active duty. **Only time spent in activated federal service (and not other National Guard service time) counts as "qualifying active service" for federal VA benefits. Washington offers some benefits to National Guard members solely for non-federal service.**

Recent Congressionally Designated Periods of War
Complete list at 38 CFR §3.2 (2010)

Persian Gulf War	**August 2, 1990 through date yet to be prescribed**
Vietnam Era	**February 28, 1961 May 7, 1975**
Korean Conflict	**June 27, 1950 January 31, 1955**
World War II	**December 7, 1941 December 31, 1946**

WARTIME AND PEACETIME SERVICE

Congress designates specific periods as ***wartime*** and designates all remaining periods as ***peacetime***.[18] A veteran's eligibility for some VA Benefits will require wartime service while others allow either

[14] See http://www.army.mil/; http://www.navy.mil/swf/index.asp; http://www.af.mil/; http://www.marines.mil/; http://www.uscg.mil/.
[15] See http://ra.defense.gov/.
[16] See http://www.ng.mil/About/default.aspx.
[17] Because National Guard units are controlled by states, the Governor is the Commander in Chief of that state's Army or Air National Guard, just as the President is the Commander in Chief of the United States Armed Forces (Active Duty and Reserve). Non-federal service in the National Guard, like deployment by states to control riots or recover from natural disasters, does not fulfill qualifying active service requirements.
[18] See 38 CFR §3.2 (2010).

peacetime or wartime service. **The veteran's DD-214 will indicate wartime service explicitly in block 18 or implicitly in block 12 of the DD-214.** Sample DD-214's are included in Appendix 2 and 3.

1 §A(ii): NON-DISQUALIFYING DISCHARGE

A discharge from the military consists of two elements: a **characterization of service** and a **reason for discharge**.[19] Understanding both elements of the discharge is important because some specified reasons for discharge bar an otherwise eligible characterization of service from eligibility for a benefit. For example, an otherwise eligible characterization of service would be ineligible to receive VA Vocational Rehabilitation benefits if the reason for discharge was as a *conscientious objector refusing certain orders*. Veterans may appeal their characterization of service or their reason for discharge under some circumstances. This process is called a **discharge upgrade** and is discussed in Chapter 5 of this guide.

A Military Discharge has 2 Components:

Characterization of Service

+

Reason for Discharge

Advocates must know both!

A common example of confusion between characterizations of service and reasons for discharge occurs with veterans whose discharge is for medical reasons. Veterans often erroneously believe that their characterization of service is, "Medical." Advocates may assist veterans in this circumstance by explaining that the reason for discharge is likely medical, but the characterization of service will still be one of the five listed in the section below.

1 §A(iii): CHARACTERIZATIONS OF SERVICE UPON DISCHARGE

Characterizations of service include the commonly known **Honorable** and **Dishonorable** discharges, but also include **General Under Honorable Conditions**[20], **Other Than Honorable (OTH)**, **Bad Conduct**, and **Uncharacterized Discharges**. *The characterization of service is listed on a veteran's DD 214, Member Copy #4 in box 23.*

A characterization of service is either **administrative** or **punitive.** Administrative discharges comprise the majority of discharges and are governed by an individual armed service's

[19] Veterans will use most often use the word "discharge" where "characterization of service" would actually be more precise. The misuse is so common that asking a veteran for her characterization of service may cause confusion. Where the issue is legally dispositive, verify the COS on the DD-214.

[20] Different armed forces may formulate this discharge in several ways, including: General Under Honorable Conditions, General Discharge, Discharge Under Honorable Conditions.

regulations. Punitive discharges are issued by Court Martial and governed by the Uniform Code of Military Justice[21] (UCMJ).[22]

MOST COMMON CHARACTERIZATIONS OF SERVICE (COS)		
	TYPE	MAJOR IMPLICATIONS
HONORABLE	Administrative	The most favorable COS, issued where a military member satisfies all requirements of service. Does not foreclose any benefits.
GENERAL UNDER HONORABLE CONDITIONS; GENERAL DISCHARGE; DISCHARGE UNDER HONORABLE CONDITONS	Administrative	Less favorable than Honorable, but still issued for satisfactory service. May foreclose entitlement to non-medical benefits like the GI Bill. Does not foreclose Disability Compensation or Disability Pension.
OTHER THAN HONORABLE; UNDESIREABLE DISCHARGE	Administrative	The least favorable administrative COS. May be issued in lieu of a Court Martial. Will foreclose the veteran's ability to reenlist in military service & severely limit eligibility for many VHA&VBA benefits.
BAD CONDUCT	Punitive	A federal conviction by a Special Court Martial or a General Court Martial. Forecloses eligibility for most veterans benefits.
DISHONORABLE	Punitive	The most severe COS. A federal conviction by a General Court Martial with a General Officer convening and approval authority. Will almost always foreclose veteran status and eligibility for benefits.
UNCHARACTERIZED	Administrative	Discretionary COS issued in instances of separation during entry-level training, void enlistments, and DFRs ("Drop From Rolls"). Not sufficient to foreclose most entitlements *per se*, but this COS is often concurrent with insufficient periods of service to qualify for most entitlements.

1 §A(iv): REASONS FOR DISCHARGE

A member of the military who is discharged will also be assigned a **reason for discharge**[23]. There are many possible reasons for discharge, and the possibilities vary by armed force. Some

[21] See 10 USC §801.
[22] Veterans may seek to change either their characterization of service or reason for discharge under some circumstances. Such Discharge Upgrades are discussed in Chapter 5 of this primer.
[23] The *reason for discharge* may also be called the *reason for separation* or the *narrative reason for separation*.

possible reasons for discharge include *miscellaneous*, *medical*, *misconduct*, and *conscientious objector*. Entitlement to some veterans benefits is dependent on satisfying both a characterization of service requirement and a reason for discharge requirement. Particularly with respect to characterizations of service besides honorable, the reason for discharge may be the basis upon which eligibility is approved or denied. *The reason for discharge is listed on a veteran's DD 214 Member Copy #4 in box 26 (Separation Code) and 28 (Narrative Reason for Separation).*

1 §B: UNDERSTANDING MILITARY RANKS & GRADES

1 §B(i): OFFICERS, WARRANT OFFICERS, AND ENLISTED MEMBERS

Members of the Armed Forces are organized into three categories of rank: Officers, Warrant Officers, and Enlisted Members. The distinction between categories of rank may be roughly analogized to typical business organizations:

Officers (also known as Commissioned Officers) are the mid-level and senior managers and leaders of military organizations and are commissioned by the President of the United States. Their duties tend to focus on planning and commanding operations as opposed to executing those plans and operations. Any officer must have earned at least a Bachelor's degree prior to commissioning[24].

Enlisted members are the workers and immediate supervisors of the military. Where officers plan activities, enlisted members are in charge of executing those plans. Enlisted members must have at a minimum graduated from high school or its equivalent. Senior enlisted members may supervise groups of hundreds or thousands of people. The term NCO or Non-Commissioned Officer refers to enlisted members who have earned supervisory status. The professionalism of the enlisted force is a point of pride in the American military, the NCOs in particular.

Cultural Competence Tip:

NCOs perform a special and honored role in the American military. NCOs may lack the formal education that is required of Officers, but they are prized as the "backbone" of a professional, all-volunteer military (note, however, that many NCOs defy this stereotype and have completed undergraduate and graduate-level education).

Attorneys and advocates who demonstrate respect for the special role of NCOs have an opportunity to gain instant credibility with their veteran clients.

Warrant Officers are technical specialists who normally focus their entire career specifically on the operation of a particular function or weapon system. They may be pilots, tactical operations specialists, or electronic systems experts. The Air Force is the only service without Warrant Officers. Warrant officers must have at a minimum graduated from high school or its equivalent and have extensive training in their specialty.

Any Officer outranks any Warrant Officer and both outrank any Enlisted Member. Within each of these groups there are additional levels of rank, whose names may vary by the specific armed service. This formal hierarchy is complemented by an informal system in which senior NCOs

[24] The Degree Completion Program allows some junior officers may be given a provisional commission pending completion of this requirement.

are shown deference by junior Officers and Warrant Officers. These NCOs in turn take pride in treating junior Officers professionally and respectfully while advising and developing them.

1 §B(ii): RANKS AND GRADES

An advocate may also encounter the term *grade*. Grades provide a universal pay and personnel structure for all services, based on rank and time in service. For example, in the Army, an enlisted member at the grade of E1 has a rank of Private. In the Air Force, an enlisted member at the grade of E1 has a rank of Airman Basic. While each has a different rank, both receive the same pay because they are the same grade.

> Officer and Warrant Officer ranks by grade for each service are available at: http://www.defense.gov/about/insignias/officers.aspx.
>
> Enlisted ranks by grade for each service are available at: http://www.defense.gov/about/insignias/enlisted.aspx.

Cultural Competence Tip:

Referring by *rank* to a currently serving or formally retired member of the military is appropriate and respectful. For example, it is appropriate to say, "Good morning, Sergeant First Class Taguba."

Referring to a veteran by their *grade* may be perceived as condescending or disrespectful. For example, do not say, "Good morning, E-7," or, "Hello E-7 Taguba."

Veterans who left the military without formally retiring are not addressed by their rank after leaving service, and they should be addressed like any other client.

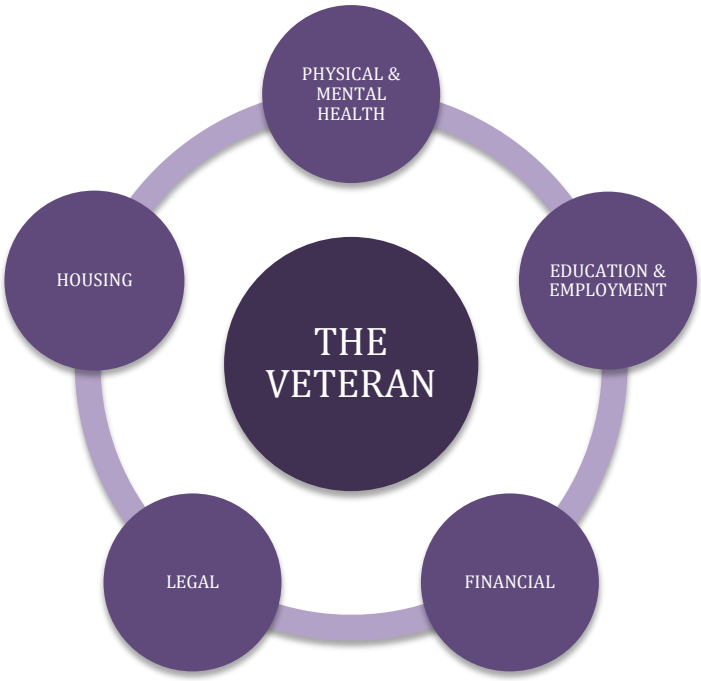
1 §C: TECHNIQUES FOR WORKING WITH VETERANS

1 §C(i): VETERANS NEEDS AND REPRESENTATION FRAMEWORK

This manual adopts a holistic framework that classifies veteran issues and resources into five categories: Physical & Mental Health, Housing, Education & Employment, Legal, and **Financial**.

Veterans experience an array of challenges whose overlapping causes and symptoms require holistic strategies for effective advocacy. Homelessness, unemployment, and relationship difficulties may be caused by substance abuse and untreated mental health issues, which can lead to complicated legal problems. Such problems may be exacerbated by addiction, depression, and post-traumatic stress that result from difficult experiences during military service or an undiagnosed traumatic brain injury. These complex and interrelated problems are not unique to veterans, but veterans experience risk factors at higher rates than the general population.

The challenge in competent representation of a veteran is to comprehend the total set of client issues and available resources, and then to orchestrate those resources holistically against the issues. Structuring around a common framework the intake, issue identification, casework, and follow-up strategies will assist advocates working with these complex issues and resources.



Physical & Mental Health: Those issues and their solutions that focus on veteran's physical, mental, and emotional wellness. Physical issues may include service-connected

and non-service connected physical disabilities, acute physical injuries, or preventative nutrition services. Mental and emotional issues may include PTSD, Military Sexual Trauma, reintegration difficulties, and anger management. Many issues encountered by veterans are both physical and mental, such as traumatic brain injuries, amputations, and substance addiction. **Physical & Mental Health resources include the provision of medical care, counseling, and treatment.**

Housing: Issues that challenge a veteran's ability to maintain a safe, stable, income-appropriate place to live. Such housing provides a veteran with a base from which to operate and in which to maintain herself and her family. **Housing resources include subsidized emergency, transitional, and permanent housing. Home loan assistance and counseling are also available.**

Education & Employment: Veterans often require supplemental education or employment training and opportunities to effectively translate their military experience and aptitudes into appreciated skills in the non-military world. In other instances, such services may be necessary to help a veteran overcome a physical or mental difficulty that results from service. **Services that address these issues include education subsidization, employment preferences, or direct certification and licensing.**

Legal: Veterans may experience criminal or civil challenges that stem from their service or that result indirectly from other fundamental issues. **Veteran-focused legal aid and veterans courts target these issues. There are also several federal, state, and local statutes that define veteran-specific legal entitlements or benefits.**

Financial: Veterans may be eligible for special housing loans, life insurance, and allowances. Where service-connected disabilities diminish veteran earning power, significant public benefits are available to off-set that diminution. Some jurisdictions also provide discretionary fee waivers or privileges that reward or distinguish veterans for their service. **These loan entitlements, insurance benefits, disability allowances, and fee waivers can significantly improve a veteran's financial stability.**

While a veteran's unique circumstances will not conform neatly to this methodology, advocates will be more effective if they consider a particular veteran's issues under this methodology. Where resources from each perspective are employed in concert, veterans will experience more sustainable benefits and improved quality of life.

It is also essential to account for the role of **community** when classifying veterans' issues and identifying strategies for their solution. Veterans service organizations like the Veterans of Foreign Wars, American Legion, and Paralyzed Veterans of America can offer veterans the valuable opportunity to address health, housing, legal, financial, and education & employment issues in the context of a community with similar experiences.

1 §C(ii): TECHNIQUES FOR WORKING WITH VETERANS

SEE VETERANS' ACTIONS THROUGH THE LENS OF CONDITIONING: Be prepared to empathize with a veteran without excusing unacceptable behaviors. Take care to avoid inadvertent triggering of conditioned reactions where they are foreseeable.

All military training is ultimately focused on the use of force to achieve an outcome, and that theme pervades every aspect of military life. Military experience ingrains certain actions so that they become reflexive through thousands of hours of repetition over years of preparation and deployment. In this way, military members are conditioned to overcome normal reluctance to perform dangerous tasks like running towards gunfire or jumping from planes. "Then my training took over," is a commonly described component of a combat experience.

Veterans will have difficulty *untraining* some of the reactions in civilian life that served them well in the military. Difficulties arise when conditioned, sometimes violent, responses become inappropriate.

For example, a soldier who served in Iraq may have learned to drive aggressively to force other vehicles to maintain a safe distance on the road. This likely included driving in the center of the road, adjusting speed unpredictably to keep other vehicles from merging immediately in front or behind, and generally "owning the road." Thousands of hours of conditioning cannot be undone immediately upon redeployment. Similar difficulties may be encountered in unlearning behaviors like shouting, hitting, taking charge of slow-moving situations, carrying a weapon, or being in groups. A common disagreement, normal physical contact and proximity, or perceived disobedience may all challenge a veteran's ability to control conditioned responses.

HAVE A PLAN FOR WAR STORIES: Consider how to encourage veterans to speak freely and how to then constructively react to hearing about killing, death, racism, sexism, or other situations and attitudes that are uncommon or unacceptable in society. **Never ask, "Have you ever killed anyone?"**

Many veterans have experienced telling friends or relatives a "war story," only to be met with silence, minimization, or judgment. The experiences that military service makes normal may remain unthinkable or offensive for the general population, yet the opportunity to speak about these experiences may be important for a veteran. Be mindful of questions that imply judgment, but don't avoid questions whose answers are important.

BE MINDFUL OF STEREOTYPES: Consider common experiences among veterans in light of the duration, nature, and recency of their service. Understand how drafted veterans may or may not differ from volunteer veterans.

Generalized techniques for working with veterans will be useful for advocates who remain aware of them and apply or suspend them thoughtfully. These informed stereotypes of veterans should be considered in light of a veteran's **duration** of military service, **nature** of military service, and **recency** of military service.

A veteran who served for twenty years without experiencing combat and who was discharged twenty years ago may exhibit military norms differently than a recently discharged veteran of Iraq and Afghanistan who left the service after four years and two combat deployments. Similarly, a non-combat veteran who was raped while serving for ninety days in the 1960's may have unforeseen reactions to veteran stereotypes.

Another consideration is whether the veteran was drafted into military service. Many veterans of the Vietnam era and earlier were draftees whose service was compelled. Some veterans from that era were volunteers. Draftees may be particularly sensitive to interactions with the government, and they may exhibit understandable skepticism about the motives of government agencies or advocates who receive government funding.

AVOID ASKING, "ARE YOU A VETERAN?": Instead ask, "Have you ever served in the military?" or "Have you spent any time as a Soldier, Sailor, Airman, Marine, or Coast Guardsman in the United States Military?"

A person may not be aware that they satisfy one or more of the definitions of *veteran*, or she may choose not to self-identify as a veteran. Even among veterans, mistaken notions that one must have been in combat or that it is not favorable for a woman to be a veteran may cause some to exclude themselves from help they deserve. Those who do not self-identify as veterans may need veterans services most. See also sample intake questions for veteran clients, Appendix 5.

BE CAREFUL WITH "THANK YOU FOR YOUR SERVICE": For recently returned veterans, "Welcome home," or "Glad to have you back," may be more suitable. For any veteran (or person), "I'd like to learn about your experience if you feel comfortable discussing it," may more effectively connect an advocate and client without expressing judgment. **Most veterans would rather be heard than thanked.**

associate their service with a traumatic experience that rightly or wrongly causes shame, anger, pride, or contradictory combinations of feelings. Being thanked for doing something that causes shame or anger can exacerbate these feelings.

SEEK HOLISTIC UNDERSTANDING OF ISSUES AND SOLUTIONS: Isolation of discreet legal issues may allow advocates to treat the symptoms of a veteran's problem, but comprehensive and holistic consideration of a veteran's education & employment, housing, physical & mental health, finances, and legal issues is required to help veterans durably improve their overall stability.

Veterans experience higher-than-average rates the risk factors for suicide, substance abuse, homelessness, post-traumatic stress, traumatic brain injury, and depression. Often these conditions and behaviors are co-occurring. When—not if—advocates encounter client veterans who exhibit some or all of these conditions or their risk factors, advocates must have already considered how they will identify and handle such situations and have a working knowledge of the non-legal resources available to such veterans.

TAKE SUICIDE SERIOUSLY: Be prepared to assist veterans at suicide risk. Help your organization create a plan if none exists.

An average of eighteen veterans commit suicide every day[25], or once every 80 minutes[26]. 6,500 veterans kill themselves every year, more than the combined, total combat deaths in Iraq and Afghanistan since those wars began.[27] Veteran suicides make up 20% of all suicide deaths in the United States despite veterans comprising less than 10% of the American population. Veterans complete suicide attempts at rates higher than non-veterans.[28]

Any advocate who serves low-income veterans will eventually encounter a client with some level of suicidal ideation. Veterans have been trained to use weapons and be decisive—**you may be the last person a suicidal veteran speaks to if you are unprepared to help.**

- Veteran-specific suicide information is available at: http://www.mentalhealth.va.gov/suicide_prevention/ and http://www.cnas.org/losingthebattle.

- **Suicidal veterans may be immediately referred to the Veterans Crisis Line at 1-800-273-TALK (8255), computer chat with a counselor at http://www.veteranscrisisline.net/GetHelp/ResourceLocator.aspx, or text the Crisis Line at 838255.** See also Appendix 1 for detailed procedures for reaching the Veterans Crisis Line.

[25] http://www.cnas.org/losingthebattle
[26] http://www.nytimes.com/2012/04/15/opinion/sunday/kristof-a-veterans-death-the-nations-shame.html
[27] http://www.nytimes.com/2012/04/15/opinion/sunday/kristof-a-veterans-death-the-nations-shame.html
[28] http://www.nimh.nih.gov/science-news/2007/male-veterans-have-double-the-suicide-rate-of-civilians.shtml

HELP VETERANS UNDERSTAND THAT THEY MUST ADVOCATE FOR THEMSELVES: Help veteran clients explore the full range of possible actions instead of asking what the client would like.

The military trains members to always use the chain of command. Military hierarchies are explicit and assign clear superiors, peers, and subordinates. That one's superiors will act in the collective interest is assumed. Concern for individual interests is discouraged.

When veterans encounter less explicitly organized groups in civilian life, the lack of organizational clarity may cause stress or the veteran may seek to impose military-type organization where it is inappropriate. **This comfort with hierarchy may be at odds with client-centric treatment methods that ask what a client wants instead of telling a client what they should want.** The idea that a veteran should or even could appeal a VA decision may be foreign to a veteran whose time in the military conditioned dependence on the decisions of others.

1 §C(iii): CLIENT SCREENINGS & INTAKES

Typical forms for case screening and client intake interviews may not include the correct questions to identify clients who are veterans or elicit the proper information from clients who are veterans. **All client screenings should include the question: Have you ever served as an Active Duty, Reserve, or National Guard member of the United States Army, Navy, Air Force, Marines, or Coast Guard?** [29]

For reasons discussed in §C of this chapter, **simply asking, "Are you a veteran?" may fail to identify all veteran clients**. Failure to identify a veteran client forecloses the opportunity to leverage the substantial resources that veteran status may offer for the client.

[29] A sample proposed list of intake questions to identify veteran clients is included in Appendix 5.

CHAPTER 2: THE FEDERAL & STATE DEPARTMENTS OF VETERANS AFFAIRS

The challenge for veterans advocates may be to choose the most appropriate resource among several. Competent representation of veterans depends upon an understanding of how the Federal and Washington State Departments of Veterans Affairs are organized, what resources they provide, and what benefits they administer. Although not discussed in this chapter, each Washington county also provides veterans assistance.[30] [31]

FREQUENTLY ASKED QUESTIONS

What is "The VA"?

Although commonly misused conversationally to refer to any of the federal or state governmental entities that serve veterans, the abbreviation, VA, should refer only to the federal Department of Veterans Affairs and its sub-administrations. Within the federal VA, three separate administrations actually serve veterans in different ways. The Veterans Benefits Administration (VBA) administers the majority of non-medical benefits. The Veterans Health Administration (VHA) administers veterans health care. The National Cemetery Administration (NCA) operates veterans cemeteries. Detailed explanations of each of these organizations follow §A of this chapter.

Washington's Department of Veterans Affairs, the WDVA, is a state agency.

Where can I send a veteran client to receive VA or WDVA services?

The resource directory in Chapter 6 of this guide lists ways that veterans may contact VA or WDVA representatives for different VA & WDVA programs and benefits.

What is the difference between the VA and the WDVA?

The VA is a federal department. WDVA is a Washington department that has no formal relationship to the VA. However, the VA contributes funds to many WDVA programs, and the VA and WDVA collaborate extensively. From the veteran's perspective—particularly for members of Washington's Guard and Reserve component forces, a key difference is that WDVA programs may have different eligibility requirements for veterans. For example, a Washington National Guard veteran without active federal service would not qualify for VA-provided nursing home care, but that same veteran may be eligible for care at one Washington's Soldier Homes. The VA & WDVA are further discussed in §§ A & B of this chapter

[30] "For the relief of indigent veterans, their families, and the families of deceased indigent veterans, the legislative authority of each county shall establish a veterans' assistance program to address the needs of local indigent veterans and their families." RCW 73.08.010.
[31] See Chapter 6 for Resources listed by county

When and how should a veteran go to the VBA? The VHA?

The vast majority of federal benefits determinations are made by the VBA. Any benefit that falls into the categories of housing, education & employment, and financial (including Disability Compensation) benefits is administered by the VBA. §A of this chapter lists the three primary ways to apply to the VBA for benefits. On the other hand, the VHA provides health care and veterans should go to a VHA facility to enroll for VHA healthcare. VHA services are discussed in detail in Chapter 3 §A and VHA facilities in each of Washington's counties are listed in Chapter 6 of this guide.

What healthcare services does the VHA provide?

This subject is discussed at length in Chapter 3 of this guide. In general, the VHA is capable of providing full-spectrum medical care, ranging from dental and pharmacy services to general surgery or hospice care. In fact, the VHA runs the nation's largest hospital network. For those representing veterans, the more important task is to determine which types of health care a veteran is eligible for. Eligibility for programs is also discussed in Chapter 3 of this guide.

What are Disability Compensation and Pension benefits?

Two of the most common disability income benefits from the VA are Disability Compensation and Pension. **Disability Compensation is a monthly payment based on a veteran's disability that is "service-connected" (incurred or aggravated in the line of duty).** Although Disability Compensation is the proper name, many veterans and VA staff alike also call it "Service-Connected Disability Compensation" or "Service-Connected VA benefit" or something similar. The second most common income benefit is VA Pension, also known as "Non-Service Connected Pension." VA Pension is a benefit paid to wartime veterans who have limited or no income and are either over 65 or are permanently and totally disabled.

