

## **Benefits for Veteran's with Disabilities**

**Note: The contents of this paper were taken directly from the CWIC Initial Training Manual developed by the VCU WIPA National Training Center and available online at <http://www.vcu-ntc.org/resources/cwicmanual.cfm>**

### **Introduction**

A wide range of special cash benefits, medical services and other programs are available for veterans of the US armed forces who experience disabilities. The programs covered in this section only include those administered by the US Department of Veteran's Affairs (VA) under its two main organizational branches: the Veterans Health Administration (VHA) and the Veterans Benefits Administration (VBA).

- The Veterans Health Administration (VHA) operates the healthcare system serving the needs of America's veterans by providing primary care, specialized care, and related medical and social support services. The VHA system includes the VA hospitals, the community-based counseling system known as the Vets Centers, and all of the special healthcare services available to veterans.
- The Veterans Benefits Administration (VBA) oversees all of the federal benefit programs available to veterans and their family members. The programs include monetary benefits such as Disability Compensation and Disability Pension as well as vocational rehabilitation services, educational assistance, life insurance, home loans programs, and other special services.

### **A Word about Military Retirement Based on Disability**

In addition to the VA benefits described in this section, military members with 20 or more years of active service (service retirement eligible) can retire from the Armed Forces as disabled, regardless of the percentage level of disability, if they are found to be unfit for service by reason of physical disability. People with less than 20 years of active service at the time they are removed from the military by reason of physical disability may be either separated or retired, based on a variety of factors. Veterans who retire from the military due to disability or who are separated due to disability may receive either monthly cash benefits or lump sum severance pay depending on their circumstances. These disability payments are part of the military retirement system administered by the Department of Defense (DoD) and are completely separate and distinct from the VA benefits described in this section. It is also possible in some cases for a veteran to collect BOTH Department of Defense military disability retirement payments and VA disability compensation.

Taking military retirement by reason of disability has several advantages for those who are eligible for this option. Individuals who receive military disability retirement are never subject to a review of their disability rating, and they receive all benefits due to regular military retirees, including the use of commissaries, military hospitals, as well as Tricare insurance for themselves and family members.

When working with veterans, CWICs must first determine which type of benefit is being received (DoD military disability retirement or VA disability benefits) BEFORE referring to any of the information in this section, as these two benefits differ in several critical ways, including the monthly payment and how disabilities are assessed for ratings.

## **Disability Evaluation under the VA System**

Unlike the SSA system of determining disability using an “all or nothing” criteria, the VA system uses a disability rating structure in which degree of disability is assessed using percentages. Individuals may be determined to be disabled anywhere along a continuum ranging from 10% to 100% disabled. The US Department of Veteran’s Affairs uses something called the “Schedule for Rating Disabilities” for evaluating the degree of disability in claims for veteran’s disability compensation, disability and death pension, and in eligibility determinations. The provisions contained in the VA rating schedule represent (as far as can practicably be determined) the average impairment in earning capacity in civil occupations resulting from disability. In other words, a veteran who is assessed at the 30% rating level would be expected to have a 30% reduction in earnings capacity due to disability. The Schedule for Rating Disabilities is published in title 38 of the Code of Federal Regulations and can be accessed online at <http://www.warms.vba.va.gov/bookc.html>

### Total Disability

In addition to the percentage rating system, the VA also designates certain veterans as having “total disability” and “permanent total disability”. Total disability is considered to exist when there is present any impairment of mind or body which is sufficient to render it impossible for the average person to follow a substantially gainful occupation. Total disability may or may not be permanent. Total disability ratings are generally not assigned for temporary exacerbations or acute infectious diseases except where specifically prescribed by the ratings schedule. Total ratings are authorized for any disability or combination of disabilities for which the Schedule for Rating Disabilities prescribes a 100 % evaluation. In certain prescribed circumstances, a disability rating of less than 100% may result in a total disability rating.

