Department of Veterans Affairs

YOUR RIGHTS TO APPEAL OUR DECISION

After careful and compassionate consideration, a decision has been reached on your claim. If we were not able to grant some or all of the VA benefits you asked for, this form will explain what you can do if you disagree with our decision. If you do not agree with our decision, you may:

- Start an appeal by submitting a Notice of Disagreement.
- Give us evidence we do not already have that may lead us to change our decision.

This form will tell you how to appeal and how to send us more evidence. You can do either one or both of these things.

HOW CAN I APPEAL THE DECISION?

How do I start my appeal? To begin your appeal, you **must** submit VA Form 21-0958, "Notice of Disagreement," if that form was provided to you in connection with our decision. If we denied more than one claim for a benefit (for example, if you claimed compensation for three disabilities and we denied two of them), please tell us in Part III of VA Form 21-0958 each of the claims you are appealing. A filed VA Form 21-0958 is considered your Notice of Disagreement. If you did not receive VA Form 21-0958 in connection with our decision, then write us a letter telling us you disagree with our decision or enter your disagreement on VA Form 21-0958 in questions 10 or 11A. If you did not receive VA Form 21-0958 in connection with our decision, then either your statement or VA Form 21-0958 is considered your Notice of Disagreement. ***Send your Notice of Disagreement to the address included on our decision notice letter.***

How long do I have to start my appeal? You have one year to start an appeal of our decision. ***Your*** Notice of Disagreement must be postmarked (or received by us) within one year from the date of ***our*** letter denying you the benefit. In most cases, you cannot appeal a decision after this one-year period has ended.

What happens if I do not start my appeal on time? If you do not start your appeal on time, our decision will become final. Once our decision is final, you cannot get the VA benefit we denied unless you either:

- Show that we were clearly wrong to deny the benefit ***or***
- Send us new evidence that relates to the reason we denied your claim.

What happens after VA receives my Notice of Disagreement? We will either grant your claim or send you a Statement of the Case. A Statement of the Case describes the facts, laws, regulations, and reasons that we used to make our decision. We will also send you a VA Form 9, "Appeal to Board of Veterans' Appeals," with the Statement of the Case. If you want to continue your appeal to the Board of Veterans' Appeals (the Board) after receiving a Statement of the Case, you must complete and return the VA Form 9 within one year from the date of our letter denying you the benefit ***or*** within 60 days from the date that we mailed the Statement of the Case to you, ***whichever is later***. If you decide to complete an appeal by filing a VA Form 9, you have the option to request a Board hearing. Hearings often increase wait time for a Board decision. It is not necessary for you to have a hearing for the Board to decide your appeal. It is your choice.

Where can I find out more about the VA appeals process?

- You can find a "plain language" pamphlet called "How Do I Appeal," on the Internet at: http://www.bva.va.gov/How_Do_I_Appeal.asp.
- You can find the formal rules for the VA appeals process in title 38, Code of Federal Regulations, Part 20. You can find the complete Code of Federal Regulations on the Internet at: http://www.ecfr.gov. A printed copy of the Code of Federal Regulations may be available at your local law library.

YOUR RIGHT TO REPRESENTATION

Can I get someone to help me with my appeal? Yes. You can have a Veterans Service Organization representative, an attorney-at-law, or an "agent" help you with your appeal. You are not required to have someone represent you. It is your choice.

- Representatives who work for accredited Veterans Service Organizations know how to prepare and present claims and will represent you. You can find a listing of these organizations on the Internet at: http://www.va.gov/vso.

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- A private attorney or an "agent" can also represent you. VA only recognizes attorneys who are licensed to practice in the United States or in one of its territories or possessions. Your local bar association may be able to refer you to an attorney with experience in veterans' law. An agent is a person who is not a lawyer, but who VA recognizes as being knowledgeable about veterans' law. Contact us if you would like to know if there is a VA accredited agent in your area.

Do I have to pay someone to help me with my appeal? It depends on who helps you. The following explains the differences.

- Veterans Service Organizations will represent you for free.
- Attorneys or agents can charge you for helping you under some circumstances. Paying their fees for helping you with your appeal is your responsibility. If you do hire an attorney or agent to represent you, one of you must send a copy of any fee agreement to the following address within 30 days from the date the agreement is executed: Office of the General Counsel (022D), 810 Vermont Avenue, NW, Washington, DC 20420. *See* 38 C.F.R. 14.636(g). If the fee agreement provides for the direct payment of fees out of past-due benefits, a copy of the agreement must also be filed with us at the address included on our decision notice letter. *See* 38 C.F.R. 14.636(h)(4).

GIVING VA ADDITIONAL EVIDENCE

You can send us more evidence to support a claim whether or not you choose to appeal**.**

NOTE: Please direct all new evidence to the address included on our decision notice letter. You should not send evidence directly to the Board at this time. You should only send evidence to the Board if you decide to complete an appeal and, then, you should only send evidence to the Board after you receive written notice from the Board that they received your appeal.

If you have more evidence to support a claim, it is in your best interest to give us that evidence as soon as you can. We will consider your evidence and let you know whether it changes our decision. Please keep in mind that we can only consider new evidence that: (1) we have not already seen and (2) relates to your claim. You may give us this evidence either in writing or at a personal hearing with your local VA office.

In writing. To support your claim, you may send documents and written statements to us at the address included on our decision notice letter. Tell us in a letter how these documents and statements should change our earlier decision.

At a personal hearing. You may request a hearing with an employee at your local VA office at any time, whether or not you choose to appeal. We do not require you to have a local hearing. It is your choice. At this hearing, you may speak, bring witnesses to speak on your behalf, and hand us written evidence. If you want a local hearing, send us a letter asking for a local hearing. Use the address included on our decision notice letter. We will then:

- Arrange a time and place for the hearing
- Provide a room for the hearing
- Assign someone to hear your evidence
- Make a written record of the hearing

WHAT HAPPENS AFTER I GIVE VA EVIDENCE?

We will review any new evidence, including the record of the local hearing, if you choose to have one, together with the evidence we already have. We will then decide if we can grant your claim. If we cannot grant your claim and you complete an appeal, we will send the new evidence and the record of any local hearing to the Board.