In This Chapter:

Organization of the VA

What is the VBA?

How to apply for VBA benefits

What is the VHA?

What is the NCA?

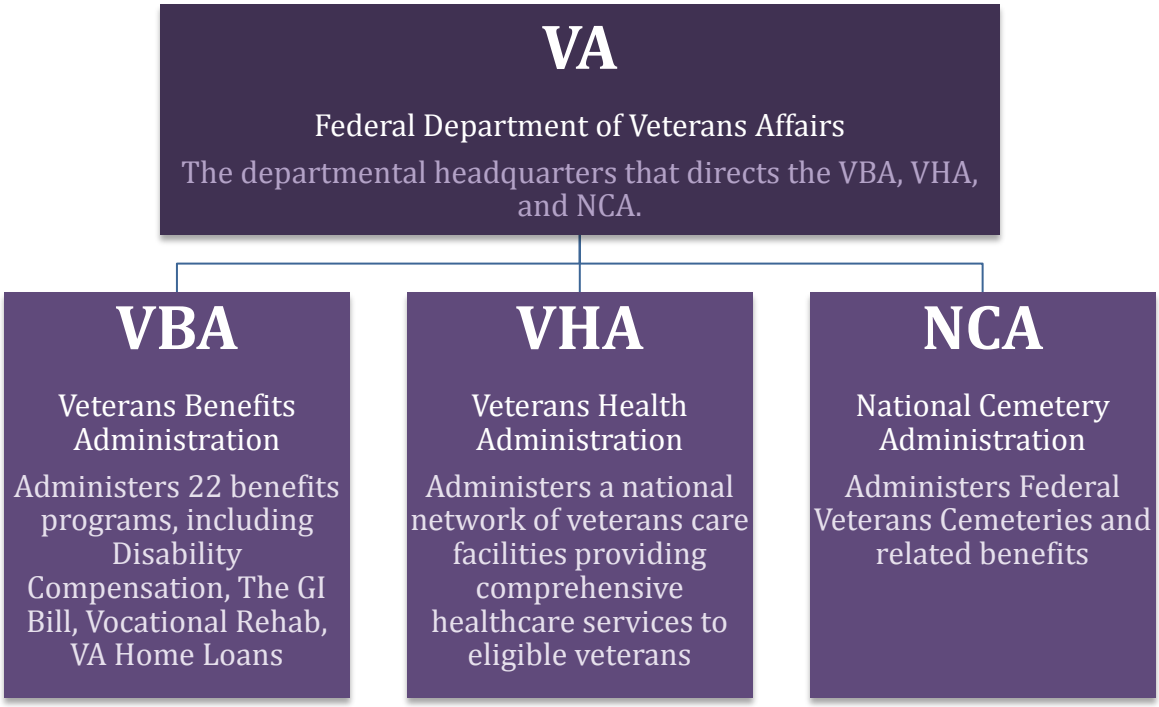
Organization of WDVA

Tables of VA & WDVA benefits

Service-connected Disability Compensation and VA Pension are not the same as military retirement. Disability Compensation and VA Pension are VBA benefits while military retirement is Department of Defense retirement pay. Confusingly, some veterans may refer to their military retirement pay as "pension."

2 §A: ORGANIZATION OF THE FEDERAL DEPARTMENT OF VETERANS AFFAIRS (VA)

The VA[32] is a department-level headquarters that controls three separate, subordinate administrations: The **Veterans Benefits Administration** (VBA), the **Veterans Health Administration** (VHA), and the **National Cemetery Administration** (NCA). The VA itself is only a headquarters, and the actual provision of benefits and services is delegated to the three administrations.



These three administrations do not interact with each other "in the field," and understanding this organizational disaggregation will alleviate a fundamental source of veteran and advocate confusion. For example, a decision on a veteran's disability compensation application, which is controlled by the VBA, cannot be appealed at a veterans hospital, which is controlled by the VHA—even though the dispositive issue is a medical disability, and a VHA facility may have conducted the medical exam on which the VBA's decision turns.

Another source of confusion is the different internal structures of the VBA and VHA, which vary considerably organizationally and geographically. The following descriptions of the VBA and VHA describe each organization's role and geographic divisions.

[32] The Federal Department of Veterans Affairs is the second largest federal department—second only to the Department of Defense. The organization presented in this primer is simplified, and a complete explanation of the VA's organization is available.

2 §A(i): VETERANS BENEFITS ADMINISTRATION (VBA)

Purpose: The VBA primarily provides financial benefits and assistance to eligible veterans and their dependents. The two most common financial assistance benefits are Disability Compensation and Veterans Pension. §C of this chapter lists the VBA's benefits and services.

Organization: The VBA's national headquarters is in Washington DC and is called the VA Central Office (VACO). VBA further divides the country and territories into four areas (North, South, Central, and West). Washington is in the VBA's Western Area. Each Area has a centralized headquarters called a VA Area Office (VAAO). Phoenix, AZ houses the Western Area's VAAO.

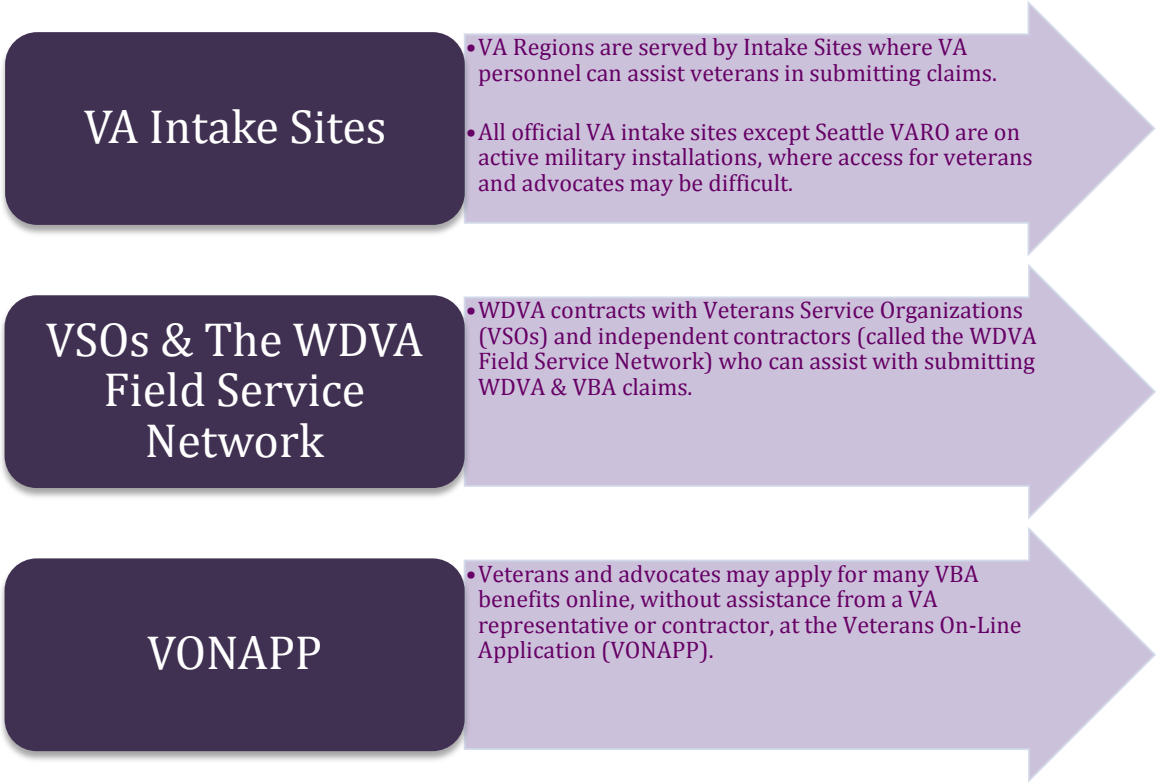
The VBA's four areas are then further divided into regions. Regions do not conform to state boundaries, and each region has a headquarters location called a VA Regional Office (VARO). Regions in the Western Area are listed here. Washington veterans will fall under the Seattle VARO, Portland VARO, or the Boise VARO, depending on their location within Washington and the benefit for which they apply.

Not all VBA benefits follow the same "chain of command" for approvals. For example, while a disability compensation claim may conform to the VARO –BVA[33] sequence, GI Bill determinations are made at the VAAO level, bypassing VARO. More specific information, organized by VBA benefit, is available here.

Applying for VBA benefits or services: Veterans submit benefits claims to the VBA in three main ways. An advocate should understand these options and the strengths of each so that she can make the most appropriate service referral for the veteran.

[33] The BVA or Board of Veterans Appeals is organized within the VACO.

Three Main Ways to Apply for VBA Benefits



VONAPP[34] offers the advantage of immediate online communication and is probably most appropriate for applying for benefits with simple eligibility and evidence standards. For example, Post-9/11 GI Bill eligibility is relatively simple and predetermined by the contents of the DD-214 and may be easy to apply for through VONAPP. More complicated benefits, like Disability Compensation, may require skillful advocacy and depend on thorough documentation, which may be more difficult to accomplish through VONAPP.

Bottom Line: It is tempting to submit online VONAPP applications quickly, without a thorough submission of supporting documents to substantiate a claim. **A veteran or her advocate should be comfortable scanning and submitting many documents electronically if using VONAPP.**

VA Intake Site[35], VSO, or WDVA Field Service Network[36]: **"Paper" submission of claims through a VA intake sight or WDVA contractor may seem slower, but this process allows the veteran the benefit of the experience of veteran service officers.**

Additionally, veterans should remain mindful of possible differences between VSOs (including those contracted through WDVA's Field Service Network) and VA employees assisting them in their claims. Congress imposes on the VA a statutory a duty to assist veterans, and VA employees may enjoy greater access to VA systems, but the VA will also be the adverse party for a veteran whose application appeal ascends to judicial adjudication. See 38 C.F.R. §3.159(c).

[34] Follow this link to access VONAPP
[35] Washington's intake sites are listed here.
[36] The list of Field Service Network service officers is here.

By contrast, VSOs and the WDVA Field Service Network are not directly employed by the VA; but their training and competence varies. Regardless of which method of submission a veteran chooses veterans must take an active role in ensuring their own interests are realized.

Remind Veterans Not To Accept The First "No" When Seeking Benefits

A veteran should ensure she carefully reviews the exceptions to the general requirements of length of service and character of service (discharge), particularly in hardship or medical discharges. See 38 C.F.R. § 3.12a(d). Veterans are sometimes turned away by screeners who quickly review their DD 214 and inaccurately decide the veteran is ineligible based on discharge or length of service. It is important to tell clients that they have due process rights when applying for VBA benefits and they should request written notice from the VBA if they are turned away. Without a written denial, it is difficult to start the appeals process or receive retroactive benefits.

2 §A(ii): VETERANS HEALTH ADMINISTRATION (VHA)

Purpose: Veterans and advocates will interact with the VHA when seeking physical, mental, and emotional healthcare services. Issues of entitlement to medical coverage at VHA facilities, VHA payment for care at non-VHA facilities, and access to substantial counseling services are of major interest for veterans advocates.

The VHA does not control the Disability Compensation or Veterans Pension programs, which are financial (not medical) benefits administered by the VBA. **However, the VBA uses the VHA as the most common provider of medical evaluations for VBA benefits eligibility, causing confusion among advocates and veterans.**[37]

Organization: Operating under a different geographic organization than the VBA, the VHA runs a national network of hospitals and care facilities for veterans organized into 23 Veterans Integrated Service Networks (VISNs). Washington, Oregon, Idaho, and Alaska comprise VISN 20.

Within VISN 20, also known as the Northwest Network, the VHA organizes care providers into levels. Each level corresponds to care capabilities. Within Washington, VHA facilities follow this breakdown. For a veteran seeking care, lower-tier facilities such as a Community Based Outreach Center (CBOC) will provide service within their capability or refer a veteran to a higher-tier facility with the appropriate capabilities, such as a VA Medical Center or a VA Healthcare System.

[37] VHA is often the default provider for the medical examinations upon which the VBA's determinations of eligibility for Disability Compensation and Veterans Pension, known as Compensation and Pension Exams or "C & P exams." But VHA's role in administering either of those benefits ends there. VBA makes all Compensation and Pension benefit determinations and handles all initial appeals. For veterans who apply for compensation or pension, and who typically are not familiar with the separation between VBA and VHA, significant frustration results when the person and facility who administer a physical exam cannot provide answers as to the effects of that exam on eligibility for benefits. Adding to the confusion, eligibility to receive VHA healthcare is sometimes determined by the result of VBA disability rating decisions. More detailed coverage of the complicated relationship between a veteran, the VHA, and the VBA is included in Chapter 3 of this primer.

Applying for services: A veteran's eligibility to receive care at a VHA facility is based on a system of priority groups. See Chapter 3 for a detailed discussion of VHA eligibility and priority groups.

2 §A(iii): NATIONAL CEMETERY ADMINISTRATION (NCA)

Purpose: Veterans and advocates interact with the NCA around issues of internment in national cemeteries, internment allowances, providing of headstones and markers for deceased veterans, and delivering to families Presidential Memorial Certificates for the survivors of veterans. The NCA's statutory basis is 38 U.S.C. § 24.

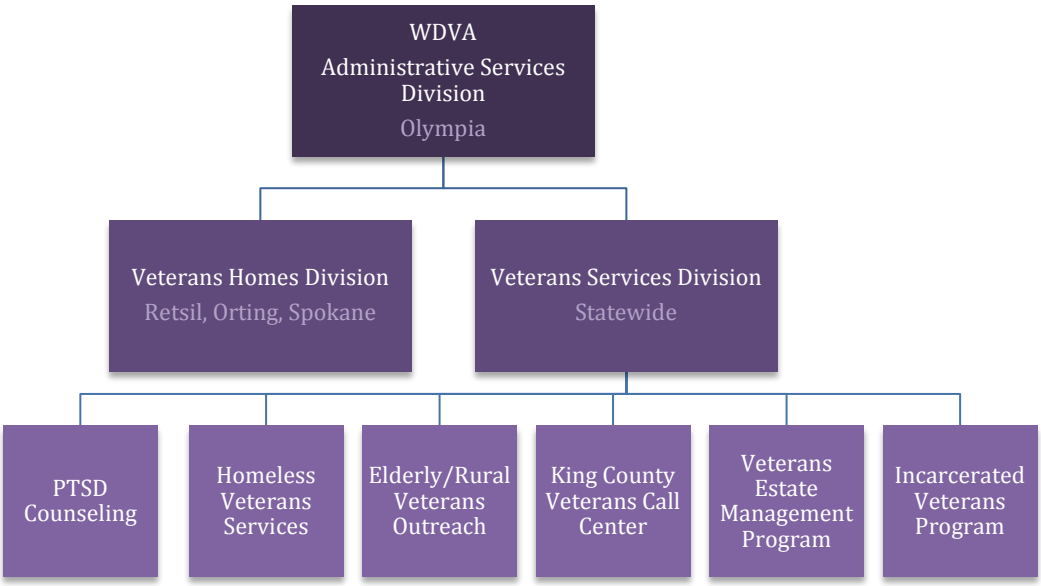
Organization: The NCA operates more than 100 national cemeteries, soldiers' lots, confederate cemeteries, and monument sites. The NCA's lone facility in Washington is the Mount Tahoma National Cemetery.

Applying for Services: Advocates may use this link in order to learn more about the burial, internment, and memorial services administered by the NCA.

2 §B: ORGANIZATION OF THE WASHINGTON DEPARTMENT OF VETERANS AFFAIRS (WDVA)

The WDVA is a Washington State Department[38] and is not subordinate to the Federal VA. Despite the lack of formal authority, however, the WDVA and the VA collaborate extensively. WDVA's Olympia headquarters is called the **Administrative Services Division**[39], which controls the Veterans Homes Division and the Veterans Services Division.

> **The Veterans Homes Division** operates Washington's three state veterans homes in Retsil, Orting, and Spokane.
>
> **The Veterans Services Division's** primary effort is the WDVA Field Service Network, a Washington-based collaboration of WDVA employees, independent contractors, and contracted Veteran Service Organizations (VSOs).
>
> Through the Field Service Network and its subordinate units, the Veterans Services Division connects veterans to an array of programs, listed in § C of this chapter, including mental health counseling, transition assistance, employment assistance, and claims assistance.



[38] See RCW 43.17.010(10).
[39] An overview of the programs under the Administrative Division's supervision is available.

2 §C: VA AND WDVA BENEFITS

The following pages contain tables that list the programs and benefits administered by the VA (VBA, VHA, & NCA) and by the WDVA. Each table lists the programs and benefits under the following categories: **Legal, Physical & Mental Health**, **Housing**, **Education & Employment**, and **Financial**.

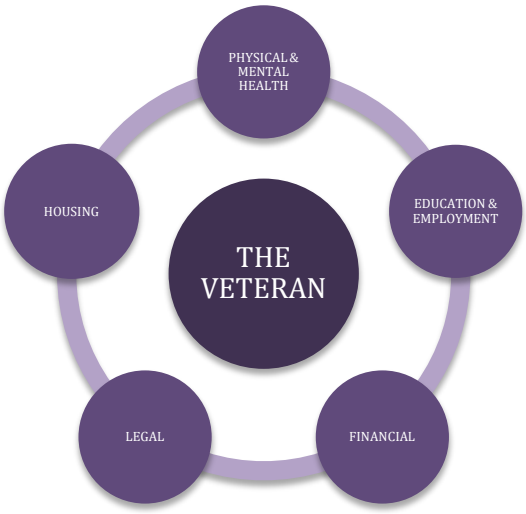


Table of VA & WDVA Benefits LEGAL			
BENEFIT /PROGRAM	**DESCRIPTION**	**ELIGIBILITY**	**VA/ WDVA**
Incarcerated Veterans Project	-transitional housing for veterans upon release from jail -assessment and referral to VA Health Care System for treatment including drug, alcohol, and mental health counseling, -job referral and placement services, and -assistance with court appearances and early release requirements.	Veterans incarcerated in King, Pierce, Thurston, and Clark Counties	WDVA
Northwest Justice Project Veterans Project	Free civil-legal aid to low income veterans	Veteran's income and assets must be below a federally determined level	Partial WDVA Funding
Veterans Courts and Dockets	Veteran-specific treatment courts in Thurston County, Clark County, Pierce County, Spokane County, and the Seattle Veterans Treatment Court, King County Treatment Court Veterans Docket.	Varies by court	Partial WDVA and VA Funding

Table of VA & WDVA Benefits PHYSICAL & MENTAL HEALTH			
BENEFIT	**DESCRIPTION**	**ELIGIBILITY**	**VA/ WDVA**
VHA Healthcare	Provides healthcare to eligible veterans The programs listed below are specific offerings under the umbrella of VHA healthcare. They are listed individually in order to inform attorneys and advocates.	Discussed in chapter 3; Varies by priority group, medical condition, and care sought.	VHA
Adult Day Health Care	Non-institutional long-term care and is a covered benefit for all enrolled Veterans who meet nursing home level of care requirements		
Home Based Primary Care	Comprehensive in-home care by a physician for veterans eligible for in-patient care, but for whom routine clinic-based care is not effective		
Skilled Home Health Care	In-home health care services that are not primary care.		
Homemaker and Home Health Aide Services	Support services that allow frail and disabled veterans to live at home.		
Geriatric Evaluation	VHA's comprehensive evaluation for sufficiently aged veterans to determine need for services.		
Respite Care	Provides temporary relief for unpaid caregivers from routine care giving tasks in order to support caregivers who maintain chronically ill veterans at home.		
Hospice and Palliative Care	Home-based, end of life care focused on "care, not cure."		
Nursing Home Care	VHA nursing home care in VHA facilities, contracted non-VHA facilities, or in partnership with state veterans homes.		
MST Counseling	Free, confidential counseling to veterans who have experienced sexual trauma	Any veteran, even those otherwise ineligible for VHA care	
Reintegration Counseling	Counseling to assist veterans with adjusting to life after deployment or after separation from the military	Must qualify for VHA care	
Addiction Treatment Counseling	Array of counseling, treatment services, and in/out-patient care to assist in managing substance abuse	Must qualify for VHA care	
State Veterans Homes	Subsidized long-term nursing care and hospice care	-served at any time in any branch/component of the Armed Forces -includes spouses/widows -WA resident -Honorable characterization of service	WDVA
PTSD Counseling Program	Free, confidential counseling to diagnose and treat PTSD	-Honorable COS -wartime service -includes the spouse and school age children of eligible service member/veteran	

Table of VA & WDVA Benefits HOUSING			
BENEFIT	**DESCRIPTION**	**ELIGIBILITY**	**VA/ WDVA**
VASH Vouchers	Similar to Section 8 housing, but specifically for veterans; long-term, federally subsidized housing assistance for homeless veterans; case management for 1st 2 years; VAMC-based	-Chronically Homeless -Need-based assessment (income, health issues, substance abuse, family support)	VA/HUD
GPD Emergency /Transitional Housing	VA subsidized emergency and transitional housing assistance for homeless veterans (up to two years); contracted through community service providers	-Clean & Sober requirement -must maintain case management requirements -eligibility determined independent of VHA care eligibility	VA
Building 9 for Veterans	60-bed transitional housing facility to assist veterans in need of stable housing, vocational rehabilitation, and increased income potential.	-Received an Honorable or General Under Honorable COS -Homeless for one or more nights -Clean and sober for at least the last 30 days -Willing to undergo criminal background check	WDVA
VA Home Loan Guaranty	VA guarantee of home loans for which a veteran is otherwise eligible; additional procedural protection; no/low down payment	-Honorable Discharge -Approved VBA -Independently approved for loan	VA
Native American Direct Home Loans	VA direct loan can be used to purchase, construct, or improve a home on Native American trust land	Native American veterans who were honorably released from active duty service, during World War II and later periods are eligible for VA loan benefits.	
Specially Adapted Housing Grant	Veterans or service members who have specific service-connected disabilities may be entitled to a grant from the Department of Veterans Affairs (VA) for the purpose of constructing an adapted home or modifying an existing home to meet their adaptive needs.	Veterans receiving VBA compensation for a specified condition. Specified conditions include loss of extremities, blindness, and severe burns.	

Table of VA & WDVA Benefits EDUCATION & EMPLOYMENT			
BENEFIT	**DESCRIPTION**	**ELIGIBILITY**	**VA/ WDVA**
Homeless Veterans Reintegration Project	Offers a structured case management plan to provide employment support services such as food, clothing, transportation, and employment support services.	Homeless veterans in Washington with other than dishonorable COSs.	WDVA
Vocational Rehabilitation	Provide for all services and assistance necessary to enable veterans with service-connected disabilities to achieve maximum independence in daily living and, to the maximum extent feasible, to become employable and to obtain and maintain suitable employment.	A veteran must have a VA service-connected disability rated at least 20 percent with an employment handicap, or rated 10 percent with a serious employment handicap.	VBA
GI Bill: -Post 9/11 -Montgomery -Montgomery Selected Reserve -REAP -VEAP	Partial or full subsidization of educational expenses	Varies by program	VBA
Hiring Preferences	Wartime and Service-connected disabled veterans are entitled to hiring preference for most federal government jobs.	Veterans and veterans with service connected disability.	Federal Gov't/ DOL
Vetsuccess.gov	VA-provided online resource for veteran job seekers	N/A	VA
V.E.T.S. (Veterans Employment and Training Service)	Organization within US Department of Labor that is dedicated to assisting veterans find employment	N/A	DOL
Commercial Driver Training Certificate	Allows veterans to use military driving experience to satisfy most prerequisites for obtaining a Commercial Driver License.	Veterans with an honorable COS and approved military driving training and experience.	WDVA
Veterans Innovation Program	Grants to provide assistance to veterans and their families facing financial hardships during transition to employment or education due to deployments in support of the wars in Iraq and Afghanistan.	Must have served in Operation Noble Eagle; Operation Iraqi Freedom and/or Operation Enduring Freedom or awarded a Global War on Terrorism Expeditionary. (National Guard, Reserves and Active Duty are eligible to apply.).	
Veterans Conservation Corps	Washington-based veterans employment and education transition mentorship.	N/A	
Linked Deposit Program	improves access to capital for certified Veteran and Servicemember owned business enterprises by decreasing interest rates on small business loans	Any firm certified by WDVA as a Veteran or Servicemember Owned Business	
Operation Recognition	Grants high school diplomas to eligible veterans of WWII, Korea, and Vietnam	Veteran who left high school to serve in WWII, Korea, or Vietnam	
Helmets to Hardhats	Assists veterans in transitioning to construction employment.	N/A	N/A
Veterans Tuition Waiver	Most Washington colleges and universities offer reduced tuition and fees to eligible veterans	Varies by school	N/A
Veterans Jobs Bank	central source for identifying Veteran-committed employment opportunities	Varies by opening	Federal Gov't
My Next Move	Job and skills translator for veterans.	All Veterans	N/A
Veterans Gold Card	Employment case management for veterans.		DOL

Table of VA & WDVA Benefits FINANCIAL			
BENEFIT	**DESCRIPTION**	**ELIGIBILITY**	**VA/ WDVA**
Veterans Mortgage Life Insurance	Veteran-specific insurance programs.	Varies by program	VBA
Servicemember's Traumatic Injury Protection			
Service-Disabled Veterans Insurance			
Veterans Group Life Insurance			
Disability Compensation	Monthly payment based on service-connected disability	Veterans with current disability resulting from line-of-duty event.	
Dependency and Indemnity Compensation	Compensation paid to eligible survivors of veteran who dies from service-connected or compensable injuries	Surviving spouse, children, and/or parents may be eligible.	
Pension	Benefit paid to **wartime veterans** who have **limited or no income**, and who are **age 65 or older,** or, **if under 65, who are permanently and totally disabled**.	Low income veterans over 65 or permanently/totally disabled veterans under 65.	
Burial and Internment Allowance	Provides for burial in an NCA cemetery or allowance to offset cost of private burial or internment.	Claimant eligibility varies.	
Spina Bifida Monthly Allowance	Financial assistance to certain children of Vietnam era veterans born with spina bifida	Children born with spina bifida, except spina bifida occulta, who are natural children of Vietnam veterans	
Clothing Allowance	Financial assistance to offset cost of clothing replacement caused by some service-related conditions.	Service-connected disability or condition, or a compensable disability that requires the veteran to wear or use a prosthetic or orthopedic device that wears out or tears clothing.	