### Total Disability Ratings Based on Individual Unemployability

Total disability ratings for Disability Compensation may be assigned in certain cases where the schedular rating is less actually less than 100% - the usual standard for total disability. If the individual with the disability is, in the judgment of the rating agency, unable to secure or follow a “substantially gainful occupation” as a result of service-connected disabilities, that individual

may be deemed to have total disability for the purposes of VA compensation. VA refers to this designation as “individual unemployability” and it may occur under the following circumstances:

- If there is only one disability, this disability is rated at 60 percent or more
- If there are two or more disabilities, there must be at least one disability ratable at 40 percent or more and sufficient additional disability to bring the combined rating to 70 percent or more.

Specific instruction is provided to VA disability rating adjudicators about how to determine when a veteran is individually unemployable. The regulations read in the following manner:

*“It is provided further that the existence or degree of nonservice-connected disabilities or previous unemployability status will be disregarded where the percentages referred to in this paragraph for the service-connected disability or disabilities are met and in the judgment of the rating agency such service-connected disabilities render the veteran unemployable. Marginal employment shall not be considered substantially gainful employment. For purposes of this section, marginal employment generally shall be deemed to exist when a veteran’s earned annual income does not exceed the amount established by the U.S. Department of Commerce, Bureau of the Census, as the poverty threshold for one person. Marginal employment may also be held to exist, on a facts found basis (includes but is not limited to employment in a protected environment such as a family business or sheltered workshop), when earned annual income exceeds the poverty threshold. Consideration shall be given in all claims to the nature of the employment and the reason for termination.*

*“It is the established policy of the Department of Veterans Affairs that all veterans who are unable to secure and follow a substantially gainful occupation by reason of service-connected disabilities shall be rated totally disabled.” (emphasis added)*

*[40 FR 42535, Sept. 15, 1975, as amended at 54 FR 4281, Jan. 30, 1989; 55 FR 31580, Aug. 3, 1990; 58 FR 39664, July 26, 1993; 61 FR 52700, Oct. 8, 1996*

The determination of whether or not a veteran is able to follow a substantially gainful occupation is essentially left up to the Ratings Adjudicator’s discretion with very broad guidelines. The term ***unemployability*** is not synonymous with the terms ***unemployed*** and ***unemployable*** for the purpose of determining entitlement to increased compensation. A veteran may be unemployed or unemployable for a variety of reasons yet still not be “unemployable” for the purposes of establishing a total disability rating.

### Permanent Total Disability

A veteran may be classified as having permanent total disability when the impairment is reasonably certain to continue throughout the individual’s life. The Federal regulations governing permanent total disability describes the impairments that would qualify for this designation in the following manner:

*“The permanent loss or loss of use of both hands, or of both feet, or of one hand and one foot, or of the sight of both eyes, or becoming permanently helpless or bedridden constitutes permanent total disability. Diseases and injuries of long standing which are actually totally incapacitating will be regarded as permanently and totally disabling when the probability of permanent improvement under treatment is remote.*

*Permanent total disability ratings may not be granted as a result of any incapacity from acute infectious disease, accident, or injury, unless there is present one of the recognized combinations or permanent loss of use of extremities or sight, or the person is in the strict sense permanently helpless or bedridden, or when it is reasonably certain that a subsidence of the acute or temporary symptoms will be followed by irreducible totality of disability by way of residuals. The age of the disabled person may be considered in determining permanence.” (From 38 CFR §3.340 Total and Permanent Total Ratings and Unemployability).*

The designation of total disability or permanent total disability is important because certain benefits are only afforded to individuals with these classifications. In addition, designations of total or permanent total disability may increase the amount of monetary benefits a veteran is entitled to receive.

## **Disability Re-Examinations**

After the initial disability rating has been made, Veterans may be subject to periodic re-examinations. This is similar to the medical Continuing Disability Review (CDR) process utilized in the SSA disability benefit system. Reexaminations will be requested whenever VA determines there is a need to verify either the continued existence or the current severity of a disability. Generally, reexaminations will be required if it is likely that a disability has improved, or if evidence indicates there has been a material change in a disability or that the current rating may be incorrect. Individuals for whom reexaminations have been authorized and scheduled are required to report for such reexaminations.

