

Disagreeing with the Veterans Administration

The Veterans Administration issues thousands of decisions every day regarding compensation, healthcare, education, burial and training. But, what happens when the VA issues a decision you disagree with?

If your disability claim is denied, you may appeal the decision. You may also appeal if your claim was approved, but you disagree with the percentage evaluation received, the effective date benefits, or any other aspect of the decision.

An appeal of a decision involves many steps, some optional and some required, and strict time limits. The case may also involve remands for more information at the Board of Veterans' Appeals (BVA) and/or Court of Veterans Appeals (COVA) levels. A claimant may have several appeals in process at once, and several issues may be included in the same appeal. Usually, all issues on one VA decision will be included in the same appeal.

The process starts with a Notice of Disagreement (NOD), which is your written statement stating why you disagree with a decision about your claim. This statement should be:

- **Specific about your disagreement.** If decisions were made on multiple items, be clear about which item you are addressing.
- **Based on the final decision made by the VA.** Before benefits can be reduced or denied, the VA must send a "predetermination notice." If you did not receive paperwork describing the appeals process on a VA Form 4107, check your letter to see if it is, in fact, a pre-determination notice.
- **Within the time limit.** A NOD must be filed within one year of the date of the letter informing you of the final VA decision. If you miss the filing deadline, you may file a new claim for the same condition or request your previous claim be re-opened with new and material evidence. You lose the original effective date if you let one year after the decision lapse.

The next step is the preparation of the Statement of the Case (SOC) by the VA that summarizes the evidence considered, actions taken, decisions made, and the laws governing the decision. A SOC must be done when a NOD is filed and denied or when new evidence is received. Once the first SOC is completed, subsequent SOCs on that appeal are considered Supplemental Statements of the Case (SSOC). An appeal may have several SSOCs.

To proceed to the next level, the appeal must be considered formal. The standard form for formalizing (sometimes called perfecting) an appeal is the VA Form 9, Appeal to Board of Veterans' Appeals. This form must be received no later than one of these two dates:

- one year from the date of the letter notifying you of the decision
- 60 days after the date of the Statement of the Case

Hearings provide an opportunity for claimants to present evidence in person; however, they are optional and at the discretion of the veteran. Hearings are held at the VA Regional Office by a hearing officer who reviews the evidence and testimony and makes a decision. If the issue is not resolved in your favor, the appeal may continue to the highest appellate body for VA matters – the Board of Veterans Appeals – in

Washington, D.C., or via a traveling BVA board that comes to local offices. Traveling boards have been limited in the past couple of years and the pending workload has increased dramatically.

This appeal process can be very lengthy, complicated and stressful for the veteran. Some veterans feel the VA does not believe their statements about being "boots on the ground" or how they were injured. It is not a matter of whether the VA believes you, but whether there is hard evidence to support your statement and adhere to the laws and regulations that spell out exactly what proof is needed to substantiate a claim.

With this in mind, it is very important the original claim be fully developed with all of the required supporting evidence and documents. This upfront effort can help avoid the cumbersome and time consuming appeals process. When veteran advocates asks you to get the documents needed to file a fully developed claim, they are just trying to avoid the stress and extra work involved in a two- to four-year appeal process.

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