CHAPTER 3: VHA HEALTHCARE

FREQUENTLY ASKED QUESTIONS

Are all veterans eligible to receive VHA Healthcare?
No. Veterans discharged with a dishonorable characterization of service are almost always barred from receiving VHA healthcare. Among veterans with characterizations of service other than dishonorable, eligibility will depend on the specific care sought and other factors that include the veteran's income, homeless status, any service-connected disability, or the recency of the veteran's separation from the military. To expedite decisions about eligibility for medical care, veterans should enroll in the VHA system and receive their priority group determination (discussed §A of this chapter). Homeless, elderly, indigent, or disabled veterans may be eligible for more VHA care than they would otherwise qualify for.

Do veterans pay co-pays if using VHA Healthcare?
Sometimes. Veterans with sufficiently high income who seek care for non-service-connected conditions may be required to pay co-pays. Additionally, some services like pharmacy benefits may also require co-pays. Generally speaking, veterans are eligible for free VHA care when receiving treatment for service-connected conditions. Homeless, elderly, indigent, recently discharged, or disabled veterans may be eligible for free VHA care for which they would otherwise be ineligible.

If a veteran disagrees with a healthcare clinic or administrative decision, how does she appeal?
Almost every eligibility decision made by a VHA or VBA employee is appealable! Veterans who disagree with medical treatment decisions may file a clinical appeal. Non-medical decisions may be appealed through the VA's administrative appeal process. Both are discussed in chapter 4.

What is a 0% service-connected disability?
The VA's process for granting disability in veterans has two steps. First, the VA determines whether a verified condition is "service-connected." Service connection is established by identifying the in-service event that caused or worsened the condition. Second, the VA determines the extent to which the condition causes a current disability. That extent of disability is quantified as a percentage. A fully-disabled veteran will be granted 100% service-connected disability. A 0% service-connected disability happens when a condition's service-connection is acknowledged, but that condition causes no current disability at the time of examination. 0% ratings are still significant for veterans because they establish some eligibility for VHA care, and later examinations might find increased disability which would then become compensable.

What dental services does the VHA provide?

For veterans with dental conditions that are service-connected, the VHA provides dental care required to treat that condition. Veterans without service-connected dental conditions will generally be ineligible to receive VA dental care. Some employment and housing programs may provide to homeless or low-income veterans basic dental maintenance that is justified to assist with gaining employment. VA dental care is discussed in §D(i) of this chapter.

In This Chapter:

How to determine VHA eligibility

Appealing VHA decisions

Organization of the VHA

VHA institutional care programs

VHA non-institutional care programs

Non-VHA care paid for by the VHA

What mental health services does the VA provide?

The VA offers wartime veterans extensive mental health services. WDVA also provides robust mental health counseling services. In particular, VA Vet Centers offer cost-free, no appointment mental health counseling to eligible veterans and do so in non-institutional settings. WDVA also offers PTSD counseling for veterans and their school age-children. Longer term mental health treatment is also provided where medically justified by both VA and WDVA. Local providers for VA and WDVA programs are listed in Chapter 6 of this guide.

3 §A: VHA ELIGIBILITY

The VHA has no singular eligibility standard for a veteran to receive all VHA health care services. Instead, the VHA has different standards for different services[40]. **As a general matter, veterans who enlisted after September 7, 1980 or who entered active duty after October 16, 1981, and who served for 24 continuous months[41] or the full period for which they were called to active duty are likely eligible for some type of VHA healthcare[42].** For those veterans whose service precedes those dates, just one day of service likely makes them eligible for at least some VHA care. Advocates must verify their client's eligibility for any VHA program individually, paying special attention to common (but not well-publicized) eligibility exemptions for disabled, low-income, elderly, or homeless veterans who would otherwise be ineligible[43]. Although eligibility criteria do vary by program, some generalizations about VHA health care eligibility are useful:

BLANKET ELIGIBILITY FOR RECENTLY DISCHARGED VETERANS

Veterans who served in a combat theatre after 11 NOV 1998 are **eligible for VHA healthcare for 5 years from their date of discharge.**

- A veteran with a dishonorable characterization of service in her discharge is normally barred from receiving VHA care.
- Except in the case of mental health counseling offered at Vet Centers, eligibility to receive care is determined before the care is provided.
- There are also some special groups of veterans who do NOT need to be enrolled in the VHA healthcare system to get certain types of medical or mental health treatment.[44]
- Many VHA programs for which a veteran would be otherwise ineligible will be made available where a veteran is homeless.
- Some eligible veterans receive free care while other eligible veterans pay co-pays.
- Veterans under fugitive felon status must act to preserve their eligibility for benefits (fugitive felon status is further discussed in Chapter 5).
- **Eligibility decisions are appealable** (Appeals are treated in depth in Chapter 5.)

READ THE ENTIRE ELIGIBILITY STATUTE!

Eligibility exceptions may be found at the end of a statute (outside of the formal eligibility section) if they were added after the original program was enacted.

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[40] See VHA handbook outlining VHA procedure for determining health care eligibility.
[41] If a veteran is denied VHA healthcare because of their length of service, be sure to check their DD 214 to see if they had medical or hardship reason for discharge or fall into another exemption under 38 C.F.R. § 3.12a(d).
[42] In practice, many veterans try to sign up for healthcare by going to a VHA hospital or healthcare facility. These veterans are sometimes turned away by screeners who give a cursory look at the veteran's DD 214 and then decide that the veteran is ineligible due to their discharge status or length of service. Usually these veterans are then sent away with no documentation showing they applied for healthcare or were denied healthcare. It is important to tell clients that they have due process rights when signing up for VHA benefits. If they are denied VHA benefits, they should ask for a written statement explaining why they are ineligible. Without a written denial, it will be much more difficult to start a Notice of Disagreement appeals process.
[43] The VHA publishes some population-specific handbooks. Veterans with PTSD; OEF and OIF Veterans; Veterans with Spinal Cord Injuries.
[44] For the full listing, see 38 C.F.R . § 17.37.

3 §B: VHA ENROLLMENT

In order to expedite the VHA's eligibility determination for a veteran in a particular program, veterans may enroll[45] in the VHA before they actually seek care. Veterans who apply to enroll in the VHA will either be denied (an appealable decision), or found eligible and assigned to a priority group. A veteran will be assigned to the highest priority group for which he is eligible.

VHA ENROLLMENT PRIORITY GROUPS	
Group #	**Group Description**
1	-Service-connected disability of 50% or greater (VBA Disability Compensation) -Veterans the VA deems unemployable due to service-connected conditions (aka "individual unemployability")
2	-Service-connected disability of 30% or 40% (VBA Disability Compensation)
3	-Former prisoners of war -Purple Heart recipients -Discharged for disability incurred/aggravated in the line of duty -Service-connected disability of 10% or 20% (VBA Disability Compensation) -Veterans disabled by treatment of vocational rehabilitation -Veterans who earn the Medal of Honor
4	-Veterans who receive VA Aid and Attendance or Housebound benefits -Veterans the VA deems catastrophically disabled
5	-Non-compensable service-connected disability of 0% & non-service-connected disabled veterans -Veterans receiving VBA Pension -Veterans eligible for Medicaid
6	-Compensable service-connected disability of 0% (VBA Disability Compensation) -Veterans exposed to radiation during WWII -Project 112/SHAD participants -Vietnam Veterans who served between 9 January 1962 and 7 May 1975 -Persian Gulf War Veterans who served between 2 August 1990 and 11 November 1998 **-Veterans who served in a combat theatre after 11 November 1998 and were separated from active duty on or after 28 January 2003 for 5 years after date of separation**
7	-Veterans with income below the geographically-adjusted income threshold who agree to pay co-pays
8	-Veterans with income above the geographically-adjusted income threshold who agree to pay co-pays

[45] VHA handbook governing enrollment.

The VHA uses priority groups to establish eligibility for some VHA programs and for prioritizing care where funding is insufficient to provide care for all eligible veterans.

AS A PRACTICAL MATTER, ANY NON-DISHONORABLY DISCHARGED VETERAN WITH SUFFICIENT SERVICE DURATION WILL AT LEAST QUALIFY FOR PRIORITY GROUP 7 OR 8. ALL OF THESE VETERANS WOULD BE ELIGIBLE FOR SOME VHA HEALTHCARE—ALTHOUGH SOME MIGHT INCUR COPAYS TO RECEIVE CARE!

Military Sexual Trauma: Special Considerations

A veteran experiencing mental health disabilities related to military sexual trauma may access treatment specific to her military sexual trauma even if she has not been enrolled. 38 C.F.R. § 17.37(i). She also should not be charged a co-pay to access these services. 38 C.F.R. § 17.108(e)(4). If a survivor of military sexual trauma seeks counseling for her trauma and her local VHA cannot provide these services or she is far away from such services, the VHA must contract with a provider who can treat her. 38 U.S.C. § 1720D(a).

3 §C: VHA APPEALS

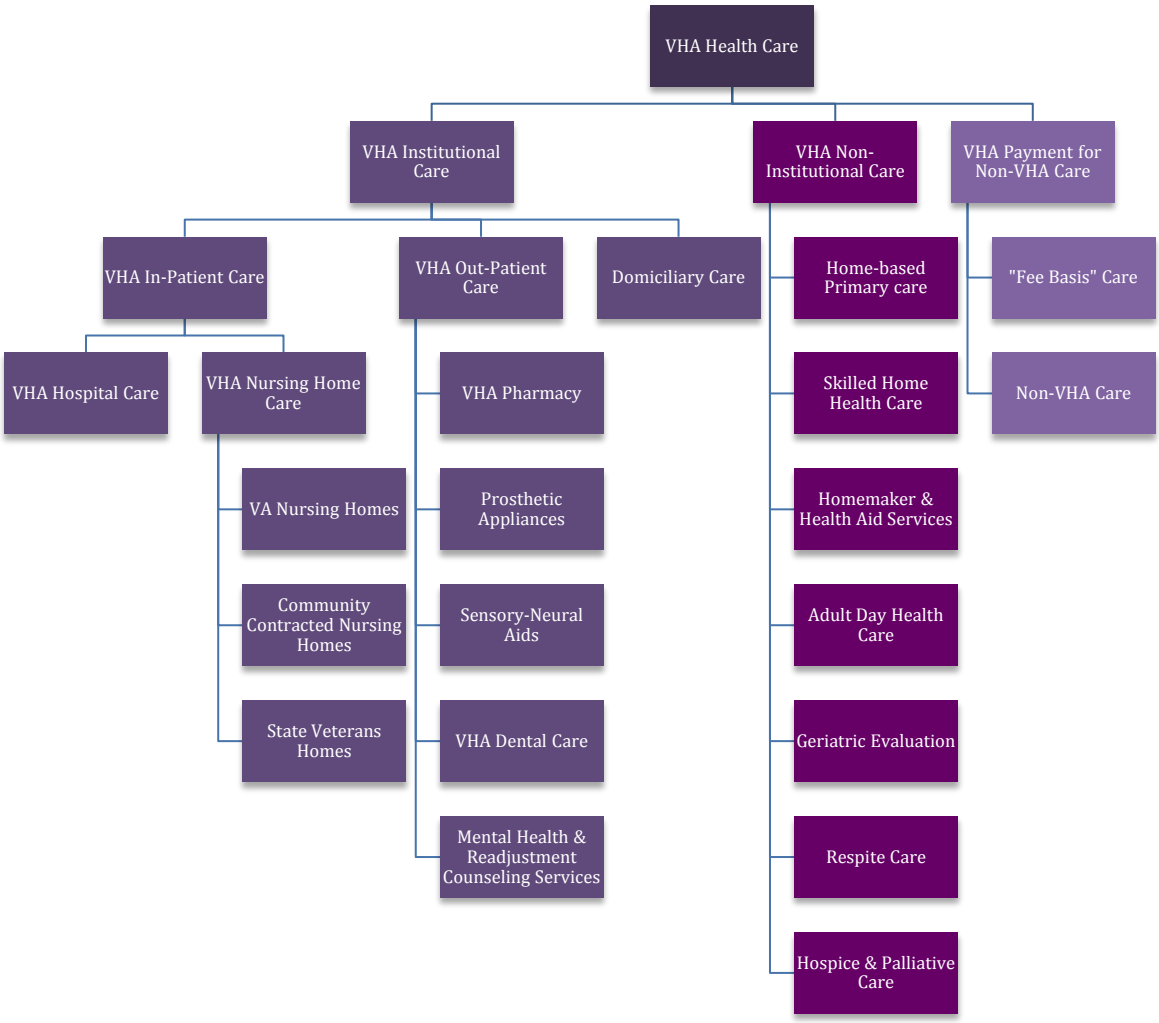
VHA *HEALTH CARE ELIGIBILITY* AND *TYPE OF CARE* DETERMINATIONS MAY BE APPEALED!

Appeals may proceed through the **VHA Clinical Appeals Process** or the **VHA Administrative Claims and Appeal Process**. The appeals process is discussed in Chapter 4 of this manual.

3 §D: VHA ORGANIZATION

The VHA healthcare system is the largest in the United States.[46] The scale of the VHA system, the VHA separation from the Veterans Benefits Administration (VBA) [47], and the variety of services and programs provided by the VHA[48] all serve to confuse many veterans and advocates.

The VHA provides a variety of services with different eligibility requirements.[49] Within the VHA system, the three main categories of care are **VHA-provided institutional care**, **VHA-provided non-institutional care**, and **care provided by non-VHA facilities that is paid for by the VHA**.



[46] Varton F. Stichman and Ronald B. Abrams, eds., *Veterans Benefits Manual* 693 (2009).
[47] VHA-VBA organizational separations are discussed in Chapter two of this primer. Most disabled veterans know only that their service-connected disability compensation is controlled by "the VA" and that "the VA" also runs the hospitals that provide care for those disabilities.
[48] The VHA's organization is controlled by 38 U.S.C. § 73.
[49] The VHA's provision of care under this organization is controlled by 38 U.S.C. § 17.

3 §D(i): VHA INSTITUTIONAL CARE

The majority of VHA healthcare is institutional care provided at a VHA facility, which includes In-Patient Care, Out-Patient Care, and Domiciliary Programs. **The primary point of entry for all VHA institutional care is to enroll and see a VHA PRIMARY CARE DOCTOR.** In-Patient and Out-Patient Care both occur at VHA Facilities. In In-Patient Care, the veteran spends at least one night at the VHA facility, while a veteran in out-patient care does not spend the night. Domiciliary Programs are VHA-VBA hybrid programs, where an eligible veteran resides in a VHA facility and receives VHA health services such as addiction treatment, and VBA education and employment services such as Vocational Rehabilitation.

VHA In-Patient Care: medical care with overnight stay and long term care

Medical care with overnight stay: In-Patient Care refers to any medical care that requires an overnight stay at the VHA facility.[50] Such care is often related to a specific ailment such as surgery and recovery for a hip replacement.

Long term (nursing home) care: In-Patient Care may also be VHA Nursing Home Care, where the veteran receives long-term in-patient care because of a severe disability, often associated with age. Such care is available from VA Nursing Homes[51] (also known as VA Community Living Centers), VHA-subsidized care in non-VHA nursing homes[52], and through partially VHA-subsidized State Veterans Homes.

Washington's VHA Community Living Centers are co-located with VHA medical facilities (also known as VA Healthcare Systems, "VAMCs", or VA Medical Centers):
Puget Sound Health Care System, Seattle Division (Beacon Hill)
Puget Sound Health Care System, American Lake Division
Spokane VA Medical Center

Washington's State Soldiers Homes:
Retsil, WA
Orting, WA
Spokane, WA

VHA Out-Patient Care: medical care with no overnight stay[53]

In addition to general medical care such as vaccinations, x-rays, check-ups, or treatment of acute and chronic injuries, the following specialized programs are VHA Out-Patient Care:

[50] For a more detailed description of VHA Healthcare Services offered.
[51] VHA handbook for community living centers.
[52] VHA handbook for community residential care.
[53] For a more detailed explanation of available VHA care.

VHA Pharmacy

Veterans who receive VHA care may use the VHA pharmacy. Some categories of veterans, such as those who receive VBA Pension and Disability Compensation, will receive pharmacy services at no cost. Some veterans will pay a fee of $8.[54]

Prosthetics

VHA facilities provide prosthetics to aid veterans who are enrolled to receive VHA care[55]. VHA can provide prosthetics for missing limbs and appendages[56] and mobility aids[57][58] such as wheel chairs and communication aids[59]. Low-income and disabled veterans will likely receive such prosthetics at no charge, assuming they already qualify for no-fee VHA care.

Sensori-Neural Aids

VHA can provide eyeglasses[60], contact lenses, and hearing aids[61]. Veterans with low-cost or free VHA health care may secure sensori-neural aids under the same cost structure.

VHA Dental Care[62]

VHA provides free dental care to veterans only in narrow circumstances, such as veterans with a dental service connected disability, former prisoners of war, and veterans with service connected disability ratings of 100%. Outside of these groups, VHA provision of free dental care is rare. Low-income veterans, however, who are enrolled in VHA/VBA Domiciliary Rehabilitation programs or Vocational Rehabilitation programs may receive limited and necessary free dental care in order to improve their employability.[63]

VHA Mental Health Counseling and Readjustment Services: Vet Centers

In an effort to improve accessibility of readjustment counseling services, the VHA has established Vet Centers in community based locations. Veterans do not need appointments to receive counseling. Veterans eligible to receive free readjustment counseling need to have served on active duty in a combat theatre during a time of war. In a deviation from the VHA's typical process of determining eligibility before giving care, Vet Centers will counsel veterans first and then verify eligibility later. Where a veteran is found ineligible, he or she will be billed for services received afterwards. Vet Centers provide veterans with reintegration and adjustment counseling, including counseling for Military Sexual Trauma (MST) and Post-traumatic Stress Disorder (PTSD). Vet Centers are able to refer veterans to institutional care services where necessary. Records from Vet

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[54] 38 U.S.C. § 1722A(a) ; 38 C.F.R. § 17.110(c).
[55] VHA handbook for determining eligibility to receive prosthetics.
[56] VHA handbook for issuance of artificial limbs and prosthetic appliances.
[57] VHA handbook for issuance of mobility aids.
[58] VHA handbook for issuance of footwear mobility aids.
[59] VHA handbook for issuance of Audiology and Speech Devices.
[60] VHA handbook for issuance of vision aids.
[61] VHA handbook for issuance of Audiology and Speech Devices.
[62] VHA handbook for dental care.
[63] Homeless Veterans Comprehensive Assistance Act of 2001, § 2062, 115 Stat. 903; 38 C.F.R. §17.90(b)

Center visits may be used as medical evidence in disability compensation determinations by the VBA.

VHA/VBA Domiciliary Care[64]

VHA Enrolled Veterans

Low-income and homeless veterans who require physical & mental health and education & employment services from both the VBA and VHA may be eligible for Domiciliary care. Unlike in-patient care, the veteran's residency in the facility is not medically required, but it is a component of the holistic care and training environment in which domiciliaries immerse veterans. Of note, veterans who would otherwise be ineligible for free VHA dental care may receive some free VHA dental care while enrolled at domiciliaries.

Veterans Who Are Not VHA Enrolled

A veteran does not need to be VHA enrolled to receive domiciliary care – that is, to be sheltered and often provided drug or mental health treatment in a VA-funded per diem facility. 38 C.F.R. § 17.37(i). This is important for veterans who are actively homeless or who are being released from jail or prison without a place to live and need to quickly enter the program.

3 §D(ii): NON-INSTITUTIONAL VHA CARE

In some instances the VHA provides veterans with care at their homes or at other non-VHA facilities. This type of care is called non-institutional care. Extended non-institutional care is typically furnished to veterans who require long term VHA care, but who wish or need to receive such care without becoming a patient at a VHA facility. These programs include:

Home Based Primary Care (HBPC)

"Comprehensive, longitudinal primary care provided by a physician-supervised interdisciplinary team of VA staff in the homes of veterans with complex, chronic, disabling disease for whom routine clinic-based care is not effective."[65]

Skilled Home Health Care

"Skilled home health care services are in-home services provided by qualified personnel that include: skilled nursing, physical therapy, occupational therapy, speech therapy, social work services, clinical assessment, treatment planning, treatment provision, patient and/or family education, health status monitoring, reassessment, referral, and follow-up." These services are prescribed by a veteran's VHA primary care physician when "medically necessary." [66]

Homemaker and Home Health Aide Services (H/HHA)

"H/HHA services are personal care and related support services that enable frail or disabled veterans to live at home. Only trained personnel who have successfully completed a

[64] http://www.va.gov/vhapublications/ViewPublication.asp?pub_ID=2354
[65] VHA Handbook 1141.01
[66] VHA Handbook 1140.6(5)(a).

competency evaluation and are employed by a home health agency may provide these services. H/HHA services must be provided under the general supervision of a registered nurse. A VA primary care provider prescribes H/HHA services when medically necessary and appropriate for enrolled veterans."[67]

Adult Day Health Care (ADHC)

"ADHC is a therapeutically oriented outpatient day program that provides health maintenance, rehabilitative services, socialization, and caregiver support in a congregate setting to enrolled Veterans who require nursing home level of care. Veterans receiving ADHC are often the frail elderly and functionally impaired. ADHC includes key program elements to address health needs, physical and cognitive function, and the need for social support. Individualized programs of care are delivered by an interdisciplinary team of health professionals and support staff, with an emphasis on helping participants and their caregivers develop the knowledge and skills necessary to manage care in their home."[68]

Geriatric Evaluation

"The geriatric evaluation component consists of a comprehensive, multidimensional assessment and the development of an interdisciplinary plan of care."[69]

Respite Care

"Respite care is a distinct VA program with the unique purpose of providing temporary relief for unpaid caregivers from routine care giving tasks, thus supporting caregivers in maintaining the chronically ill veteran in the home. Respite care services may include various VA and non-VA programs or contracts. In all cases, respite care remains distinct from usual Geriatrics and Extended Care (GEC) services in that the focus and purpose of respite care is providing relief for the caregiver."[70]

Hospice and Palliative Care

Where a veteran would be eligible to receive hospice and palliative care in a VHA nursing home, that veteran may also receive equivalent home-based care at no charge. This care is focused on "comfort, not cure."

3 §D(iii): NON-VHA CARE PAID FOR BY THE VHA

The VHA's organizational size and breadth enables it to provide most veterans with most services "in house." As a result, instances in which the VHA will pay for non-VHA care are few and narrowly defined. Such instances will occur either as a result of determinations of VHA value (cost-effectiveness) or feasibility.

Where non-VHA care is approved for cost-effectiveness, it is called **"Fee Basis" Care**. Fee Basis care is normally authorized only when VHA-provided care is not cost-effective because of the veteran's geographic isolation. **Prior approval for such care is necessary.**[71]

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[67] VHA Handbook 1140.5(5)(b).
[68] VHA Handbook 1141.03(5).
[69] VHA Handbook 1140.04(3)(a)(1).
[70] VHA Handbook 1140.02(5).
[71] 38 C.F.R. § 17.30(a).

The only other circumstance in which the **VHA will pay for non-VHA care is when a veteran experiences an emergency and a VHA facility is "not feasibly available."**[72]

Note that VHA decisions on whether to grant VHA payment for non-VHA care are appealable through the VA's **Administrative Claims and Appeal Process**. Chapter 4 discusses appeals in greater detail.

[72] 38 C.F.R. § 17.53.

