



VA ACCREDITATION PROGRAM

HOW TO CHALLENGE A FEE

WHAT A CLAIMANT SHOULD KNOW ABOUT CHALLENGING A FEE CALLED FOR IN A FEE AGREEMENT WITH AN ATTORNEY OR AGENT

What if I believe that the attorney or claims agent that represented me did not earn the fee called for in our fee agreement? If you believe the fee is too high, or otherwise unreasonable, you can file a motion challenging the reasonableness of the fee. The Office of General Counsel (OGC) of the Department of Veterans Affairs (VA) will review fee agreement for reasonableness if you file a timely motion with our office.¹

How Do I File a Motion With OGC?

I. What Are the Requirements for My Motion? There is no requirement to use any particular format or specific writing style when writing your motion. For example, your motion could simply be a letter from you to OGC. However, OGC will not review your fee agreement unless your motion meets **all** of the following requirements:

- Your motion must be in writing. A telephone call to your VA regional office, or to OGC, does not satisfy this requirement.
- Your motion must include your full name and VA file number.
- Your motion must state and explain the reason(s) why the fee called for in the agreement is unreasonable, i.e., the reason(s) the attorney or claim agent did not earn the fee.
- You must attach to your motion any evidence you want OGC to consider.

II. Do I Have To Inform the Attorney or Claims Agent of My Motion? Yes, you must serve a copy of your motion on the attorney or claims agent involved in this matter by mailing or delivering it to him or her.

III. How Do I File My Motion With OGC and Prove that I Served It On the Attorney or Claims Agent? To begin OGC's review of your fee agreement, you must mail a motion, as well as proof of service (meaning proof that you have sent the motion to the attorney or claims agent involved in this matter), to the following address:

Department of Veterans Affairs
Office of General Counsel (022D)
810 Vermont Avenue, NW
Washington, DC 20420

¹ An attorney or claims agent may only charge you for assistance with your claim if: (1) a notice of disagreement was filed with your claim, (2) you signed a VA Form 21-22a authorizing the attorney or claims agent to represent you, and (3) you signed a written agreement to pay the attorney or claims agent. If you believe that these requirements have not been met, but you have received a letter from VA stating that the attorney or claims agent is eligible to be paid, you should file a notice of disagreement (NOD) with the RO. Please note that your NOD must be received within 60 days of the date of that letter.

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- Proof of service consists of a statement by the person who sent or delivered the motion. The statement must include the date and manner of service, the name of the person served, and the address of the place of delivery.
 - For service by regular mail, proof of service shall include the date a statement that the motion was mailed through the U.S. Postal Service.
 - A sample proof of service form that is commonly used by veterans to demonstrate that they have sent their motion to an attorney or claims agent is located [here](#).
 - We recommend that you submit proof of service to our office at the same time you file your motion.

III. When Must I File My Motion? You have **120 days** from the date of the final VA action, which in most cases means 120 days from the date of the fee eligibility decision, to file a motion for review of a fee agreement. This means that a motion meeting all of the regulation's requirements, **including proof of service**, must be filed at the address specified above prior to expiration of the 120-day time limit.

IV. What Factors Does the OGC Consider When Making Its Decision? The factors for determining reasonableness include:

1. The extent and type of services the representative performed;
2. The complexity of the case;
3. The level of skill and competence required of the representative in giving the services;
4. The amount of time the representative spent on the case;
5. The results the representative achieved, including the amount of any benefits recovered;
6. The level of review to which the claim was taken and the level of the review at which the representative was retained;
7. Rates charged by other representatives for similar services;
8. Whether, and to what extent, the payment of fees is contingent upon the results achieved; and
9. If the attorney or claims agent was discharged, the reasons why he was discharged.

V. What Happens After I File My Motion?

- The attorney or claims agent involved in this matter may file a response to your motion with OGC not later than 30 days from the date on which you serve him or her with your motion. He or she must serve you with a copy of his response.
- You will then have 15 days from the date the attorney or claim agent serves you with a response to file a reply with OGC; you must also serve the attorney or claims agent with a copy of your reply.
- OGC may extend the time period for the attorney or claims agent's response or your reply for a reasonable period of time if sufficient cause is shown.
- Fifteen days after the date on which the attorney or claims agent responds, or 30 days after you serve the attorney or claims agent, if he or she does not respond, OGC will close the record in the proceedings, and no further evidence or argument will be accepted.
- The General Counsel will issue the final decision on the matter. This decision is appealable to the Board of Veterans Appeals.