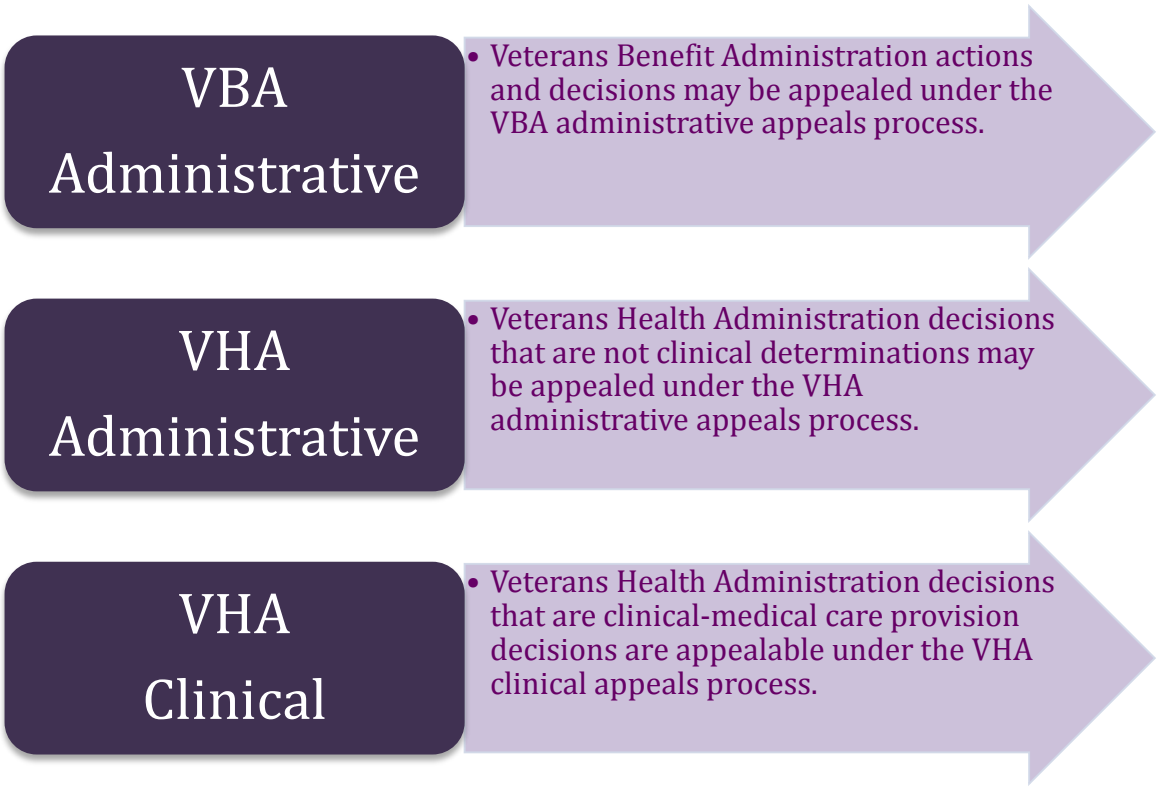
CHAPTER 4: APPEALING VHA & VBA DECISIONS

Most decisions or determinations made by the VBA or the VHA may be appealed[73], including:

- A determination of whether a veteran qualifies for a VBA or VHA benefit
- A decision as to how much of a given benefit a veteran is entitled to
- A VHA medical decision to provide one type of treatment over another
- A VHA decision not to reimburse a veteran for non-VHA medical costs

Veterans, especially those whose qualifying service is recent, may not realize that they can appeal decisions by the VBA and VHA[74]. This chapter discusses these categories of appeals in four sections: (A) Sequence of Review and Legal Authority, (B) VBA Administrative Appeals, (C) VHA Administrative Appeals, and (D) VHA Clinical Appeals.

Understanding of the basic frameworks for appealing VBA decisions, VHA administrative decisions, and VHA clinical decisions is a first step towards alleviating that complexity. Appeals will fall into three broad categories:



[73] "All questions of law and fact necessary to a decision by the Secretary of Veterans Affairs under a law that affects the provision of benefits by the Secretary to veterans or their dependents or survivors are subject to review on appeal." 38 C.F.R., §20.101(a). A list of specific appealable issues is available at 38 C.F.R., §20.101(a). Additionally, all VHA clinical decisions are appealable within VHA facilities and VISNs.
[74] Consult the cultural competence section of Chapter 1 for discussion of this topic.

4 §A: SEQUENCE OF REVIEW AND LEGAL AUTHORITY

4 §A(i): SEQUENCE OF REVIEW

Both VHA and VBA administrative appeals follow the same general succession of review with the only differences occurring at the VHA/VBA level before the claim ascends to the Board of Veterans Appeals. The specific differences with the VHA and VBA processes are discussed below in § B and § C.

In general, VHA and VBA administrative appeals follow this sequence:

VHA clinical appeals are not eligible for judicial review. The highest level of review for VHA clinical appeals remains within the VHA at the VISN[75] director's level. This process is discussed further in § D below.

4 §A(ii): LEGAL AUTHORITY

Although the exact appeals process will have legal standards based on the statutory authority for the specific benefit or entitlement, below are some broad categories of authority. These general authorities are **(1) statutory**, **(2) regulatory**, or grounded in controlling **(3) case law**. Attorneys should always cross check research with the statute that governs a specific benefit, however, as these statutes may supersede otherwise applicable authority.

1. **STATUTORY AUTHORITY**
   - Veterans Benefits are generally governed by 38 U.S.C.
     Some of the more significant chapters of Title 38 include:
     - Entitlement to VHA Health Care: 38 U.S.C. §1710.
     - VA Disability Compensation: 38 U.S.C. §1110.
     - Programs for homeless veterans: 38 U.S.C. § 2011.
   - Unless superseded by a specific statute, the Administrative Procedure Act governs VA agency procedures.

[75] The VHA separates the country into 23 Veterans Integrated Service Networks (VISNs). Washington is in VISN 20 with Oregon, Idaho, and Alaska.

- Veteran Claims Assistance Act, which imposes upon the VA a duty to assist and inform veterans in claims processing and adjudications.

2. REGULATORY AUTHORITY

- The VBA maintains a searchable list of internal regulations and guidance documents called WARMS.
    - One WARMS document of significant importance for appeals is the VA's *Adjudication Procedures Manual, M21-1MR*.
- The VHA's document homepage provides links to VHA program handbooks, directives, and manuals.
- The VA General Counsel also publishes Precedent Opinions that document internal interpretations of VA regulations and statutes.

3. CASE LAW

- Decisions of the Board of Veterans Appeals[76] are avaliable.
- Decisions of the United States Court of Appeals for Veterans Claims[77] are available.
- Some significant or instructive decisions:
    - *Cushman v. Shinseki*, 576 F.3d. 1290 (Fed. Cir. 2009)[78]
    - *Veterans for Common Sense v. Shinseki*, 644 F.3d 845 (9th Cir. 2011)[79]
    - *Long v. Principi*, 17 Vet. App. 555 (2004)[80].

In addition to these sources, the Gallagher Law Library at the University of Washington School of Law publishes an excellent research guide for veterans legal issues.

[76] http://www.bva.va.gov/
[77] http://www.uscourts.cavc.gov/
[78] The Federal Circuit concluded that the Due Process Clause of the 5th Amendment attaches to an individual's claim of entitlement to VA disability benefits. This significant holding establishes that claimants seeking VA benefits will have the right to fair adjudication, notice, and the opportunity for a hearing on a constitutional basis distinct from any other statutory or regulatory provisions setting forth similar protections.
[79] The 9th Circuit concluded that the VA's failure to provide adequate procedures for veterans facing prejudicial delay in providing mental health care violates the 5th Amendment's due process clause, but held that it could not review the constitutionality of the delay under the APA 5 U.S.C. 701(1). There is no current VA process for review of a delay in scheduling health appointments.
[80] A veteran needs to have a "present controversy" and "redressable harm" to appeal.

4 §B: VBA ADMINISTRATIVE APPEALS[81]

A. VBA administrative appeal claims may be initiated at a VBA Regional Office (VARO), and will fall into one of the following three types of claims:

1. **Original claims** (aka "new claims") are decided by the VA *de novo*, on the merits (consideration of past denials is unauthorized).
   a. Each different injury or newly diagnosed condition is a new claim
   b. Increase in disability for previously adjudicated service-connection is a new claim (not a reopening of the original claim)
   c. Each claim for pension is a new claim (not reopened), even though the claimant may have requested pension benefits and been denied before because this benefit involves analysis of the veteran's current income and current disabilities.
   d. If granted, the effective date of an approved claim will be the filing date of the new claim.

2. **Reopened claims** are previously submitted and denied claims which may be remedied where the claimant did not follow up complete the claim (i.e. didn't submit all the evidence or didn't timely appeal) or because VA wrongly denied the claim.
   a. Claim for VA benefit that is filed after VA issued final decision of claim requesting the same benefit.
   b. Only becomes subject to motion to reopen after appeal period has run.
   c. Must submit "new and material evidence" to reopen a claim.[82]
   d. Effective date (if granted): the date of the reopened claim, not the date of the original claim.

3. **CUE claims:** Claim for revision of a previous final VARO decision based on clear and unmistakable error (CUE)[83]
   a. Final denial=denial was unsuccessfully appealed to the highest level possible or the claimant's right to appeal expired.
   b. Effective date (if granted): the date of original claim.

B. How does the VBA administrative hearings process work?

[81] Appeals at VA administrative appeals process governed by 38 C.F.R. § 19.
[82] 38 C.F.R. §3.156
[83] For definition of "clear and unmistakable error," *see Bouton v. Peake, 23 Vet. App. 70, 71 (2008).* See also 38 U.S.C. § 5109A.

1. After the veteran files a benefits claim, the VA mails a **Rating Decision**, which is made by a "Rating Veterans Service Representative"[84].

2. The VARO must send the veteran the **Veterans Claims Assistance Act Notice** (VA's duty to assist and inform the veteran, 38 U.S.C. § 5103). Under the Act, the VBA and VHA must seek all government records related to the claim, including service personnel and medical records, VA medical records, Social Security records, and make reasonable efforts to acquire non-federal records like private medical records identified by the veteran. A veteran must sign an authorization to release information so the VA can access the private records.

3. When the veteran is not satisfied with the initial determination, she must file a **Notice of Disagreement**[85] with VARO within one year of receiving the rating decision. The veteran may also choose to skip this step and file a direct appeal to the BVA. The Veteran may appeal any part of the rating decision including:
   - Denial of grounds for disability,
   - Percentage for rating, and/or
   - Effective date of disability pay.

   Written arguments in support of claim are not required but are advantageous to the claimant. In general, they should include the following[86]:
   - Identify VA benefits pursued
   - Legal background: cites to what type of evidence the law requires in order for a claimant to be approved of a benefit
   - Application of Law to Fact—why the evidence in claimant's record supports the grant of the benefit for each disability rating benefit
   - If there was prior adjudication, indicate any errors the VA regional office made in the original adjudication of the claim

4. The VARO then sends the veteran a **Statement of the Case**[87]. This is also the stage where the veteran has a right to retain a paid attorney.

   The veteran may request an (optional) in-person Disability Review Officer (DRO) hearing. If the veteran makes this request, the DRO sends a **supplemental Statement of the Case.**

   Claimants are entitled to an **in-person hearing** on their claims at the VA Regional Office and in front of the Board of Veterans' Appeals. See 38 C.F.R. § 3.103(c), 38 C.F.R. § 20.700(a). A hearing can help if the claimant or his advocate is prepared and knows why the VA originally rejected the claim. No one from the VA argues before the BVA, VA hearing officer or VA decision review officer against the

[84] VBA's stated goal is to decide initial claims in 125 days. On average, it takes 182 days to issue a decision.
[85] Additional information on filing a notice of disagreement is available here.
[86] See Section 17.13 of the NVLSP manual
[87] The VARO takes, on average, 261 days to mail a statement of the case, and some veterans have had to wait more than 1,000 days.

claimant.[88] The VBA acts as both trier of fact and adversary at VARO stage—neutral judges and procedure for discovery are absent. A claimant or her advocate should be prepared with the same issue areas as described above in written preparation.

5. The veteran has whichever is the later of the three following dates to **file a BVA Appeal[89]:**
    i. 60 days from the date VBA mails the SOC;
    ii. 1 year from the denial date that is being appealed; or
    iii. 60 days from the date VBA mails the supplemental SOC

    If the veteran files a BVA appeal, the VARO certifies receipt of the appeal to the BVA[90]. The BVA hearing may remand to the VARO for additional information.

    The veteran uses VA Form 9 to request a BVA appeal and must choose: 1) no BVA hearing, 2) BVA hearing in Washington D.C., 3) live video conference hearing, or 4) BVA travel board. Although it takes the BVA longer to hold personal hearings, veterans who have elected personal hearings are more likely to prevail.

A veteran may continue submit evidence to add to her record throughout the appeals process until the claim reaches the CAVC. Once at the CAVC, the record is closed and no further evidence or documentation may be submitted.

If the veteran disagrees with the BVA's decision, there are five options:

1. **Motion for reconsideration**
2. **Motion to vacate**
3. **Clear and Unmistakable Error (CUE) Motion (see section A above)**
4. **Notice of Appeal with the Court of Appeals for Veterans Claims (CAVC)**
5. **Reopen claim with VARO (See section A above)**

The veteran must file a **CAVC appeal** within **120 days of receiving BVA decision.** CAVC has exclusive jurisdiction over BVA opinions are binding. The veteran may not file any new evidence with CAVC, they will only consider the record of proceedings.

[88] 17.14 NVLSP Manual
[89] For more on BVA Appeals, see Chapter 13 NVLSP Manual, especially Chart 13-B, "Overview of the BVA Appeals Process"
[90] It takes the VARO, on average, 573 days to certify their appeal to the BVA, and some more than 1,000 days.

VBA Administrative Appeals

source: 38 CFR 19

File a **Notice of Disagreement w/i 1 Year**

Veteran recieves a **Statement of the Case** from VARO

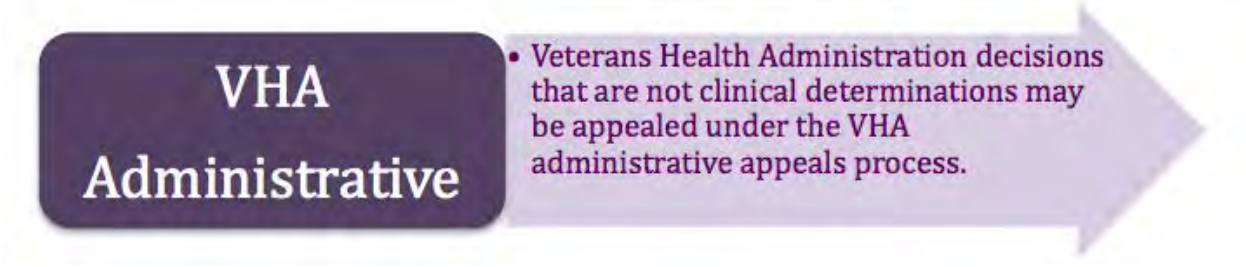
Veteran files *VA Form 9*, **Substantive Appeal to BVA w/n**
60 days of date VBA mails SOC
or
1 year of date VBA denied claim that is being appealed
or
60 days of date VBA mails supplemental SOC

Veteran MAY request as **personal hearing**

BVA Issues a **decision**

Appeal CAVC w/i 120 days if necessary and possible

4 §C: VHA ADMINISTRATIVE APPEALS



A. VHA Administrative Appeals are non-medical VHA determinations.[91]

Administrative Appeals are initiated internally in the VHA healthcare facility. A veteran's failure to timely appeal a VHA administrative decision renders the decision final.

1. **What types of VHA decisions are appealable through the VHA administrative Appeals Process?**

A veteran can pursue administrative appeals that are non-medical decisions and within BVA jurisdiction[92], including:

- Enrollment, priority group, and travel reimbursement;
- Claims related to non-VA unauthorized treatment ;
- Medical devices and equipment (e.g. wheelchairs, prosthetics, home improvements or structural alternations);
- Eligibility for hospitalization (e.g. veteran goes to non-VA hospital in emergency and is denied reimbursement by VA because they didn't "authorize");
- Financial VHA decisions;
- Outpatient, nursing home, and domiciliary care;
- Informed consent, *see* 38 C.F.R. § 17.32(c);
- Privacy and Release of Information Rights[93]; or
- Disclosure of Adverse events: VHA facilities and providers have legal and ethical duty to disclose, *see* VHA Directive 2008-002.

Example 1: HEALTHCARE REIMBURSEMENTS
In 2008, the veteran files original claim for service connection to receive VBA Disability Compensation and VHA health care related to service connection. The VA grants the benefits in 2011—the veteran has a right to get retroactive

[91] A detailed description of the Administrative Appeals process is found in VA Directive 2008-039. See also VHA Administrative Appeals, which contains samples of every document that might be generated in appeals. See also BVA publication, "How Do I Appeal?".
[92] See generally, 38 C.F.R. § 20.101(b)(2010).
[93] See VHA handbook 1605.03, See also Freedom of Information Act, 38 C.F.R. § 1.550-559, Privacy Act 38 C.F.R. § 1.575-584, VA Claims Confidentiality Statute 38 C.F.R. § 1.500-527; Confidentiality of Certain Medical Records 38 C.F.R. § 1.460-496; Health Insurance Portability and Accountability Act (HIPAA) 45 C.F.R. § 160, 45 C.F.R. § 164; and Confidentiality of Medical Quality-Assurance Records 38 C.F.R. § 17.500-511.

VBA Disability Compensation benefits AND receive reimbursement for VHA expenses incurred during this time period (e.g. copays).

VHA and VBA benefits are intertwined: Where a veteran is denied disability compensation benefits, she can appeal the **VBA benefit denial AND request reimbursement from the VHA for the cost of healthcare during the time she would have been covered if she had been approved for the VBA Disability Compensation benefit.**

All veterans are notified of the right to request VHA reimbursement in the same letter that states the VA's disability rating. But many vets get this notice but remain unaware of the availability of the VHA healthcare reimbursement.

Healthcare reimbursement is not automatic! The advocate or veteran must request reimbursement within 2 years of the date of notification of allowance of benefits (i.e. rating decision letter or increase in rating decision letter). The veteran may request reimbursement of copays, deductibles, and/or any reimbursement expense paid by the veteran which she is entitled under 38 C.F.R. § 17.126.

Example 2: DELAY IN MEDICAL APPOINTMENTS
The VHA keeps rescheduling medical appointments for a veteran with a disability rating of 72%. Any veteran with a rating of 50% or higher is supposed to be given the highest priority by the VHA under 38 C.F.R. 17.126. Although the veteran has a legitimate appeal issue, this is difficult to appeal because the VA will often schedule the appointment during the long appeals process, making the issue moot. **A veteran needs to have a "present controversy" and "redressable harm" to appeal.** ***Long v. Principi, 17 Vet. App. 555 (2004).***

2. How does the VHA Administrative Appeals[94] process work?

VHA handles and processes its own admin appeals. Veterans who appeal on VHA issues have the same due process rights as veterans who appeal VBA decisions, but sometimes the VAMC does not fulfill its duties (duty to notify, duty to assist, etc.).

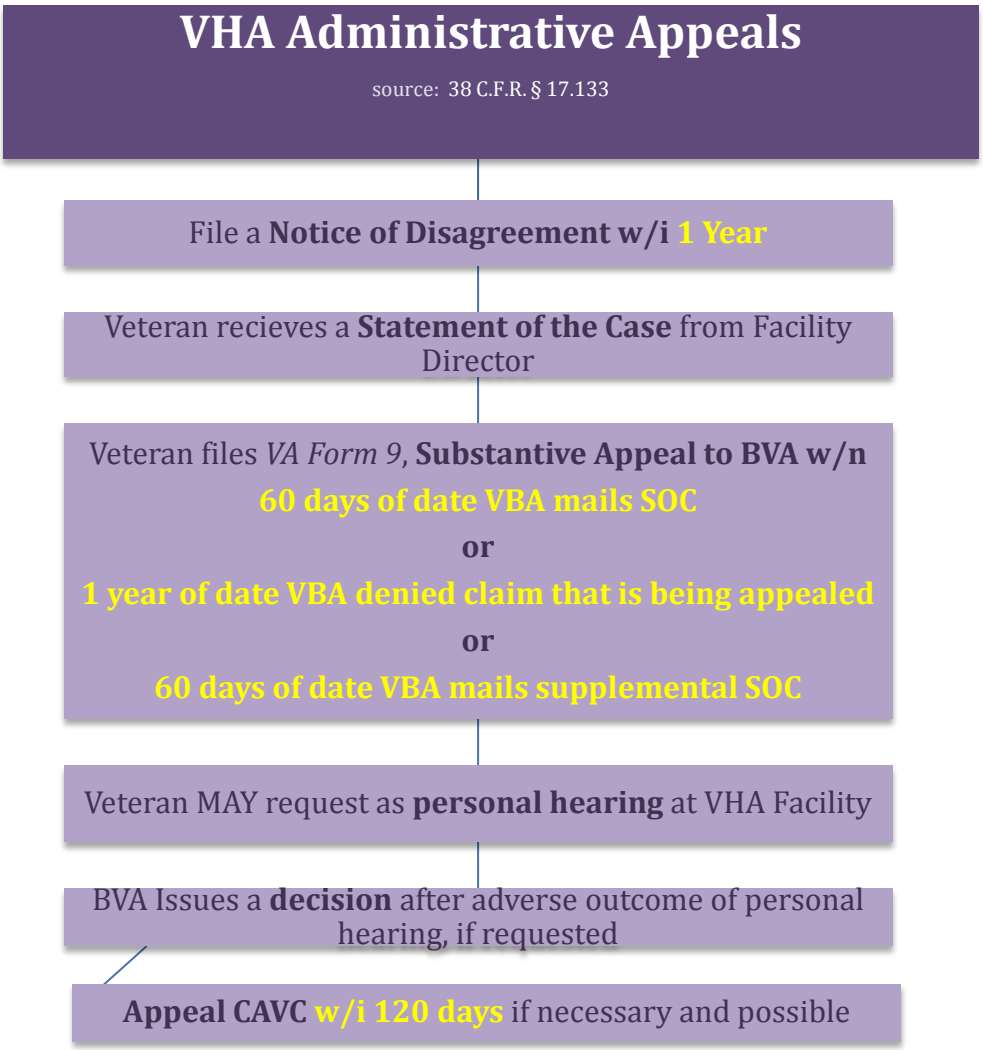
a. The VHA "reconsideration procedure" where there is a denial of VHA non-medical benefits is governed by 38 C.F.R. § 17.133. Within 1 year of denial, a veteran may submit a written reconsideration request to the Director of the VA health care facility concerned, which should include why the decision is erroneous and can include new and relevant information –considered the notice of disagreement (NOD), under 38 U.S.C. § 7105(b).

b. A meeting with the immediate supervisor of the initial VA decision-maker may be requested. It can be taped and transcribed *upon the claimant's request.* The

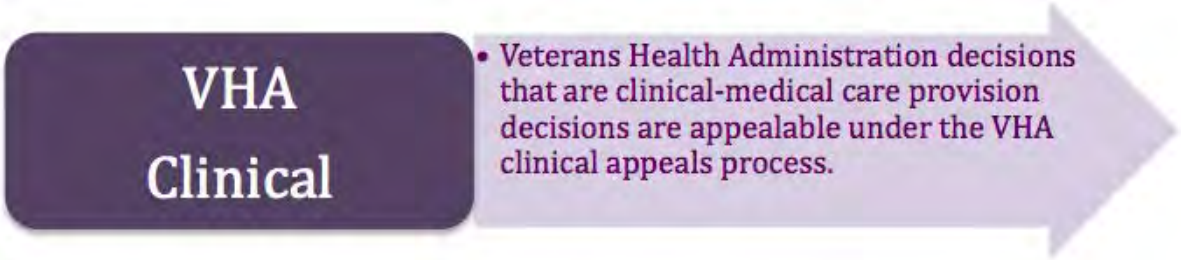
[94] See Chapter 10 of the NVLSP Manual for a detailed discussion of VHA Administrative Appeals.

immediate supervisor must make a written decision affirming, reversing or modifying the initial decision.

c. Denials at the VHA facility, once the "reconsideration procedure" is exhausted, may be appealed to the BVA and CAVC (see VBA administrative appeals, above).



4 §D: VHA CLINICAL APPEALS



To use the VHA Clinical Appeals Process[95], a veteran must be disputing a medical determination. *See* 38 C.F.R. § 17.133. Medical determinations are "judgment-related treatment decision" that involve the need and appropriate treatment or care, and are beyond the jurisdiction of the BVA. Appealing these decisions must be pursued through the clinical appeals process. This includes deciding what type of treatment is appropriate and prescribing drugs. See 38 C.F.R. § 20.101(b)(2010).

Example: a Veteran pursues non-VA treatment for a service connected disability because VA physician determined she did not need treatment. This requires a clinical appeal and is not within BVA jurisdiction. The veteran would not be reimbursed unless she can show that she would have received care under generally accepted medical standards and damages/injury (under the Federal Tort Claims Act).

If a veteran disagrees with a VHA clinical decision, the veteran should **appeal in writing to the VHA Patient Advocate,** who is supposed to log the complaint and refer to the Chief Medical Officer.

The **Chief Medical Officer** must review the complaint and respond within seven days.

[95] VHA clinical appeals are controlled by this publication.

VHA Clinical Appeals

VHA facility Chief Medical Officer (CMO) notifies patient of receipt of appeal and requests submission of supporting arguments w/i **1 week**. CMO may also adjust patient care during appeal process.

Facility CMO develops decision paper and sends it to the VISN Director.

VISN director determines whether to proceed with the Internal Appeal or to request an External Appeal

Internal Clinical Appeals

VISN Director makes final decision within **30 days** of initiation and Patient or representative is notifed in writing.

External Clinical Appeals

VISN forwards case records to VA Central Office, who sends to outside panel within 10 days of reciept of record.

Independant Appeal Panel makes recommendation to VISN Director

VISN Director makes final decision within **45 days** of initiation and Patient or representative is notified in writing.

CHAPTER 5: LEGAL & ADVOCACY ISSUES COMMONLY FACED BY VETERANS

This chapter summarizes legal & advocacy issues which attorneys and advocates will frequently face when representing veterans:

5 §A: VETERANS LEGAL RESEARCH: KEY RESOURCES
5 §B: VA ACCREDITATION FOR ATTORNEYS
5 §C: VA OVERPAYMENTS
5 §D: CHILD SUPPORT IN WASHINGTON STATE
5 §E: DIVORCE & MILITARY BENEFITS
5 §F: FUGITIVE FELON STATUS (VA BENEFITS & OUTSTANDING WARRANTS)
5 §G: VACATING WASHINGTON CONVICTION RECORDS
5 §H: DISCHARGE UPGRADES & RECORDS CORRECTIONS

Issues planned for future editions of this manual:

5 §I: APPLYING FOR DISABILITY COMPENSATION
5 §J: APPLYING FOR VA PENSION
5 §K: SEEKING VA/WDVA MENTAL HEALTH CARE
5 §L: SEEKING ADDICTION TREATMENT
5 §M: SEEKING VHA PAYMENT/REIMBURSEMENT FOR NON-VHA CARE
5 §N: HOMELESSNESS

5 §A: VETERANS LEGAL RESEARCH: KEY RESOURCES

Research for veterans legal issues draws upon a diverse set of authorities, many of which have been discussed, cited, or linked-to in this guide. The following three resources offer excellent places to begin research:

- The Gallagher Law Library at the University of Washington School of Law maintains a veterans benefits research guide at: https://lib.law.washington.edu/content/guides/veteransbenefits. This online guide provides a thorough listing of the primary statutory, regulatory, and case law, and secondary sources that govern many veterans legal issues. This research guide is an excellent "first stop" for legal research efforts.

- The National Veterans Legal Services Program's Veterans Benefits Manual is the most comprehensive resource available to attorneys who represent veterans for federal VA issues. This manual should be consulted when researching any veterans legal issue.

- Although difficult to navigate efficiently, the Department of Veterans Affairs website provides substantial information for those who know what information they seek. This website is not easy to navigate, so is not helpful for introductory or general research. But it can be very helpful in targeted searches for specific information, programs, or authorities. Some sections of the VA website that are particularly useful:

    - VHA's internal regulatory authority is located here.
    - VBA's internal regulatory authority database (called WARMS) is located here.
    - VBA benefits guides and pamphlets are available here.

- Washington's Department of Veterans Affairs hosts a website that introduces state benefits and programs.

    - WDVA lists important state statutes impacting veterans here.
    - In addition to state-level resources, each Washington County is required to provide a veterans assistance fund.[96] WDVA's index of county-specific information is indexed here.

[96] RCW 73.08.

5 §B: VA ACCREDITATION FOR ATTORNEYS

An attorney must be accredited by the Department of Veteran Affairs (VA) in order to assist a claimant in the preparation, presentation, and prosecution of claims for benefits.

Under 38 C.F.R. §14.629**, an attorney must take the following steps to become accredited with the VA, which occurs through the VA Office of the General Counsel:**

1. Initial Accreditation: The only requirement for initial accreditation with the VA is for the attorney to fill out the three page **VA form 21a** and submit to the VA Office of the General Counsel. An attorney's character and fitness to practice before the VA is presumed, if the attorney applicant self-certifies membership in good standing in the bar. It takes approximately one to two months for the VA to process this initial accreditation.

2. Complete CLE hours: The next step is an attorney must complete three hours of continuing legal education within 12 months following the date of initial accreditation by the VA. A qualifying training must be approved for three hours CLE credit by **any** state bar, **regardless of the state where you plan to practice.** A qualifying training course must cover the following topics (see 38 C.F.R. §14.629(b)(1)(iii)):
    a. Representation before VA
    b. Claims Procedures
    c. Basic Eligibility for VA Benefits
    d. Right to Appeal
    e. Disability Compensation (38 U.S.C. § 11)
    f. Dependency and Indemnity Compensation (38 U.S.C. § 13)
    g. Pension (38 U.S.C. § 15)

3. Submit annual certification: Within 12 months following the date of initial accreditation by the VA, an attorney must **certify completion of the three CLE hours** by submitting a letter to the VA Office of the General Counsel. This confirmation of CLE hours can be included in the required annual certification to the VA. See 38 C.F.R. §14.629(b)(1)(iii). See Appendix 4 for a sample annual certification letter.

This information should be submitted to the VA Office of the General Counsel every year, although the CLE information is only necessary for the first 12 months and as described below.

4. Additional 3 hour CLE requirement: An additional 3 hours of CLE must be completed within 3 years from the date of the accreditation and every two years thereafter.

5 §C: VA OVERPAYMENTS

Issue: A veteran receives financial benefits, services, or goods that the VA later determines to have exceeded the veteran's entitlement, and now the VA seeks reimbursement for the overpayment.

A VA overpayment results from when the VA provides more financial benefits, services, or goods than the veteran is entitled to.[97] Generally, an overpayment may be caused by the veteran's failure to provide correct information or the omission of information that should have been provided to the VA, or by VA error in judgment or administrative error. If the overpayment was caused solely by VA error, then the veteran may not be required to repay the amount overpaid.[98] If the overpayment was caused by an act or omission by the veteran, or if the veteran knew about the overpayment and did not bring this to the VA's attention, the veteran can liable for the amounts overpaid. [99]

Examples: Overpayments where the veteran could be liable for repayment to the VA include:

- A veteran receiving VBA Pension failed to report additional income that disqualified him for the pension. The veteran was not entitled to VA Pension benefits during the time period that his unreported income exceeded the income limit.

- A veteran receiving VBA Pension and VBA education benefits has an outstanding felony warrant. The veteran's fugitive felon status suspends entitlement to financial and education benefits, and VHA healthcare services during the time period the outstanding warrant exists.[100]

- A veteran is incarcerated. The veteran may continue to get paid benefits during incarceration until the VBA "catches up" with processing that the veteran is incarcerated.* Nonetheless, the veteran received VBA benefits during incarceration that s/he was not entitled to receive, creating an overpayment.

- A veteran receiving VBA Pension is incarcerated for 3 months and does not inform the VA. The veteran continues to receive pension while in jail. In some cases the veteran has notified the VA of incarceration but the VA system hasn't caught up and continues to pay the veteran while she is incarcerated. Regardless of whether the veteran informs or does not inform the VA, the veteran is not entitled to pension benefits after the 61st day of incarceration and creates an overpayment after that time.[101]

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[97] See 38 U.S.C. § 3685. VA Overpayments are governed by 38 U.S.C. §1505; 38 U.S.C. § 3108(g); 38 U.S.C. § 3231(d); 38 U.S.C. § 3482(g); 38 U.S.C. § 3532(e); 38 U.S.C. § 5313; 38 U.S.C. § 5313A; 38 U.S.C. § 5313B. 38 C.F.R. §§ 1.900–1.970. 38 C.F.R. §§ 3.665, 3.666.
[98] 38 U.S.C. § 5112(b)(10). Adjudication Manual M21-1MR (Manual Rewrite), Parts 3, 4, 5, and 10; VA Handbook 4020; VA Directive 4020.
[99] See 38 U.S.C. § 5112(b)(9). See also VA General Council Precedent 2-90.
[100] A discussion of Fugitive Felon Status may be found in Chapter 4 of this guide.
[101] See 38 C.F.R. § 3.666; for VA Compensation dependency and indemnity compensation benefits, see 38 C.F.R. § 3.665.

- A married veteran was receiving VBA Pension benefits and dependent spouse pension benefits. The veteran divorces and does not inform the VA of the change in marital status and continues to receive the additional amount for a dependent spouse.

Appealing the Overpayment: The veteran and her advocate can take the follow actions to appeal the overpayment decision by the VA:

1. EVALUATE THE NOTICE OF OVERPAYMENT

Once the VA determines that an overpayment occurred, the Debt Management Center (DMC) will send the veteran (or the recipient of VA benefits) written notice of the overpayment demanding repayment. [102] The notice must inform the veteran of the amount of the overpayment, how the overpayment occurred, and the veteran's right to challenge the overpayment. The notice will demand repayment within 30 days. **The veteran must take action within the 30 days or the VA can begin deducting the overpayment from the veteran's VA income.** At this stage the veteran should seek free assistance from a veteran service organization. The veteran should verify that the debt is valid and that the amount of the overpayment was correctly calculated.

2. RESPOND WITHIN 30 days to the OVERPAYMENT NOTICE TO MAINTAIN BENEFITS

2(a). If the veteran/debtor **does not respond** within 30 days, benefits are withheld automatically from current benefits, and will be offset from any future benefits. If the veteran is not receiving financial benefits so that none can be withheld, DMC will send second and third letters advising that failure to repay will result in being reported to credit agencies and the Treasury Department for collection. Veterans who do not timely respond may still proceed by pursuing the options discussed below, but the effect of the overpayment notice will not be stayed as the veteran pursues options for relief. This means the veteran will not receive continuing benefits.

2(b). If the veteran/debtor **does respond** in writing within 30 days of the first letter, benefits will not be affected by the overpayment notice until the appeal is decided. The veteran may request a hearing and: (1) **dispute** the existence or amount of the debt; (2) request a **waiver**; (3) offer a **compromise**; or (4) **repay** the debt. **NOTE THAT THESE OPTIONS ARE NOT EXCLUSIVE AND MAY BE PURSUED SIMULTANEOUSLY.**[103]

The veteran should send copies of his response to both the Debt Management Center (DMC) in Minnesota and the local VA Regional Office (e.g. Seattle or Portland, OR). Any correspondence sent by mail should be sent by regular and certified mail, return receipt requested, or should be sent by both mail and facsimile, so that the veteran has proof that the response was timely.

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[102] 38 C.F.R. §1.911(b). The Debt Management Center (DMC) at the St. Paul, Minnesota VA Regional Office has jurisdiction under the Centralized Accounts Receivable System (CARS) for all VBA overpayments. If the veteran receives compensation or pension benefits, the DMC also has jurisdiction over medical debts to the VHA older than 90 days. The DMC on Waivers and Compromises adjudicates claims.
[103] See VA General Council Precedent 6-98.

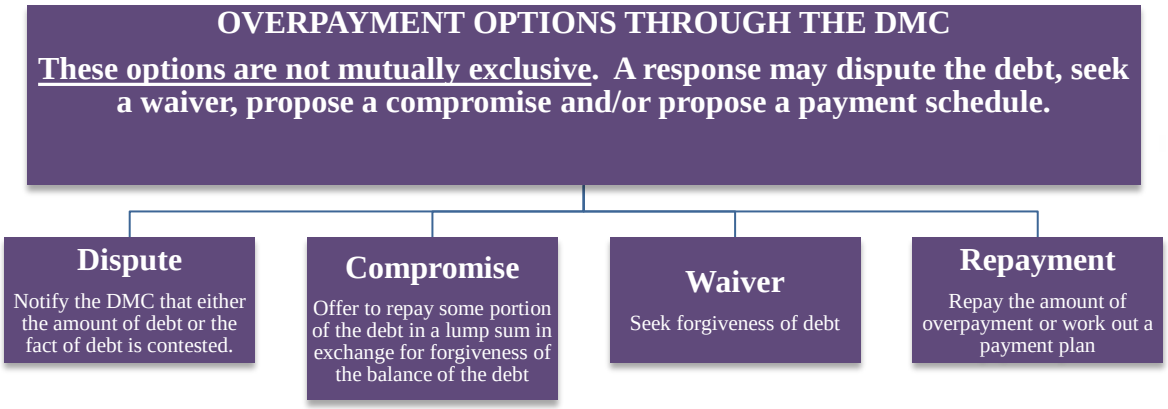
3. SEEK RELIEF

There is no specified financial penalty for deferring repayment on an overpayment debt for financial benefits, such as pension or compensation. Unless the source of the overpayment was a loan where interest was included as part of the arrangement, there is no interest to accrue.

3(a). Request a Hearing. The veteran may request an administrative hearing regarding the overpayment while at the same time disputing the overpayment and requesting a waiver. The practical effect of requesting a hearing within 30 days of the first letter, is that it will likely defer collection for a longer time period. It usually takes the VA longer to render a decision when a hearing has been requested.[104]

Only VA accredited attorneys and service agencies are authorized to assist claimants in the preparation, presentation, and prosecution of claims for VA benefits.[105] If an attorney is not accredited, the attorney may provide general information, but should then refer the veteran to an accredited attorney or agency to prepare, present and pursue a hearing request.[106] Attorney Accreditation is discussed in § B of this chapter.

3(b). Options Through the VA Debt Management Center (DMC).



3(b)(i). Dispute the Overpayment Notice:

The nature, amount or the fact of the debt may be disputed by sending a letter (there is no VA form) to the DMC and VA (by regular and certified mail, return receipt requested, or should be sent by both mail and facsimile). When notified that an overpayment is in dispute, the VA must defer collection until it performs an informal review of the overpayment, and confirms that the debt is owed.[107] While disputing debt, the veteran may also request a waiver or compromise.[108] The veteran may dispute an overpayment at any time; there is no deadline (however, as noted above, submitting a letter of dispute after the 30 days from receiving notice of the debt will not stop collection).

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[104] National Veterans Legal Services Program, Veterans Benefit Manual, p. 636, (Barton F. Stichman & Ronald B. Abrams ed., 2008).
[105] 38 C.F.R. § 14.627.
[106] Hearing requests are made using VA Form No. 2900-0085, Appeal to Board of Veterans' Appeals. The request should be sent to the Board of Veterans' Appeals.
[107] 38 C.F.R. §1.911(c)(1).
[108] 38 C.F.R. §1.911(c).

A Notice of Disagreement will have the effect of placing a hold on all VA action pertaining to the veteran. If the veteran submitted a claim for financial or educational benefits, then the VA will likely not process those claims until the veteran's entire situation has been reviewed.

3(b)(ii). Ask VA to Waive the Overpayment:

A waiver request must be submitted in writing within 180 days of the notice of the overpayment.[109] Unlike a "Notice of Disagreement," a waiver request will not put a hold on the veteran's pending benefit claims.

As there is no VA form for a waiver, the request should be submitted in a letter. A waiver request should include:

- Why the veteran feels he should not be responsible for the debt;
- Any financial hardship that recovery of the debt would cause; and/or
- Any other circumstance which would cause recovery of the debt to be inequitable.
- The veteran must include a completed VA Form 20-5655, *Financial Status Report*, with the waiver request.

Before considering a waiver, the DMC will verify the validity of the debt. Waivers should be granted in situations where the overpayment resulted from VA error (i.e., the veteran was without fault, the VA had the correct information but erred in calculation of benefits, the VA erroneously awarded benefits, the veteran tried to notify the VA of the error, and/or the veteran relied in good faith on the VA).

Additionally, waivers are granted where the veteran shows that collection of the debt would be against "equity and good conscience."[110] When making such a determination, 38 C.F.R. § 1.965(a) provides a non-inclusive list of factors to be considered:

- Fault of debtor: Where actions of the debtor contribute to creation of the debt.
- Balancing of faults: Weighing fault of debtor against Department of Veterans Affairs fault.
- Undue hardship: Whether collection would deprive debtor or family of basic necessities.
- Defeat the purpose: Whether withholding of benefits or recovery would nullify the objective for which benefits were intended.
- Unjust enrichment: Failure to make restitution would result in unfair gain to the debtor.
- Changing position to one's detriment: Reliance on Department of Veterans Affairs benefits results in relinquishment of a valuable right or incurrence of a legal obligation.[111]

Waivers cannot be granted in situations where there has been a determination of fraud or misrepresentation of a material fact by the veteran, or that the veteran acted in bad faith (unfair or deceptive dealing).[112]

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[109] 38 C.F.R. §1.911(c)(2); 38 U.S.C. §5302(a).
[110] 38 U.S.C. 5302 (a).
[111] 38 C.F.R. § 1.965(a).

Denied waiver requests may be appealed to the Board of Veterans' Appeals.

3(b)(iii). Negotiate a Compromise with VA:

An offer of compromise is an offer to pay some portion of the debt in a lump sum in exchange for forgiveness of the balance. A compromise may be offered at any time during collection -- there is no time limit. The offer must be submitted in writing to the DMC, and accompanied by a completed VA Form 20-5655, *Financial Status Report*. The DMC may require additional documentation, such as the veteran's credit reports.
A compromise proposal should be considered especially if waiver of the debt has been denied. DMC's rejection of an offer of compromise is not appealable. However, a veteran may make future compromise offers after a rejection. The following factors are considered by the VA when reviewing an offer of compromise:

- Veteran's ability to repay the entire amount within a reasonable time given the debtor's age, health, present and potential income, inheritance prospects, and availability of assets;
- VA's inability to collect the debt within a reasonable time;
- Whether the amount of the debt justifies the costs of litigation or other means of collection;
- VA's ability to prove its' case in court; and
- Was there fraud committed by the veteran.[113]

The VA DMC may not authorize compromise in excess of $100,000 (with the exception of debts connected with VA loan programs, which this manual does not address).[114] Compromise for debts in excess of $100,000 must be approved by the Department of Justice.[115]

3(b)(iv). Repay:

If the veteran must repay the overpayment, s/he may do so in a lump sum or by monthly payments. The veteran may propose a repayment plan by sending a letter to DMC explaining the amount the veteran will pay along with a VA Form 20-5655, *Financial Status Report*.[116] The DMC will review the proposal and determine whether it is acceptable.

3(C). NEGOTIATE A SMALLER OFFSET FROM CURRENT VA FINANCIAL BENEFITS

If the veteran receives a letter from the DMC stating that the overpayment will be collected by offset from the veteran's entire benefit check, the veteran may request a smaller offset amount. The veteran should do so promptly, in writing. If the offset proposed will repay the debt within one year, the veteran does not need to complete a Financial Status Report. If the timeframe

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[112] 38 C.F.R § 1.965(b).
[113] 38 C.F.R § 1.931.
[114] 38 C.F.R § 1.930(a). The VA may compromise on debts arising from VA loans in excess of $100,000 arising from the VA loan program. 38 C.F.R § 1.930(c). This guide does not address issues pertaining to VA loan debts arising from 38 U.S.C. § 37.
[115] 38 C.F.R § 1.930(b).
[116] The letter and completed Financial Status Report may be mailed and/or sent by facsimile to the U.S. Department of Veterans Affairs at (612) 970-5688.

exceeds one year, the veteran's written request should include VA Form 20-5655, *Financial Status Report*.[117]

3(D). BANKRUPTCY

Depending on the type of benefit involved and the nature of the overpayment, Chapter 7 or Chapter 13 bankruptcy relief may be possible for the veteran, but must be evaluated on a case-by-case basis by a bankruptcy attorney. In the Tenth Circuit, the VA successfully challenged the Chapter 7 discharge of a VA overpayment of pension benefits based on the equitable theory of recoupment.[118] The VA may challenge Chapter 7 VA overpayment discharges in adversary proceedings by alleging the debt was created through fraud or deceptive acts.[119] The VA has also successfully challenged a Chapter 13 repayment plan proposed in "bad faith."[120]

[117] See http://www.va.gov/DEBTMAN/Payment_Options.asp.
[118] *Beaumont v. Dep't Veteran Affairs*, 586 F.3d 776 (10th Cir. 2009).
[119] 11 U.S.C. § 523(a)(2)(4) and/or (6).
[120] *In re Squires*, No. 05–10433, 2007 WL 1377637 (Bankr. D.S.D.2007)(not reported) (debtor denied Chapter 7 discharge and Chapter 13 relief for VA improved pension overpayment created by defrauding the VA on three separate occasions).

5 §D: CHILD SUPPORT IN WASHINGTON STATE

Issue: Veterans who are non-custodial parents with child support orders may have difficulty affording the monthly payments due to disability and other financial difficulties.

Advocates will first want to know whether the existing child support order(s) are **court-ordered** or **administrative** because each of these two types of order is modified by different processes. Court orders may only be modified in court, while administrative orders may be modified through the administrative process or by a court. The outcomes of the two processes will be similar in most cases, although under certain circumstances they may differ significantly. As a rule, the administrative process is much easier for pro se parties to navigate.

The Washington Division of Child Support (DCS) is the agency enforcing and collecting administrative and court orders from Washington State. It also collects and modifies out of state orders when one or both of the parties has moved to Washington State, if requested to do so by the original jurisdiction.

Child support orders usually pose three types of problems for veteran clients:

1. MODIFICATION

Does the current order need to be modified?

- See Washington DCS's information on modification options.
- See also "Do you Owe Child Support?"
- Washington DCS has a policy:
  - Not to garnish VA income benefits (however, there is a way the custodial parent can attempt to garnish the veteran's VA benefits by making a request directly to the VA). VA income benefits DO count as income when calculating child support.
  - To set current orders at $0 where a client's sole source of income is SSI
  - To set current orders as low as $50 per child per month, where the client's income is below the federal poverty level and is a type of disability income

2. FORGIVENESS OF ARREARS

Arrears are owed to the State any time that they accrue during a month where the child was receiving a cash public assistance grant. Any amounts that accrue when the child is not receiving public assistance, or amounts in excess of the public assistance received, are owed to the custodial parent. The Support Enforcement Officer (SEO) on the case should be able to tell you how much of the arrears are owed to whom. Arrears negotiation should only be done after the current support has been modified to a reasonable amount, or the children have all emancipated.

i. Negotiating on Washington State Arrears: In Washington, the way to ask that state arrears be written off is called a conference board. The conference board process is designed to help people with child support cases to resolve their disputes with their SEOs. Since SEOs do not have the authority to write off state-owed arrears, an advocate or the veteran can make a conference board request without being required to discuss it with the SEO first. The conference board request is DSHS Form 09-520. It is best to accompany the form with a letter from the veteran explaining:
   a. Any reason why the order was set unreasonably high in the first place (Were they imputed at an income level that was significantly higher than their earning capacity?);
   b. Any reason they were unable to make payments in the past, such as incarceration or disability, and any explanation they have for failing to seek a modification.
   c. An explanation of why it will be difficult or impossible for them to pay off the arrears now, including addressing: 1) limited income (low income level relative to the amount of the debt and disability income), 2) limited earning capacity (current disability, other barriers), and 3) limited resources (no assets, other minor children to support, etc.).

For more information on conference boards, see also DCS's conference board publication.

ii. Negotiating with other states on state arrears: Some other states have a process for writing off state arrears. The processes vary widely, so it is best to start with the SEO

to see how the process works. However, some SEOs are not fully aware of the process, or are not forthcoming with the information, so some independent research is advisable. Some states do not have a process at all.

iii. Negotiating on custodial parent (CP) arrears: Only the CP can forgive CP arrears. BE CAREFUL ABOUT HOW YOU EXPLAIN THIS TO THE VETERAN, ESPECIALLY IF THERE IS A HISTORY OF DOMESTIC VIOLENCE.

a. Ask the veteran if they think that there is any possibility that the CP would forgive some or all of the arrears. If they do not know how to reach the CP, or if they know that, based on their history, the CP would be unwilling to forgive the arrears, then you are at a dead end. However, a surprising number of CPs are willing to forgive back support arrears, especially when the children are grown. If the veteran has an amicable relationship with the CP, then they may choose to ask the CP for debt forgiveness themselves. Depending on the circumstances, use your judgment to determine whether or not you want to be involved in making that request to the CP. If the veteran has the resources to offer a small partial payoff, then that can increase the chances of the CP agreeing to forgive the rest.
b. In Washington, all that DCS requires for the CP to forgive arrears is to send them a written request to do so. You may wish to write up the letter and send it to the CP to sign, to make it as easy as possible for them to do this favor for the veteran.
c. Other states may require that the letter be notarized, and some even require a motion and court order before they will write off the CP debt (e.g. California).

3. COLLATERAL ISSUES OF ENFORCEMENT

Even if an advocate or attorney is not immediately successful in modifying or seeking forgiveness, she can still assist the client by negotiating to curb collection enforcements with the Support Enforcement Officer (SEO). SEOs have a significant amount of discretion in what types of enforcement and collection actions to take on each case.

An SEO will often negotiate with the condition that the veteran agree to waiver of the statute of limitations on collecting support, which is normally 10 years from the date the youngest child on the order reaches the age of majority. See RCW 4.16.020(3). If a veteran is close to reaching the statute of limitations on collections, it's important weigh the value of coming to an agreement with the SEO about decreasing the severity of enforcement actions against waiver of the statute of limitations on collections where a veteran may be close to that date.

The two most common issues that a client might need help negotiating on are the release of a license suspension (most commonly driver's licenses, but DCS can also suspend hunting, fishing, and some business licenses) and the reduction of a garnishment.

i. License suspensions: SEOs will often release a license if the client agrees to begin making regular payments. They may even accept payments of less than the current support obligation for a short time if it will help the client to increase their earning power

(such as lifting a license suspension for nominal payments for a few months in order to give the client time to find a job and begin making full payments).

ii. Garnishments: SEOs may also reduce a garnishment if they believe that it will result in more collections in the long-run, or in the interest of fairness to the client. However, they cannot agree to reduce a garnishment to below the current support obligation, they may only reduce the amount that they are collecting on the arrears obligation.

iii. WA DCS enforcement of support orders from other states: Clients living in Washington who have child support obligations that originate in other states (or even other countries) will often have those obligations enforced by WA DCS. Because of this, the WA DCS Support Enforcement Officer will be a point of contact for gaining information about obligations from other states. The critical issue to determine in these situations is whether the other state also offers the ability to modify, forgive, or negotiate collateral enforcement and by what standards and procedures those options are executed.

4. SUPPLEMENTAL INFORMATION AND CONTROLLING STATUTES

i. WA DCS office contact information
ii. Intergovernment Child Support Referral Guide for info on rules from other states
iii. Other state's child support office homepages
iv. See also Washington Law Help publications->family law->child support at washingtonlawhelp.org
v. Controlling Authority for Reference
   a. RCW 26, especially 26.18, and 26.19: Domestic Relations
   b. RCW 74.20 and RCW 74.20A: Support of child receiving public assistance
   c. WAC 388-14A: DCS implementing regulations

5 §E: DIVORCE & MILITARY BENEFITS

Veterans receiving military retirement and/or veterans benefits must understand how divorce proceedings may impact their benefits. This summary discusses the effects of divorce upon (1) VA Income Benefits, (2) Military Retirement Pay, and (3) Military Retirement Medical Benefits.

3 TYPES OF MILITARY OR VETERANS BENEFITS THAT MAY BE IMPACTED BY A DIVORCE

Even veterans often misuse the proper names for these different types of benefits

Military Retirement Pay

DESCRIPTION OF BENEFIT:

- Monthly retirement pay that is awarded to veterans who formally retire from military service

-although this may be called "pension," **retirement pay is different than VA Pension!**

-Normally given only to veterans who served for 20 or more years

-Some veterans who sustain severe injuries or who are killed while in service will be given medical retirement and will then collect retirement pay

-In some instances, the military offers "early retirement" options to veterans with fewer than 20 years service

EFFECT OF DIVORCE ON BENEFIT:

-"Disposable retired pay" under 10 USC 1488 (a)(4)

- State courts may distribute retirement as property according to state rules under Uniformed Services Former Spouse Protection Act (USFSPA)

- Apportionaable under USFSPA

SEE SECTION 1 BELOW FOR ADDITIONAL INFORMATION ON THE EFFECT OF DIVORCE ON MILITARY RETIREMENT PAY

Military Medical Benefits

DESCRIPTION OF BENEFIT:

- In addition to Military Retirement Pay, Military Retirees and their dependents (including spouses) are also entitled to life-long medical care at the military's expense

EFFECT OF DIVORCE ON BENEFIT:

-certain categories of spouses remain eligible for continued medical coverage (under the 20/20/20 spouse rule, 20/20/15 spouse rule, and other more limited benefits): See 10 U.S.C. §§ 1072(2)(F), 1076(b) and 1086(c).

-former spouse may be able to pay for continuing Tricare benefits

SEE SECTION 2 BELOW FOR ADDITIONAL INFORMATION ON THE EFFECT OF DIVORCE ON MILITARY MEDICAL CARE

VA Financial Benefits

DESCRIPTION OF BENEFIT:

- The VA offers eligible veterans two primary income benefits: VA Disability Compensation and VA Pension

-Disability Compensation is awarded to veterans who incur or aggravate a disability-causing injury while in service

-VA Pension is a needs-based financial benefit given to totally disabled veterans who re either indigent or 65 or older

-VA Pension is different than Military Retirement Pay, which is sometimes called "pension."

EFFECT OF DIVORCE ON BENEFIT:

-IF veteran and spouse separate but are still married and the veteran spouse receives a veteran's income benefit, **THEN** the VA can divide the pension through a process called **apportionment** which may result in the spouse receiving 20%-50% of the veteran's benefit

- IF the spouses **get divorced, THEN** the veteran pension benefit cannot be divided by a WA court

SEE SECTION 3 BELOW FOR ADDITIONAL INFORMATION ON THE EFFECT OF DIVORCE ON VA FINANCIAL BENEFITS

1. Effect of Divorce on Military Retirement Pay ("disposable retired pay")

- Under Department of Defense, Defense Finance and Accounting Service (DFAS) pays retirement and processes requests to divide military retirement
- The Uniformed Services Former Spouse Protection Act (USFSPA) allows state courts to distribute retirement as property according to state rules.[121]
  A spouse need NOT have been married to the service member for 10 years to be entitled to a portion of retainer/retired pay. The 10-10 rule is requirement for DFAS to **enforce the order.**
- USFSPA also governs when the DOD pays that retirement (called "apportionment") directly to the ex-spouse (called the 10-10 rule). USFSPA says only the service member's "disposable retired pay" is apportionable to former spouse.
  - "Disposable retired pay" is defined under 10 U.S.C. § 1408(a)(4) and includes VA disability benefits only when they are received **in lieu of military retirement pay.**
  - **10-10 rule**: A Washington State court can divide military retirement. However, DFAS will not honor the order unless the decree states that:
    - The servicemember and spouse were married for at least 10 years AND
    - 10 years of marriage overlapped with 10 years of military service by the servicemember
  - The court must have proper personal jurisdiction over the member[122] and subject matter jurisdiction (see state dissolution rules) to enter the Decree of Dissolution.
- If the spouse is awarded a percentage of the retired pay, she will receive it until the SM's death, even if she remarries.
- The division of retired pay is typically done in a separate order referred to as an Order to Divide Military Retired Pay (essentially a military QDRO).
- **Does SCRA apply**? Active duty service members who are unable to appear in court or administrative hearings due to military duties may postpone their hearing for a minimum of 90 days, see **Servicemembers Civil Relief Act (SCRA)** 50 U.S.C. App. § 501.

2. Effect of Divorce upon Military Medical Benefits

- Uniformed Services Former Spouses Protection Act (USFSPA), certain categories of spouses remain eligible for continued medical coverage (under the 20/20/20 spouse rule, 20/20/15 spouse rule, and other more limited benefits)[123].
- The former spouse may be able to pay for continuing TRICARE benefits under some circumstances and should check with the military.

3. Effect of Divorce upon VBA Income Benefits (such as Disability Compensation or VA Pension):

[121] USFSPA does not contain a specific formula for dividing military retired pay. Although there are some variations, one of the most commonly used formulas is: ½ (M/X) where:
M= the number of months of marriage that overlapped with the SM's active duty service
X= the number of months of active duty service the SM performed during his military career
[122] See 10 U.S.C. § 1408(c)(4).
[123] See 10 U.S.C. §§ 1072(2)(F), 1076(b) and 1086(c).

- If a husband and wife **separate but are still married** and the veteran spouse receives a veteran's income benefit, the VA can divide the pension through a process called **apportionment**. The apportionment form is available online. A spouse can receive between 20-50% of their spouse's benefit. The VA determines the amount the spouse receives. See 38 C.F.R. § 3.450(a)(2).
- If the spouses **get divorced**, the veteran pension benefit cannot be divided by a WA court. Nor may a court try to divide the pension through a maintenance award. *Perkins v. Perkins*, 107 Wash. App. 313, 26 P.3d 989 (2001). See 38 U.S.C. § 5301(a)(1).
- **Exception**: the portion of VA income benefits that the veteran spouse that the veteran spouse is receiving **in lieu of retirement** is treated the same as "disposable retired pay" aka military retirement. See section above on Military retirement. See also 10 U.S.C. § 1408 (a)(4).

5 §F: FUGITIVE FELON STATUS (VA BENEFITS AND OUTSTANDING WARRANTS)

1. **Issue: The VA is prohibited from providing benefits for which a veteran is otherwise eligible if the veteran becomes a "FUGITIVE FELON." See 38 U.S.C. § 5313B.**

   Fugitive felon[124]- A person who is a fugitive by reason of either the following:
   (a) Fleeing to avoid prosecution, or custody or confinement after conviction, for an offense, or an attempt to commit an offense, which is a felony under the laws of the place from which the person flees; or
   (b) Violating a condition of probation or parole imposed for commission of a felony under Federal or State law.

BVA case law demands intent to flee from the veteran[125], yet the VA often imposes fugitive felon status for the mere existence of a felony warrant—even if the veteran is unaware of that warrant and is not physically "fleeing". Such instances may present an opportunity to dispute the basis for the imposition of fugitive felon status.

2. **Are all VBA and VHA benefits included in the Fugitive Felon prohibition?**

Yes. Impacted benefits include:

- Disability Compensation (disability payments for service-connected disability—the most common VBA financial benefit)
- Dependency and Indemnity Compensation (DIC, survivors' benefits)
- Pension for non-service connected disability or death
- **VHA Hospital, Nursing Home, Domiciliary and Medical Care**
- All educational assistance (All forms of GI Bill benefits) and Vocational Rehabilitation
- Home Loan Program

3. **How are DEPENDANTS impacted by this policy?**

   This prohibition also applies to the provision of dependant benefits for dependants who are fugitive felons. Dependent children of a fugitive surviving spouse may receive benefits, but dependents are not eligible if the veteran him/herself is a fugitive felon[126].

4. **How are the effective dates of fugitive felon status established by the VA?**

   - **Start of Fugitive Felon Status**, and therefore **THE EFFECTIVE DATE OF BENEFIT DISCONTINUANCE**: A person is considered to be in fugitive felon status from the ***later*** of the following dates: The date of the warrant **or** December 27, 2001, the date of the fugitive felon law

[124] See 38 U.S.C. 5313B
[125] See Board of Veterans Appeals, Citation No. 0905688 (Feb. 17, 2009), www.va.gov/vetapp09/files1/0905688.txt. (Discarding non-controlling VA internal regulations in favor of a requirement to show that the veteran met the Social Security Administration definition of a fugitive felon, which requires the individual to have an intent to flee)
[126] See 38 C.F.R. § 3.665(n); 38 C.F.R. § 3.666(e).

- **End of Fugitive Felon Status**: A person is considered to be out of fugitive felon status from the ***earlier*** of the following dates:
    - The date of arrest for the particular warrant that is the subject of the referral from the Office of Inspector General (OIG), or
    - The date the warrant is determined to be invalid by the warrant agency, a court, or OIG.

5. How can a veteran resolve or invalidate a warrant in order to end his or her Fugitive Felon status?

Resolving the warrant: The veteran must contact the agency where the warrant was issued (called the "originating agency") to resolve the warrant in one of the following ways:

- An error was made, such as mistaken identity
- The warrant should be cancelled
- The warrant has been satisfied by your arrest or surrender
- There are other reasons, which would resolve the warrant

6. Will the veteran's benefits automatically restart once Fugitive Felon Status is resolved?

NO. The beneficiary must contact the Regional Office alleging that he is no longer in fugitive status and provide acceptable proof that a beneficiary is no longer a fugitive felon is required to resume benefits.

The effective date to resume an award is either a) the date of arrest for the warrant, or b) the date the warrant is determined to be invalid by the warrant agency or a court. The award will be not reduced or discontinued in cases where either a) the warrant is specifically determined to have been void from its inception because of mistaken identity or a defect in the warrant, or b) the court order states that the recall is effective from a specific date that is on or before the date of the warrant or uses the terminology ***nunc pro tunc,*** which refers to changing back to an earlier date.

7. What legal authority exists on the VA's fugitive felon policy?

- Public Law 107-103, §505
- VA Opinion "VAOPCGPREC 7-2002", VA Termination of Benefits of Fugitive Felons Under Section 505 of Public Law No. 107-103;
- WARMS Manual for VA employees, M21-1MR, Part X, Chapter 16 (Fugitive Felon Match).
- Board of Veterans Appeals Citation No. 0905688 (Feb. 17, 2009)(VA relies on its interpretation of a VA circular, but even the board has abandoned that interpretation; and finding insufficient evidence that the veteran met the Social Security Administration definition of a fugitive felon, which requires the individual to have an intent to flee).

5 §G: VACATING WASHINGTON CONVICTION RECORDS

1. Issue: Veterans do not enjoy any benefit or status that distinguishes them from the general population with regard to criminal records vacation in Washington. As with the general population, however, the ability to vacate[127] prior criminal convictions presents veterans with a powerful tool to improve their competitiveness for employment and eligibility for housing, and to enable full participation in their community.

Records of adult criminal convictions for some felonies or misdemeanors may be vacated in Washington under certain circumstances. Brief introductions to criminal records vacations for adult felonies and misdemeanors follow:

What is a Criminal Record Vacation?

Vacation of a conviction is not the same as expunging or sealing the record. Courts and law enforcement agencies will still have access to records of a vacated conviction. Particularly if mention of the conviction is documented on the internet, vacation will not guarantee that a person's conviction cannot be discovered by others.

When a court vacates a conviction, it withdraws the plea or judgment of guilty, substitutes a plea of not guilty, and dismisses the case. Legally, when a case has been vacated, it can no longer be considered a conviction.

Vacations are still valuable to veterans because a vacation does allow a person to state that they have not been convicted of a felony on applications for jobs and housing. Vacation of a conviction can also have significant emotional value for a person.

RECORDS VACATIONS ARE GRANTED AT THE COURT'S DISCRETION

2. FELONIES

See Washington Law Help for detailed information on eligibility requirements for sealing and vacating criminal records in Washington.

Which felonies may be vacated?

Class A felonies may not be vacated. Vacation of eligible class B and class C felonies is governed by RCW 9.94A.640. **Under RCW 9.94A.640, vacation of an eligible class B or C felony is discretionary.**

When may felonies be vacated?

RCW 9.94A.640 imposes 10 and 5 year waiting periods that begin on the date of discharge[128] of a sentence, not the date of conviction. The date of discharge will be no earlier than the satisfaction of all terms of the sentence, including incarceration, LFOs[129], community service, and community supervision.

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[127] When a court vacates a conviction, it withdraws the plea or judgment of guilty, substitutes a plea of not guilty, and dismisses the case. Legally, when a case has been vacated, it can no longer be considered a conviction.

[128] Discharge must be pursuant to RCW 9.94A.637. In addition to the court-ordered discharge of the sentence, the client must additionally have the certificate of discharge issued by the discharging court.

[129] Unpaid LFOs for offenses that occurred before July 2000 may be satisfied for the purpose of a sentence discharge even if they are not paid because "LFOs for pre-July 2000 offenses expire and become void after 10 years unless the superior court extends them for another 10 years prior to the expiration of the first period." *State v. Gossage*, 165 Wn.2d 1, 8, 195 P.3d 525 (2008); see also RCW 9.94A.760(4).

What factors must be present for an individual to be eligible to vacate a felony conviction?

In order to receive consideration to vacate a felony conviction, the following conditions must be met:

1. The conviction to be vacated must not be:
    a. A class A Felony;
    b. A *violent offense* defined under RCW 9.94A.030;
    c. A *crime against persons* defined under RCW 43.43.830; or
    d. An *intoxication offense* under RCW 46.61.502(6) or RCW 46.61.504(6).[130]

2. The sentence resulting from the conviction must have been discharged under RCW 9.94A.637.
3. Sufficient time must have elapsed since discharge of the sentence:
    a. For a class B felony at least 10 years must have passed since the date of discharge under RCW 9.94A.637;
    b. For a class C felony at least 5 years must have passed since the date of discharge under RCW 9.94A.637;
4. The veteran has no other criminal charges pending in any state or federal court; and
5. The veteran has not been convicted of any crime in any state or federal court since the date of discharge under RCW 9.94A.637.

3. MISDEMEANORS

Vacation of misdemeanor convictions in Washington is governed by RCW 9.96.060. As with vacation of felonies, vacation of misdemeanors is at the discretion of the sentencing court once all conditions have been satisfied.

Which misdemeanors may be vacated?

Any misdemeanor or gross misdemeanor may be vacated **except**:

1. VIOLENCE*: Violent offenses* or attempted *violent offenses* under RCW 9.94A.030. RCW 9.96.060(2)(b).
2. INTOXICATION: Intoxication offenses under:
    a. RCW 46.61.502 (Driving while under the influence). RCW 9.96.060(2)(c).
    b. RCW 46.61.504 (Actual physical control while under the influence). RCW 9.96.060(2)(c).
    c. RCW 9.91.020 (operating a railroad, etc. while intoxicated). RCW 9.96.060(2)(c).
3. OBSCENITY & SEX OFFENSES: Misdemeanors, gross misdemeanors, including attempt, of:
    a. RCW 9.68 (obscenity and pornography), RCW 9.96.060(2)(d).
    b. RCW 9.68A (sexual exploitation of children), RCW 9.96.060(2)(d).
    c. RCW 9A.44 (sex offenses) , RCW 9.96.060(2)(d).
4. PRIOR OFFENSES under RCW 46.61.5055(14), if the applicant has a subsequent alcohol or drug violation within ten years of the date of arrest for the prior offense.

When may misdemeanors be vacated?

[130] These offenses were added to the non-vacatable list of convictions in 2012 under SSHB 2443.

RCW 9.96.060 imposes a 3 year waiting period that begin on the date of completion of the terms of the sentence, not the date of conviction. The date of discharge will be no earlier than the satisfaction of all terms of the sentence, including incarceration, LFOs, community service, and community supervision. If a misdemeanor is considered a domestic violence offense under RCW 9.96.060(e) the law requires a five year waiting period.

What criteria must a misdemeanor conviction meet to be considered for vacation?

In addition to type and time limitation listed above, RCW 9.96.060 requires satisfaction of the following criteria in order to establish eligibility for vacation:

1. No newer conviction exists in WA, another state, or in federal court since the date of discharge for the conviction for which the veteran seeks vacation, RCW 9.96.060(g).
2. The veteran has never had another conviction vacated, RCW 9.96.060(h).
3. The veteran is not currently restrained by:
    a. a domestic violence protection order,
    b. a no-contact order,
    c. an anti-harassment order, or
    d. a civil restraining order,

    Or if the veteran has previously been restrained by one of the above orders, at least five years have passed since the termination of the restraint, RCW 9.96.060(i).

If a misdemeanor offense involves **domestic violence**, in addition to the time and other requirements above, the applicant must demonstrate:

1. The veteran has provided written notice of the petition to vacate to the prosecuting attorney's offense that prosecuted the offense;
2. The veteran submits to a criminal history check confirming no prior convictions for domestic violence, and signs an affidavit confirming that s/he has no prior convictions for domestic violence ;[131]

What about clients with multiple convictions?

The statutes that govern vacation of misdemeanors and felonies both require vacation of the most recent conviction first. If a client vacates a misdemeanor conviction, he must not previously have vacated any other adult conviction (felony or misdemeanor) AND that client is then barred from vacating any other misdemeanor conviction. RCW 9.96.060. A client is able to vacate multiple felonies under RCW 9.94A.640, because the statute does not require an individual to demonstrate that s/he has never vacated another conviction.[132]

Can a client expunge non-conviction data like deferred dispositions or prosecutions?

Recent legal innovations like veterans treatment courts may increase the number of veterans seeking to expunge non-conviction data like deferred dispositions or prosecutions. See pages 3 and 4 of Legal Voice's Can I Clear My Criminal Record[133] for information on expunging non-conviction data under Washington Law.

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[131] If one or more offenses arose out of a single incident, none is considered a prior conviction. RCW 9.96.060(e)(ii).

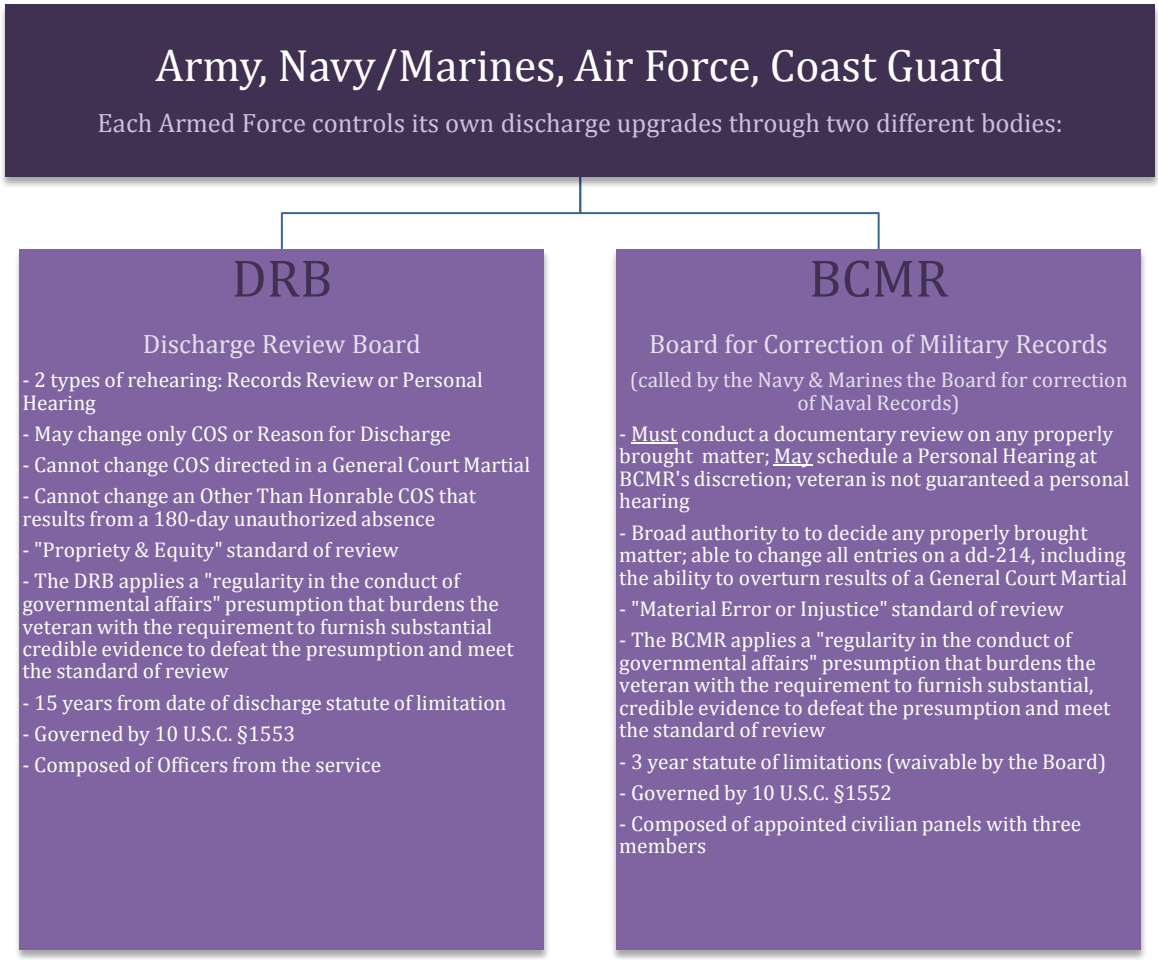
[132] *See State v. Smith*, 158 Wn. App. 501 (Div. 1 2010) (holding that a vacated 1995 misdemeanor did not count as a "subsequent" conviction for the purposes of vacating a 1989 felony conviction).

[133] http://www.legalvoice.org/pdf/self_help/Can_I_Clear_My_Criminal_Record.pdf

5 §H: DISCHARGE UPGRADES & RECORDS CORRECTIONS

Issue: A DD-214 lists two pieces of essential information that a veteran may wish to change if they are unfavorable: **Characterization of Service (COS)** and **Reason for Discharge**. The categories of COS's and Reasons for Discharge are covered in Chapter 1, §A of this manual. These two classifications determine eligibility for the vast majority of veterans benefits and programs. An overview of the process for correcting and upgrading military discharges follows.

Each Armed Force (Army, Navy, Marines, Air Force, Coast Guard) has authority over its own discharge upgrade decisions. First, each has a body called the Discharge Review Board (DRB). The second body for each is the Board for Correction of Military Records (BCMR) (the Navy/Marine Corps calls this body the Board for Correction of Naval Records). Each body has their own specific deadlines and limitations.



Generally, discharge upgrade requests should first be sent to the DRB, but this is not always the case. There are some kinds of changes, like changes to reenlistment codes, which the DRB cannot make. In those cases, the request for changes should be sent to the BCMR. However, if the request is for a change that the DRB can make, the BCMR will often require the veteran to exhaust their DRB remedies before applying. **Thus, the most important first question in any discharge correction or upgrade case is what veteran actually wants to change.**

1. APPLYING TO A DISCHARGE REVIEW BOARD

A. Discharge Review Board

Each service has its own individual DRB, governed by 10 U.S.C. § 1553. DRBs are comprised entirely of active duty officers from that branch of service. The Navy and Marine Corps share one DRB and it is comprised of both Navy and Marine Corps officers. Each DRB accepts applications for discharge changes and upgrades for **15 years from the date of discharge**, and this 15-year limit is strictly enforced. DRBs are only empowered to make changes to the COS and the narrative reason for discharge. DRBs cannot change Other Than Honorable discharges that resulted from unauthorized absences of 180 continuous days or more, and DRBs cannot change the COS received through General Courts-Martial.

DRBs only review cases and make changes to records on the bases of **propriety and equity**. If there was a procedural problem with the circumstances surrounding the discharge, or if the discharge was somehow inequitable, then a DRB can change either the COS or the reason for discharge. The DRB cannot make changes that are not based on propriety or equity.

B. How to Submit an *Application for Review* to the Discharge Review Board

1. **REQUEST A COMPLETE COPY OF VETERAN'S RECORDS**
   A veteran should request copies of their complete service and medical records by filling out and mailing in the SF-180, Request Pertaining to Military Records. The DRB will review the veteran's military service and medical records while determining whether any changes are warranted, and it strongly behooves the veteran to know what the DRB will be looking at before they look at it.

2. **ASSEMBLE EVIDENCE**
   The burden of proving that the discharge was improper or inequitable by substantial credible evidence is the veteran's. The veteran should submit all relevant evidence along with the DD-293 (see step 5) in order to help them meet this burden. Additional documents can be submitted up until the date of the hearing. The veteran must almost always submit evidence in order to prevail. In the absence of substantial credible evidence, the DRB will "presume regularity in the conduct of governmental affairs," and it will use this presumption to deny a request for a change.

3. **DECIDE RELIEF TO REQUEST AND ASSIGN ERROR**
   The veteran must identify what relief she seeks from the DRB and then must allege why the relief should be granted based upon the evidence assembled in the previous step.

4. **DECIDE THE MOST APPROPRIATE FORM OF REVIEW**
   The DRB conducts two types of review: **records reviews** and **personal hearings**. A records review is one where the DRB consults only documentary evidence and renders a decision. A personal hearing is one where the veteran is physically present before the board, either with or without the assistance of an advocate. Either type of review can initially be requested, but **it is almost always best to begin with a records review for two reasons**:
   - First, if a veteran begins with a records review, and that review comes back unfavorable to the veteran, the veteran can still request a subsequent personal hearing.
   - Second, if the records review is unfavorable, the veteran will receive a decisional document from the DRB outlining why they decided not to change the veteran's discharge, and that document can be used in preparation for a later personal hearing.

   If a veteran begins with a personal hearing, however, the veteran forever forfeits the right to have a records review. In essence, choosing to have a personal hearing first will result in the veteran losing an opportunity to have an extra hearing before the DRB. Personal hearings can also be costly depending on where the veteran lives. All DRBs hold personal hearings in Washington, D.C., and the veteran is responsible for all costs of appearing personally before them. Some military branches, but not all, choose to have infrequent travelling personal hearings in other cities, but these hearings are atypical and the cities vary.

5. **SUBMIT THE APPLICATION**
   Complete and mail the DD-293, Application for Review of a Discharge or Dismissal from the Armed Forces of the United States, along with any assembled evidence that supports the application

6. **AWAIT DECISION AND BE PREPARED TO APPEAL**
   If the veteran is denied a change or upgrade after a personal hearing, the veteran has **three years to appeal the DRB decision to the BCMR**.

2. APPLYING FOR CORRECTION OF MILITARY RECORDS

A. Board for Correction of Military Records

Each service has its own BCMR/BCNR, governed by 10 U.S.C. §1552. BCMRs are comprised of civilian personnel appointed by an Assistant Secretary of the relevant branch, and they sit in three member panels while considering each application. BCMRs review applications for substantial credible evidence of **material error or injustice**. Applications to the BCMR are to be submitted **within three years** of the discovery of the error or injustice. However, the BCMR can waive the three year limitation if it decides that it is in the interest of justice to do so. If a veteran wants to apply to the BCMR after the three year time limit has expired, he should explain

the reason for the delay and request a waiver of the time limit. BCMRs require applicants to exhaust all administrative remedies available before they will consider an application.

B. How to Submit an *Application for Review* to the Board for Correction of Military Records

- **VERIFY THAT DRB REVIEW IS EXHAUSTED IF IT IS AVAILABLE**
  If a DRB can resolve the case, the veteran must first exhaust that process. This will additionally ensure the veteran the maximum extent of review possible.

- **REQUEST A COMPLETE COPY OF VETERAN'S RECORDS**
  A veteran should request copies of their complete service and medical records by filling out and mailing in the SF-180, Request Pertaining to Military Records. The DRB will review the veteran's military service and medical records while determining whether any changes are warranted, and it strongly behooves the veteran to know what the DRB will be looking at before they look at it.

- **ASSEMBLE EVIDENCE**
  The burden of proving material error or injustice by substantial credible evidence is the veteran's. The veteran should submit all relevant evidence along with the DD-149 (see step 5) in order to help them meet this burden. Additional documents can be submitted up until the date of the hearing. The veteran must almost always submit evidence in order to prevail. In the absence of substantial credible evidence, the BCMR will "presume regularity in the conduct of governmental affairs," and it will use this presumption to deny a request for a change.

- **DECIDE RELIEF TO REQUEST AND ASSIGN ERROR**
  The scope of authority of the BCMRs is very broad. BCMRs have jurisdiction to review and determine all matters properly brought before them. They are the highest administrative review bodies in each of the service branches and, as such, are allowed to make almost any changes to a veteran's service record or discharge paperwork. BCMRs can change RE codes and they can change Other Than Honorable discharges that resulted from an unauthorized absence of 180 days or more. The BCMRs are even empowered to change punitive discharges resulting from General Courts-Martial on the basis of clemency.

NOTE THAT BCMR'S ARE ONLY REQUIRED TO CONDUCT DOCUMENTARY REVIEWS. THEY MAY CHOOSE TO SCHEDULE A PERSONAL HEARING, BUT NO IN-PERSON HEARING IS GUARANTEED!

- **SUBMIT THE APPLICATION**
  Complete and mail the DD-149, Application for Correction of Military Records, along with any assembled evidence that supports the application

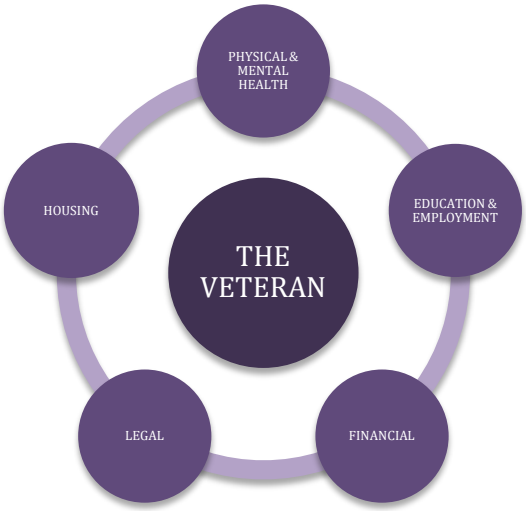
- **AWAIT NOTICE OF HEARING OR DECISION AND BE PREPARED TO APPEAL**

BCMRs begin by conducting purely documentary reviews. Most of the time, this documentary review will be the only review conducted, and the BCMR will either deny the application or recommend a correction without a hearing. Occasionally it will recommend a hearing on an application. If this happens, the BCMR will notify the applicant and/or counsel at least 30 days before the hearing. The applicant must then notify the BCMR whether he or she will be present no later than 15 days before the hearing. The hearing can occur either with or without the presence of the applicant. During the hearing, the applicant can be represented by counsel and can call witnesses.

Decisions of the BCMR are considered final, but the **decisions may be reconsidered if the applicant submits new and material evidence**. There is no time limit on the submission of new and material evidence for reconsideration of a BCMR decision.

CHAPTER 6: VETERANS RESOURCES

To assist Washington attorneys, advocates, and veterans with connecting to the most appropriate resource, this chapter lists federal, state, local[134], public, and private organizations and people to whom a veteran may be referred, organized by Washington's counties. Each county's resources are classified under the Housing, Legal, Financial, Education & Employment, and Physical & Mental Health framework used throughout this manual. In addition, **community** resources are listed for those counties in which they exist.



This listing is not exhaustive. Improving this listing is important. Readers and users of this manual who would like to suggest changes or additions to these resources are encouraged to send those suggestions to rep.wa.vets@gmail.com.

[134] "For the relief of indigent veterans, their families, and the families of deceased indigent veterans, the legislative authority of each county shall establish a veterans' assistance program to address the needs of local indigent veterans and their families." RCW 73.08.010.

Legal, Health[135], Financial, Housing, and Education & Employment resources for these counties are listed in detail as a resource for veterans and their attorneys:

- King County Resources: 6 §A
- Pierce County Resources: 6 §B
- Kitsap County Resources: 6 §C
- Thurston County Resources: 6 §D
- Snohomish County Resources: 6 §E
- Spokane County Resources: 6 §F

These counties are not treated in detail, but contact number and websites for their individual county Veterans Assistance Funds or Programs are listed below (where available).[136] The **Washington County Veterans Coalition** also lists basic, by-county veterans resources of all Washington counties.

- Adams County Resources: (509) 659-8045
- Asotin County Resources: (509) 243-2084 or (509) 758-4219
- Benton County Resources: (509) 736-2727 press option 6 then enter extension 5635
- Chelan County Resources: (509) 664-6801 or (509) 665-3702
- Clallam County Resources: (360) 417-0293
- Clark County Resources: (360) 397-8478 or (360) 607-1272
- Columbia County Resources: (509) 382-4542 or (509) 382-4541
- Cowlitz County Resources: (360) 577-6757
- Douglas County Resources: (509) 745-8537 or (509) 884-3617
- Ferry County Resources: (509) 775-5200
- Franklin County Resources: (509) 545-3505 or (509) 545-3540
- Garfield County Resources: (509) 843-1391
- Grant County Resources: (509) 750-6831
- Grays Harbor County Resources: (360) 249-3731
- Island County Resources: (360) 678-7880
- Jefferson County Resources: (360) 385-9122
- Kittitas County Resources: (509) 962-7036 or (509) 962-7502
- Klickitat County Resources: (509) 773-4265 or (509) 773-4001
- Lewis County Resources: (360) 740-1224 or 1-800-562-6130
- Lincoln County Resources: (509) 725-3031 or (509) 725-4971
- Mason County Resources: (360) 427-9670 ext 380 or 419
- Okanogan County Resources: (509) 422-7100
- Pacific County Resources: (360) 875-9337
- Pend Oreille County Resources: (509) 447-3185
- San Juan County Resources: (360) 370-7632
- Skagit County Resources: (360) 416-7585
- Skamania County Resources: (509) 427-3730
- Stevens County Resources: (509) 684-7566
- Wahkiakum County Resources: (360) 795-3219
- Walla Walla County Resources: (509) 529-3377
- Whatcom County Resources: (360) 676-6700 ext 50700
- Whitman County Resources: (509) 397-6270 ext 0
- Yakima County Resources: (509) 574-1528

[135] All VHA facilities in Washington are listed here.
[136] These veterans assistance program websites and phone numbers are taken from http://www.dva.wa.gov/countybenefits.html.

6 §A: KING COUNTY RESOURCES

KING COUNTY GENERAL RESOURCES[137]

King County Veterans Program
(206) 296-7656

- **Seattle Location: Dylan Frazier, Lead Social Worker, dylan.frazier@kingcounty.gov, (206) 296-7567**
  2124 Fourth Avenue, 4th Floor
  Seattle, WA 98121
- **Renton Location: Frank Pratt, Lead Social Worker, frank.pratt@kingcounty.gov, (206) 205-3211**
  500 S.W. Seventh Street, Suite 100
  Renton, WA 98057
  Provides or connects King County veterans with full-spectrum services including Emergency financial assistance, housing assistance, employment guidance and assistance, case management, life stability, Veterans benefits counseling, mental health referrals, and other supportive services.

WDVA King County Call Center
(877) 904-VETS (8387)
418 2nd AVE Extension South
Seattle, WA 98104

In-person visits are welcome in addition to calls. Veterans, Military Personnel, National Guard, Reserves, and their families can receive information related to benefits and services at the county, state, and federal levels. In addition to providing immediate assistance, the call center will conduct follow up within two weeks to assess whether additional assistance is required.

Vetresource.org
(877) 611-8462

Community Psychiatric Clinic and YWCA partner to assist female and minority veterans to access benefits, services and resources. Relationships with area veteran-serving agencies and outreach specialists connect veterans with a variety of resources. The Women and Minority Veteran Outreach Program is funded by King County Veterans and Human Services Levy.

KING COUNTY LEGAL RESOURCES

Northwest Justice Project, Veterans Project
(888) 201-1014; Fax: (206) 903-0526;

Free civil legal aid and referrals to low-income veterans in Washington State. NJP houses a veteran-specific civil legal aid attorney.

Washington Law Help

Online legal resource directory for common legal issues in Washington. Includes a digital version of this manual with live hyperlinks.

Seattle Municipal Veterans Treatment Court

[137] Improving this listing is important. Readers and users of this manual who would like to suggest changes or additions to these resources are encouraged to send those suggestions to rep.wa.vets@gmail.com.

Veterans of Foreign Wars: Court Fraley, Courtland.Fraley@vba.va.gov
(206) 341-8284
915 2nd Avenue, Rm 1044
Seattle, WA 98174

Mr. Fraley has expertise in VBA administrative appeals.

PHYSICAL & MENTAL HEALTH RESOURCES

VA Puget Sound Healthcare System, Seattle Division
(206) 762-1010, (800) 329-8387
1660 South Columbian Way
Seattle, WA 98108

Full-service veterans hospital. Provides the VA's highest echelon medical care in partnership with the American Lake Division in Pierce County. VHA Facility with some VBA offices co-located.

*VA Puget Sound's **Women's Trauma and Recovery Center** is a program specifically designed for women veterans in recovery from trauma and/or substance abuse. (206) 277-6303. Additionally woman-specific medical care information is also available through **Women Veterans Services**, (800) 329-8387.*

CBOC Bellevue
(425) 214-1055, (800) 329-8387
13033 Bel-Red Road, Suite 210
Bellevue, WA 98005

Community-Based Outreach Clinic that provides local information, enrollment, and referrals for veterans physical & mental health needs. Will refer veterans to VA Puget Sound Healthcare System, Seattle Division where appropriate.

CBOC Federal Way
(253) 336-4142
34617 11th Place South, Suite 301
Federal Way, WA 98003

Community-Based Outreach Clinic that provides local information, enrollment, and referrals for veterans physical & mental health needs. Will refer veterans to VA Puget Sound Healthcare System, Seattle Division where appropriate.

CBOC North Seattle
(206) 384-4382
12360 Lake City Way NE, Suite 250
Seattle, WA 98125

Community-Based Outreach Clinic that provides local information, enrollment, and referrals for veterans physical & mental health needs. Will refer veterans to VA Puget Sound Healthcare System, Seattle Division where appropriate.

Seattle Vet Center
(206) 553-2706
2030 9th AVE, Suite 210
Seattle, WA 98121

Provides veterans with PTSD, Reintegration, and MST counseling services. Not a general VHA intake facility, but is a provider for VHA mental health services. A VA housing counselor is on-site on Fridays to connect veterans with housing assistance.

Federal Way Vet Center
(253) 838-3090
32020 32nd AVE South, Suite 110
Federal Way, WA 98001

Provides veterans with PTSD, Reintegration, and MST counseling services. Not a general VHA intake facility, but is a provider for VHA mental health services. A VA housing counselor is on-site on Fridays to connect veterans with housing assistance, but may be reached any other day of the week.

WDVA PTSD-War Trauma Counseling
(360) 725-2226 (non-emergency voice mail), (360) 791-1499, FAX (360) 586-1077,

WDVA provides for free PTSD or War Trauma Counseling for veterans. This service is separate from VA/VHA counseling offered by the Seattle and Federal Way Vet Centers, although this program may refer a veteran into VA/VHA programs where appropriate.

African-American PTSD Association & Group: Sidney Lee, tacomaptsd@earthlink.com
(206) 220-4505
915 2nd AVE, Room 1062B
Seattle, WA 98499

Seattle Indian Health Board's Veterans Services: Tamara Bolding, tamarab@sihb.org; & Amber Bellows amberb@sihb.org
(206) 324-9360
611 12 AVE S., Suite 200
Seattle, WA 98114

University of Washington Center for Anxiety & Traumatic Stress:
(206) 685-3617
Guthrie Annex 2, 2nd Floor, Department of Psychology, Box 351525
University of Washington, Seattle, WA

UWCATS studies and treats PTSD. They receive funding for research, and so offer no-cost services to eligible individuals (including veterans) who are experiencing trauma-related problems. Call UWCATS to verify eligibility.

HOUSING RESOURCES

Homeless Veteran Programs at VA Puget Sound Health System
(206) 277-6115, (206) 277-6768
VA Puget Sound Health Care For Homeless Veterans Program Office
1660 S. Columbian Way
Seattle, WA 98108

Specialized homeless veteran housing services funded by the federal VA, including:

- Homeless veterans clinics
- Healthcare for homeless veterans
- Domiciliary care for homeless veterans
- Grant & Per Diem (GPD)
- Veterans Administration Supported Housing (VASH)

Veterans Services at Community Psychiatric Clinic
(206) 545-2344
11000 Lake City Way NE
Seattle, WA

- **Project Thrive:** *Located in North Seattle, is a specialized program serving homeless King County veterans with mental illness and co-occurring substance use disorders. THRIVE is an acronym for Treatment, Housing, Resources, and Interventions for Veterans' Empowerment. Eligible veterans can access Project THRIVE's Veterans' Resource Center, and may also be eligible to receive intensive services in supportive housing, including mental health and chemical dependency treatment and housing services.*
- **Supportive Services For Veterans Families (SSVF)**: *Provides homelessness prevention services and rapid re-housing for homeless veteran households, including formerly chronic homeless veteran households at imminent risk of losing their housing. Funded through the Federal VA.*

EDUCATION & EMPLOYMENT RESOURCES

Veteran Corps: Mark Fischer (markf@dva.wa.gov)
(800) 562-2308, (360) 725-2224
King County Project Coordinators: Gordy Graham (425) 344-6739 & Jeremy Grisham (206) 375-0714

- *The Washington State VetCorps engages veterans in AmeriCorps national service positions that enable them to make a positive difference in their community and improve their quality of life as a civilian. Representatives located at most Washington colleges and universities.*
- *There is a separate VetCorps program to assist King County veterans with resources, both financial and systemic, to place them in an apprenticeship program, school, or employment. Emphasis of placements is energy technology training, and these colleges have programs in this developing field: Lake Washington Technical College, Cascadia College, South Seattle Community College, and Renton Technical College. Programs range from alternative energy technology, to power plant operators, and lineman, as well as commercial energy consultants and home energy auditors.*

WorkSource:

Washington WorkSource offers eligible veterans priority referrals for job listings: King County WorkSource locations.

Veterans Training Support Center: Peter G. Schmidt, peter.schmidt@edcc.edu
(425) 640-1463
Center for Learning Connections of Edmonds Community College
20000 68th Ave. W.
Lynnwood, WA 98036-5999

Provides continuing educational opportunities and professional development to those who provide direct service to veterans and their family members.

FINANCIAL RESOURCES

Washington Department of Social & Health Services in Partnership with WDVA
(800) 457-6202, (360) 664-5200

WDVA and DSHS Division of Child Support partner to help veterans get apply for benefits and to assist with child support modifications or conference boards where appropriate.

WDVA Field Service Network Service Officer: Roslyn Miller, roslyn.miller@va.gov
(206) 341-8296
915 2nd Ave, Room 1062D
Seattle, WA 98174

Assists veterans with applying for VBA and VHA income and health benefits.

Veterans of Foreign Wars: Court Fraley, Courtland.Fraley@vba.va.gov
(206) 341-8284
915 2nd Avenue, Rm 1044
Seattle, WA 98174
Assists veterans with applying for VBA and VHA income and health benefits.

Vietnam Veterans of America: Jimmy Roth, Jimmy.roth@va.gov
(206) 341-8294
915 2nd Avenue, Room 1058
Seattle, WA 98174-1001
Assists veterans with applying for VBA and VHA income and health benefits.

WDVA Field Service Network Service Officer: Gary Spevak, gary.spevak@va.gov
(206) 341-8284
915 2nd Avenue
Seattle, WA 98174
Assists any veteran with applying for VBA and VHA income and health benefits.

State-wide & National Resources

In addition to the county-specific resources listed below, Washington veterans and their advocates may access several state-wide veterans resources.

WDVA's state-wide veterans assistance line: **(800) 562-2308**
Centralized contact for Washington's Department of Veterans Affairs. Service Officers of the WDVA Field Service Network are available here.

Veterans Crisis Line: **(800) 273-TALK** (8255), then press "1"
Suicide and crisis assistance line available 24/7.

CLEAR: **(888) 201-1014**
Washington's centralized intake, advice and referral service for low-income people seeking free legal assistance with civil legal problems. CLEAR can refer to the Northwest Justice Project's Veterans Project, a legal aid service focused on low-income veterans.

washingtonlawhelp.com:
Online legal information resource. **Includes a current digital version of this manual with active hyperlinks.**

Federal VA Benefits Information & Assistance: **(800) 827-1000**
Resource for general information about federal VA programs administered by the VBA.

Federal VA Healthcare Information: **(877) 222-8387**
Resource for general information about federal VA programs administered by the VHA.

6 §B: PIERCE COUNTY RESOURCES

PIERCE COUNTY GENERAL RESOURCES[138]

Pierce County Veterans Bureau
(253) 798-7449, 1-800-992-2456
925 Tacoma Ave, Suite B
Tacoma, WA 98402

Provides emergency assistance with food, rent and utilities to qualified indigent veterans and family members. Limited assistance with medical and other miscellaneous services is also available on an emergency need basis.

Joint Base Lewis-McChord Soldier & Family Assistance (jblmimcomdfmwrsfac@conus.army.mil)
(253) 966-8433
Building 2021C, 6th and Pendleton Ave
Joint Base Lewis McChord Main

Provides reception and in/out processing services and referrals currently serving veterans.

African-American PTSD Group: Sidney Lee, tacomaptsd@earthlink.com
253-589-0766, Fax: 253-589-0769
12209 Pacific Hwy, SW
Lakewood, WA 98499

American Veterans (AMVETS): Leland Cooper, servicedirector@amvetswa.us
253-472-2822, FAX 253-475-6715
5717 S. Tyler St
Tacoma, WA 98409

Military Order of the Purple Heart (MOPH): Pat Byers, pbyers@purpleheart.org
253-583-1079, Fax: 253-589-4052
VAMC American Lake Hospital
Building 16, Room 110
9600 Veterans Drive
Lakewood, WA 98493

National Association for Black Veterans (NABVETS): Lloyd A. Burroughs, LloydABurroughs@prodigy.net
253-475-5606
5515 Steilacoom Blvd SW, Suite 105
Lakewood, WA 98499-3105

American Legion: Elizabeth Steiner
253-583-1300, FAX: 253-589-4069
American Lake VAMC
Bldg. 16A, Room 111
Tacoma, WA 98493

[138] Improving this listing is important. Readers and users of this manual who would like to suggest changes or additions to these resources are encouraged to send those suggestions to rep.wa.vets@gmail.com.

LEGAL RESOURCES

Northwest Justice Project, Veterans Project
(888) 201-1014; Fax: (206) 903-0526;
Free civil legal aid and referrals to low-income veterans in Washington State.

Washington Law Help
Online legal resource directory for common legal issues in Washington. Includes a digital version of this manual with live hyperlinks.

PHYSICAL & MENTAL HEALTH RESOURCES

VA Puget Sound Health Care System, American Lake Division
9600 Veterans Drive
Tacoma, WA 98493

Tacoma Vet Center w/ Mobile Vet Center
4916 Center St. Suite E
Tacoma, WA 98409
Phone: 253-565-7038

EDUCATION & EMPLOYMENT RESOURCES

Veteran Corps: Mark Fischer, markf@dva.wa.gov
(800) 562-2308, (360) 725-2224
The Washington State VetCorps engages veterans in AmeriCorps national service positions that enable them to make a positive difference in their community and improve their quality of life as a civilian. Representatives located at most Washington colleges and universities.

WorkSource:
Washington WorkSource offers eligible veterans priority referrals for job listings: Pierce County WorkSource locations.

FINANCIAL RESOURCES

Washington Department of Social & Health Services in Partnership with WDVA
(800) 457-6202, (360) 664-5200

6 §C: KITSAP COUNTY RESOURCES

KITSAP COUNTY GENERAL RESOURCES[139]

Retsil Service Center, Building9@dva.wa.gov
(360) 895-4346
1141 Beach Drive East, Building 9
Retsil, WA 98378

Veterans Service Officer: Lynda Reese, Lyndare@dva.wa.gov
(360) 895-4371, Fax: (360) 895-4451
1141 Beach Drive East, Building 9
Retsil, WA 98378

Veterans Service Officer: Dawnell Vaughn, DawnellV@dva.wa.gov
(360) 895-4358, Fax: (360) 895-4451
1141 Beach Drive East, Building 9
Retsil, WA 98378

Veterans Service Officer: William Brown, WilliamB@dva.wa.gov
(360) 895-4346
1141 Beach Drive East, Building 9
Retsil, WA 98378

Veterans Service Officer: Andrea Talmadge
360-895-4348, Fax: 360-895-4451
1141 Beach Drive East, Building 9
Retsil, WA 98378

LEGAL RESOURCES

Northwest Justice Project, Veterans Project
(888) 201-1014; Fax: (206) 903-0526;
Free civil legal aid and referrals to low-income veterans in Washington State.

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PHYSICAL & MENTAL HEALTH RESOURCES

Bremerton Community-Based Outpatient Clinic
925 Adele Avenue
Bremerton, WA 98312

HOUSING RESOURCES

EDUCATION & EMPLOYMENT RESOURCES

Veteran Corps: Mark Fischer, markf@dva.wa.gov
(800) 562-2308, (360) 725-2224
Kitsap Country Project Coordinator: Jeff Reyes, Jeff_r_vcc@msn.com, (360) 670-9112

The Washington State VetCorps engages veterans in AmeriCorps national service positions that enable them to make a positive difference in their community and improve their quality of life as a civilian. Representatives located at most Washington colleges and universities.

WorkSource:

Washington WorkSource offers eligible veterans priority referrals for job listings: Kitsap County WorkSource locations.

FINANCIAL RESOURCES

Kitsap County Veterans Assistance Fund
(360) 337.7185
614 Division Street, MS-23
Port Orchard, WA, 98366

Washington Department of Social & Health Services in Partnership with WDVA
(800) 457-6202, (360) 664-5200

WDVA and DSHS Division of Child Support partner to help veterans get apply for benefits and to assist with child support modifications or conference boards where appropriate.

State-wide & National Resources

In addition to the county-specific resources listed below, Washington veterans and their advocates may access several state-wide veterans resources.

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Centralized contact for Washington's Department of Veterans Affairs. Service Officers of the WDVA Field Service Network are available here.

Veterans Crisis Line: **(800) 273-TALK** (8255), then press "1"
Suicide and crisis assistance line available 24/7.

CLEAR: **(888) 201-1014**
Washington's centralized intake, advice and referral service for low-income people seeking free legal assistance with civil legal problems. CLEAR can refer to the Northwest Justice Project's Veterans Project, a legal aid service focused on low-income veterans.

washingtonlawhelp.com:
Online legal information resource. **Includes a current digital version of this manual with active hyperlinks.**

Federal VA Benefits Information & Assistance: **(800) 827-1000**
Resource for general information about federal VA programs administered by the VBA.

Federal VA Healthcare Information: **(877) 222-8387**
Resource for general information about federal VA programs administered by the VHA.

6 §D: THURSTON COUNTY RESOURCES

THURSTON COUNTY GENERAL RESOURCES[140]

Washington State Department of Veterans Affairs
1102 Quince St SE 1st floor
PO Box 41155
Olympia, WA 98504-1155

- **Olympia Service Center,** benefits@dva.wa.gov, (800) 562-2308
- **Steven Gill,** Veterans Services Administrator, steveng@dva.wa.gov, (360) 725-2235, (360) 586-1092
- **Rafael Lozano,** Olympia Service Center Manager, rafaell@dva.wa.gov, (360) 725-2219, (360) 586-1093
- **Dean Motoyama,** Veterans Estate Management Program, DeanM@dva.wa.gov, (360) 725-2246, (360) 586-1092

LEGAL RESOURCES

Northwest Justice Project, Veterans Project
(888) 201-1014; Fax: (206) 903-0526;

Free civil legal aid and referrals to low-income veterans in Washington State.

Washington Law Help

Online legal resource directory for common legal issues in Washington. Includes a digital version of this manual with live hyperlinks.

PHYSICAL & MENTAL HEALTH RESOURCES

HOUSING RESOURCES

EDUCATION & EMPLOYMENT RESOURCES

Veteran Corps: Mark Fischer (markf@dva.wa.gov)
(800) 562-2308, (360) 725-2224

The Washington State VetCorps engages veterans in AmeriCorps national service positions that enable them to make a positive difference in their community and improve their quality of life as a civilian. Representatives located at most Washington colleges and universities.

WorkSource:

Washington WorkSource offers eligible veterans priority referrals for job listings: Thurston County WorkSource location.

[140] Improving this listing is important. Readers and users of this manual who would like to suggest changes or additions to these resources are encouraged to send those suggestions to rep.wa.vets@gmail.com.

FINANCIAL RESOURCES

Washington Department of Social & Health Services in Partnership with WDVA
(800) 457-6202, (360) 664-5200

WDVA and DSHS Division of Child Support partner to help veterans get apply for benefits and to assist with child support modifications or conference boards where appropriate.

State-wide & National Resources

In addition to the county-specific resources listed below, Washington veterans and their advocates may access several state-wide veterans resources.

WDVA's state-wide veterans assistance line: **(800) 562-2308**
Centralized contact for Washington's Department of Veterans Affairs. Service Officers of the WDVA Field Service Network are available here.

Veterans Crisis Line: **(800) 273-TALK** (8255), then press "1"
Suicide and crisis assistance line available 24/7.

CLEAR: **(888) 201-1014**
Washington's centralized intake, advice and referral service for low-income people seeking free legal assistance with civil legal problems. CLEAR can refer to the Northwest Justice Project's Veterans Project, a legal aid service focused on low-income veterans.

washingtonlawhelp.com:
Online legal information resource. **Includes a current digital version of this manual with active hyperlinks.**

Federal VA Benefits Information & Assistance: **(800) 827-1000**
Resource for general information about federal VA programs administered by the VBA.

Federal VA Healthcare Information: **(877) 222-8387**
Resource for general information about federal VA programs administered by the VHA.

6 §E: SNOHOMISH COUNTY RESOURCES

SNOHOMISH COUNTY GENERAL RESOURCES[141]

Snohomish Veterans Assistance Program:
(425) 388-7255
Snohomish County Campus, Drewel Building (Admin Building East)
3000 Rockefeller Avenue, Lower Level
Everett WA 98201

Veterans of Foreign Wars: Rene Taculad, renet@vfwclub.comcastbiz.net
(425) 304-1223, FAX: (425) 339-5550
2711 Oakes Avenue
Everett, WA 98201

LEGAL RESOURCES

Northwest Justice Project, Veterans Project
(888) 201-1014; Fax: (206) 903-0526;
Free civil legal aid and referrals to low-income veterans in Washington State.

Washington Law Help
Online legal resource directory for common legal issues in Washington. Includes a digital version of this manual with live hyperlinks.

PHYSICAL & MENTAL HEALTH RESOURCES

Everett Vet Center
425-252-9701 Or 877-927-8387
3311 Wetmore Avenue
Everett, WA 98201

HOUSING RESOURCES

EDUCATION & EMPLOYMENT RESOURCES

Veteran Corps: Mark Fischer (markf@dva.wa.gov)
(800) 562-2308, (360) 725-2224
Snohomish County Project Coordinators: Gordy Graham (425) 344-6739 & Jeremy Grisham (206) 375-0714
The Washington State VetCorps engages veterans in AmeriCorps national service positions that enable them to make a positive difference in their community and improve their quality of life as a civilian. Representatives located at most Washington colleges and universities.

WorkSource:
Washington WorkSource offers eligible veterans priority referrals for job listings: Snohomish County WorkSource locations.

[141] Improving this listing is important. Readers and users of this manual who would like to suggest changes or additions to these resources are encouraged to send those suggestions to rep.wa.vets@gmail.com.

FINANCIAL RESOURCES

Washington Department of Social & Health Services in Partnership with WDVA
(800) 457-6202, (360) 664-5200

WDVA and DSHS Division of Child Support partner to help veterans get apply for benefits and to assist with child support modifications or conference boards where appropriate.

6 §F: SPOKANE COUNTY RESOURCES

State-wide & National Resources

In addition to the county-specific resources listed below, Washington veterans and their advocates may access several state-wide veterans resources.

WDVA's state-wide veterans assistance line: **(800) 562-2308**
Centralized contact for Washington's Department of Veterans Affairs. Service Officers of the WDVA Field Service Network are available here.

Veterans Crisis Line: **(800) 273-TALK** (8255), then press "1"
Suicide and crisis assistance line available 24/7.

CLEAR: **(888) 201-1014**
Washington's centralized intake, advice and referral service for low-income people seeking free legal assistance with civil legal problems. CLEAR can refer to the Northwest Justice Project's Veterans Project, a legal aid service focused on low-income veterans.

washingtonlawhelp.com:
Online legal information resource. **Includes a current digital version of this manual with active hyperlinks.**

Federal VA Benefits Information & Assistance: **(800) 827-1000**
Resource for general information about federal VA programs administered by the VBA.

Federal VA Healthcare Information: **(877) 222-8387**
Resource for general information about federal VA programs administered by the VHA.

SPOKANE COUNTY GENERAL RESOURCES[142]

[142] Improving this listing is important. Readers and users of this manual who would like to suggest changes or additions to these resources are encouraged to send those suggestions to rep.wa.vets@gmail.com.

American Legion: Barry Blackerby, Barry.Blackerby@va.gov
(509) 434-7750, FAX: (509) 434-7127
Spokane VAMC
4815 N. Assembly, Bldg. 6A
Spokane, WA 98205-6197

Veterans Service Officer: Rae Williams Irita.Williams@va.gov
(509) 434-7750

LEGAL RESOURCES

Northwest Justice Project, Veterans Project
(888) 201-1014; Fax: (206) 903-0526;
Free civil legal aid and referrals to low-income veterans in Washington State.

Washington Law Help
Online legal resource directory for common legal issues in Washington. Includes a digital version of this manual with live hyperlinks.

PHYSICAL & MENTAL HEALTH RESOURCES

Spokane VA Medical Center
(509) 434-7000, (800) 325-7940
4815 N. Assembly St.
Spokane, WA 99205

Spokane Veterans Home
(509) 344-5770
222 East 5th Ave
Spokane, WA 99202

Spokane Vet Center w/ Mobile Vet Center
(509) 444-8387
100 N. Mullan Rd.
Spokane, WA 99206

HOUSING RESOURCES

EDUCATION & EMPLOYMENT RESOURCES

Veteran Corps: Mark Fischer (markf@dva.wa.gov)
(800) 562-2308, (360) 725-2224
Northeast WA Project Coordinator: Seth Maier (sethmaier@hotmail.com), 509-533-7214
The Washington State VetCorps engages veterans in AmeriCorps national service positions that enable them to make a positive difference in their community and improve their quality of life as a civilian. Representatives located at most Washington colleges and universities.

WorkSource:
Washington WorkSource offers eligible veterans priority referrals for job listings: Spokane County WorkSource locations.

FINANCIAL RESOURCES

Washington Department of Social & Health Services in Partnership with WDVA
(800) 457-6202, (360) 664-5200

WDVA and DSHS Division of Child Support partner to help veterans get apply for benefits and to assist with child support modifications or conference boards where appropriate.

APPENDICES

State-wide & National Resources

In addition to the county-specific resources listed below, Washington veterans and their advocates may access several state-wide veterans resources.

WDVA's state-wide veterans assistance line: **(800) 562-2308**
Centralized contact for Washington's Department of Veterans Affairs. Service Officers of the WDVA Field Service Network are available here.

Veterans Crisis Line: **(800) 273-TALK** (8255), then press "1"
Suicide and crisis assistance line available 24/7.

CLEAR: **(888) 201-1014**
Washington's centralized intake, advice and referral service for low-income people seeking free legal assistance with civil legal problems. CLEAR can refer to the Northwest Justice Project's Veterans Project, a legal aid service focused on low-income veterans.

washingtonlawhelp.com:
Online legal information resource. **Includes a current digital version of this manual with active hyperlinks.**

Federal VA Benefits Information & Assistance: **(800) 827-1000**
Resource for general information about federal VA programs administered by the VBA.

Federal VA Healthcare Information: **(877) 222-8387**
Resource for general information about federal VA programs administered by the VHA.

APPENDIX 1: REFERRING A SUICIDAL VETERAN THROUGH NJP

The Veterans Crisis Line offers three ways for veterans in crisis to contact them:

1. **By phone** at 1-800-273-TALK (8255), then press 1. This number reaches the National Suicide Prevention Line. Pressing 1 then directs the call to the Veterans department of the national line. NJP has a 3-way calling capability, so any NJP advocate can get the veteran in contact with the crisis line **without hanging up on the veteran**. To do this while on an NJP phone line with the veteran, the NJP advocate presses the **Conf** button on the phone, dials the suicide line's number, and then presses **Conf** again.

2. **By computer chat** at http://www.veteranscrisisline.net/ChatTermsOfService.aspx?account=Veterans%20Chat. This means of contact does not have a 3-way function. Computer chat offers the advocate the option to open the chat while on the phone with the client, and then to give the chat counselor the client's number so the chat counselor could call the veteran

directly. This method implicates barriers of computer access, computer literacy, the ability to type, and internet access.

3. **By cell phone text message** to "838255". This method would either have the line call the client back or correspond through texts.

All calls to the line are anonymous, no eligibility is required or verified for the call. The line's FAQ is located here.

Veterans Crisis Line

1-800-273-8255

PRESS 1

APPENDIX 2: SAMPLE DD-214 (FAVORABLE)

CAUTION: NOT TO BE USED FOR IDENTIFICATION PURPOSES

SAMPLE

THIS IS AN IMPORTANT RECORD. SAFEGUARD IT.

ANY ALTERATIONS IN SHADED AREAS RENDER FORM VOID

CERTIFICATE OF RELEASE OR DISCHARGE FROM ACTIVE DUTY

This Report Contains Information Subject to the Privacy Act of 1974, As Amended.

1. NAME (Last, First, Middle) [redacted]	2. DEPARTMENT, COMPONENT AND BRANCH ARMY/RA/IN	3. SOCIAL SECURITY NUMBER [redacted]
4a. GRADE, RATE OR RANK [redacted]	b. PAY GRADE [redacted]	5. DATE OF BIRTH (YYYYMMDD) [redacted]
6. RESERVE OBLIGATION TERMINATION DATE (YYYYMMDD) 00000000		
7a. PLACE OF ENTRY INTO ACTIVE DUTY [redacted]	b. HOME OF RECORD AT TIME OF ENTRY (City and state, or complete address if known) [redacted]	
8a. LAST DUTY ASSIGNMENT AND MAJOR COMMAND 357 REGT 2D BN (IN) FC	b. STATION WHERE SEPARATED JOINT BASE LEWIS-MCCHORD, WA 98433-9500	
9. COMMAND TO WHICH TRANSFERRED N/A		10. SGLI COVERAGE [ ] NONE AMOUNT: $ 400,000.00

11. PRIMARY SPECIALTY (List number, title and years and months in specialty. List additional specialty numbers and titles involving periods of one or more years.)
11A 5S INFANTRY - 7 YRS 8 MOS//NOTHING FOLLOWS

12. RECORD OF SERVICE	YEAR(S)	MONTH(S)	DAY(S)
a. DATE ENTERED AD THIS PERIOD	2002	06	01
b. SEPARATION DATE THIS PERIOD	2010	08	06
c. NET ACTIVE SERVICE THIS PERIOD	0008	02	06
d. TOTAL PRIOR ACTIVE SERVICE	0000	00	00
e. TOTAL PRIOR INACTIVE SERVICE	0000	00	00
f. FOREIGN SERVICE	0003	04	29
g. SEA SERVICE	0000	00	00
h. INITIAL ENTRY TRAINING	0000	00	00
i. EFFECTIVE DATE OF PAY GRADE	2005	09	01

SAMPLE

13. DECORATIONS, MEDALS, BADGES, CITATIONS AND CAMPAIGN RIBBONS AWARDED OR AUTHORIZED (All periods of service)
AFGHANISTAN CAMPAIGN MEDAL W/ CAMPAIGN STAR //BRONZE STAR MEDAL//MERITORIOUS SERVICE MEDAL (2ND AWARD)//ARMY COMMENDATION MEDAL (2ND AWARD)//ARMY ACHIEVEMENT MEDAL//US NAVY ACHIEVEMENT MEDAL/NATIONAL DEFENSE SERVICE MEDAL//GLOBAL WAR ON TERRORISM EXPEDITIONARY MEDAL//CONT IN BLOCK 18

14. MILITARY EDUCATION (Course title, number of weeks, and month and year completed)
COMBAT LIFE SAVERS CRS, 1 WEEK, 2003// INFANTRY MANEUVER CAPTAINS CAREER CRS, 24 WEEKS, 2006//MASTER, 3 WEEKS, 2006// MASTER FITNESS TRAINER CRS, 2 WEEKS, 2002 //RANGER CRS, 2 WEEKS, 2003//NOTHING FOLLOWS

SAMPLE

15a. COMMISSIONED THROUGH SERVICE ACADEMY	X	YES		NO
b. COMMISSIONED THROUGH ROTC SCHOLARSHIP (10 USC Sec. 2107b)		YES	X	NO
c. ENLISTED UNDER LOAN REPAYMENT PROGRAM (10 USC Chap. 109) (If Yes, years of commitment: NA)		YES	X	NO

16. DAYS ACCRUED LEAVE PAID 0	17. MEMBER WAS PROVIDED COMPLETE DENTAL EXAMINATION AND ALL APPROPRIATE DENTAL SERVICES AND TREATMENT WITHIN 90 DAYS PRIOR TO SEPARATION	YES	NO
			X

18. REMARKS
SERVED IN A DESIGNATED IMMINENT DANGER PAY AREA//SERVICE IN IRAQ 20031104-20041103// SERVICE IN AFGHANISTAN 20070503-20080802//MEMBER HAS COMPLETED FIRST FULL TERM OF SERVICE//ADDITIONAL SKILL IDENTIFIER 5S (MASTER PARACHUTIST) AND 6P (MASTER FITNESS TRAINER)//CONT FROM BLOCK 13//GLOBAL WAR ON TERRORISM SERVICE MEDAL//ARMY SERVICE RIBBON//OVERSEAS SERVICE RIBBON (3RD AWARD)//NAVY MEDAL//COMBAT INFANTRYMAN BADGE//EXPERT INFANTRYMAN BADGE//RANGER TAB//PARACHUTIST BADGE//NOTHING FOLLOWS

SAMPLE

The information contained herein is subject to computer matching within the Department of Defense or with any other affected Federal or non-Federal agency for verification purposes and to determine eligibility for, and/or continued compliance with, the requirements of a Federal benefit program.

19a. MAILING ADDRESS AFTER SEPARATION (Include ZIP Code) [redacted]	b. NEAREST RELATIVE (Name and address - Include ZIP Code) [redacted]

20. MEMBER REQUESTS COPY 6 BE SENT TO (Specify state/locality) WA OFFICE OF VETERANS AFFAIRS	X	YES	NO
a. MEMBER REQUESTS COPY 3 BE SENT TO THE CENTRAL OFFICE OF THE DEPARTMENT OF VETERANS AFFAIRS (WASHINGTON, DC)	X	YES	NO

21a. MEMBER SIGNATURE [redacted]	b. DATE (YYYYMMDD) 20100723	22a. OFFICIAL AUTHORIZED TO SIGN (Typed name, grade, title, signature) ESIGNED BY: [redacted]	b. DATE (YYYYMMDD) 20100723

SPECIAL ADDITIONAL INFORMATION (For use by authorized agencies only)

23. TYPE OF SEPARATION DISCHARGE	24. CHARACTER OF SERVICE (Include upgrades) HONORABLE	
25. SEPARATION AUTHORITY AR 600-8-24, PARA 3-5	26. SEPARATION CODE FND	27. REENTRY CODE NA
28. NARRATIVE REASON FOR SEPARATION MISCELLANEOUS/GENERAL REASONS		
29. DATES OF TIME LOST DURING THIS PERIOD (YYYYMMDD) NONE		30. MEMBER REQUESTS COPY 4 (Initials) [redacted]

DD FORM 214, AUG 2009 PREVIOUS EDITION IS OBSOLETE. GENERATED BY TRANSPROC MEMBER - 4

APPENDIX 3: SAMPLE DD-214 (UNFAVORABLE)

CAUTION: NOT TO BE USED FOR IDENTIFICATION PURPOSES

SAMPLE

ANY ALTERATIONS IN SHADED AREAS RENDER FORM VOID

CERTIFICATE OF RELEASE OR DISCHARGE FROM ACTIVE DUTY

1. NAME (Last, First, Middle): [redacted]
2. DEPARTMENT, COMPONENT AND BRANCH: NAVY-USNR
3. SOCIAL SECURITY NUMBER: [redacted]
4a. GRADE, RATE OR RANK: [redacted]
b. PAY GRADE: [redacted]
5. DATE OF BIRTH (YYYYMMDD): [redacted]
6. RESERVE OBLIGATION TERMINATION DATE (YYYYMMDD): NA
7a. PLACE OF ENTRY INTO ACTIVE DUTY: [redacted]
b. HOME OF RECORD AT TIME OF ENTRY (City and state, or complete address if known): [redacted]
8a. LAST DUTY ASSIGNMENT AND MAJOR COMMAND: PERSUPPDET WHIDBEY ISLAND, WA
b. STATION WHERE SEPARATED: PERSUPPDET WHIDBEY ISLAND, WA
9. COMMAND TO WHICH TRANSFERRED: NA
10. SGLI COVERAGE: NONE; AMOUNT: $ 400,000.00

11. PRIMARY SPECIALTY (List number, title and years and months in specialty. List additional specialty numbers and titles involving periods of one or more years.)
PS-90DO GWOT IA/ILO DETAINEE OPERATIONS-DEPLOYED (1YR, 2MOS). X X X

APPENDIX 4: SAMPLE VA ATTORNEY ACCREDITATION LETTER

Department of Veterans Affairs,
Office of the General Counsel,
810 Vermont Avenue NW,
Washington, DC 20420

To Whom it May Concern:

My name is _____
My business address is _____
My Veterans Administration Initial Attorney Accreditation Number is _____
The date of my VA accreditation is _____.

I certify that this is a complete list of call jurisdictions that I am admitted as an attorney in good standing in:
Jurisdiction _____
Date admitted _____
Membership number _____

Jurisdiction _____
Date admitted _____
Membership number _____

I agree to notify the Department of Veterans Affairs, Office of the General Counsel, in writing, within 30 days of any changes in status on any jurisdiction that I am admitted in.

I hereby certify that I completed _____(title of program) _____ at -----date------ and -----time----- provided by the American Bar Association and accredited by _____. This program complies with the requirements set forth in 38 CFR 14.629 (b) (iii) for competition within 12 months of initial accreditation.

_____sign here_____

Name

APPENDIX 5: SAMPLE INTAKE QUESTIONS FOR VETERAN CLIENTS

Where a client has already been identified as a veteran, a complete intake should ask the following questions at a minimum:

- Have you ever served as an Active Duty, Reserve, or National Guard member of the United States Army, Navy, Air Force, Marines, or Coast Guard?
- If so, did you have multiple periods of service in the US Military?[143]
- Do you have a copy of your DD-214, Member Copy #4 for each period of service?[144]
- On what date did you begin each period of service?
- On what date did you end each period of service?
- What type of characterization of service did you receive upon discharge from each period of service?
- If the discharge is of a characterization besides honorable, what was the reason for discharge?
- Do you receive any of the following military or veterans benefits?
    - Military Retirement Pay given for retiring after at least 20 years of military service?
    - Veterans Administration Disability Compensation? If so, what is your disability rating (the answer should be expressed as a percentage ranging from 0% to 100% in 10% increments)?
    - VA Pension to assist veterans who are low-income and either totally disabled or 65 or older?

[143] Some veterans will have served non-consecutive periods in the Armed Forces. Identifying these veterans with multiple periods of service is particularly important where one of the periods of service ended with an unfavorable characterization of service. In some instances, if one of a veteran's periods of service would normally serve to disqualify him from eligibility for a benefit, that eligibility may be reestablished by the other period of service. For example, if a client served 3 years in the Air Force and was discharged honorably, and then 4 years later reenlisted in the Marines and served an additional 3 years that ended in a Bad Conduct Discharge, the client may still be eligible to receive GI Bill benefits based on the first period of service.

[144] A veteran will receive a Member Copy 1 and a Member Copy 4 of their DD-214 upon separation from an Armed Service. The two copies contain the same information except Copy 4 contains information about the characterization of service and reason for discharge that Member Copy 1 does not include.