The schedule of reexaminations will vary depending on whether an individual receives Disability Compensation or Disability Pension. For veterans receiving Disability Compensation, assignment of a pre-stabilization rating requires reexamination within the second 6 month period following separation from military service. Following initial Department of Veterans Affairs examination or any scheduled future or other examination, reexamination, if in order, will be scheduled within not less than 2 years nor more than 5 years within the judgment of the rating board, unless another time period is elsewhere specified. In Disability Compensation cases, reexaminations are not deemed to be necessary under the following circumstances:

1. When the disability is established as static;
2. When the findings and symptoms are shown by examinations and hospital reports to have persisted without material improvement for a period of 5 years or more;

3. Where the disability from disease is permanent in character and of such nature that there is no likelihood of improvement;
4. In cases of veterans over 55 years of age, except under unusual circumstances;
5. When the rating is a prescribed scheduled minimum rating; or
6. Where a combined disability evaluation would not be affected if the future examination should result in reduced evaluation for one or more conditions.

For veterans receiving Disability Pension benefits in which the permanent total disability has been confirmed by reexamination or by the history of the case, or with obviously static disabilities, further reexaminations will generally not be requested by the VA. In other cases further examination will not be requested routinely and will be accomplished only if considered necessary based upon the particular facts of the individual case. In the cases of veterans over 55 years of age, reexamination will be requested only under unusual circumstances.

## **Applying for VA Disability Benefits**

Veteran's can apply for both Disability Compensation and Disability Pension benefits by filling out VA Form 21-526, Veterans Application for Compensation or Pension. Individuals should attach the following material to their application if it is available:

- Dependency records (marriage & children's birth certificates)
- Medical evidence (doctor & hospital reports)

Veteran's can also apply for benefits on line through the [VONAPP website](#). For more information about applying for VA benefits for individuals with disabilities, call Toll-Free 1-800-827-1000.

## **VA Disability Compensation**

Disability compensation is a monetary benefit paid to veterans who are disabled by an injury or disease that was incurred or aggravated during active military service. These disabilities are considered to be service-connected. The amount of disability compensation varies with the degree of disability and the number of veteran's dependents, and is paid monthly. Veterans with certain severe disabilities may be eligible for additional special monthly compensation. The veteran's disability compensation benefits are not subject to federal or state income tax. To be eligible for disability compensation, the service of the veteran must have been terminated through separation or discharge under conditions other than dishonorable. To find the current as well as past VA benefit rates, go to the VA website at: <http://www.vba.va.gov/bln/21/rates/>

Veterans with disability ratings of at least 30 percent are eligible for additional allowances for dependents. This includes spouses, minor children, children between the ages of 18 and 23 who

are attending school, children who are permanently incapable of self-support because of a disability arising before age 18, and dependent parents. The additional amount depends on the disability rating.

Disability Compensation benefits are considered to be an entitlement program and are not means-tested. Veteran's who have other types of income or who own resources will not lose their entitlement to Disability Compensation benefits. However, the payment of military retirement pay, disability severance pay and separation incentive payments known as SSB (Special Separation Benefits) and VSI (Voluntary Separation Incentives) does affect the amount of VA compensation paid to disabled veterans.

### Special Monthly Compensation

VA can pay an added compensation known as "Special Monthly Compensation" or SMC in addition to the regular Disability Compensation under certain circumstances. For example, SMC may be paid to a veteran who, as a result of military service, incurred the loss or loss of use of specific organs or extremities. Loss, or loss of use, is described as either an amputation or, having no effective remaining function of an extremity or organ. Loss, or loss of use, is described as either an amputation or, having no effective remaining function of an extremity or organ. The disabilities VA can consider for SMC include:

- Loss, or loss of use, of a hand or foot;
- Immobility of a joint or paralysis;
- Loss of sight of an eye (having only light perception);
- Loss, or loss of use, of a reproductive organ;
- Complete loss, or loss of use, of both buttocks;
- Deafness of both ears (having absence of air and bone conduction);
- Inability to communicate by speech (complete organic aphonia);
- Loss of a percentage of tissue from a single breast, or both breasts, from mastectomy or radiation treatment.

The Veterans Administration will also pay higher rates for combinations of these identified disabilities (such as loss or loss of use of the feet, legs, hands, and arms) in specific monetary increments, based on the particular combination of the disabilities. There are also higher payments for various combinations of severe deafness with bilateral blindness. Additional SMC is available if a veteran is service connected for paraplegia, with complete loss of bowel and bladder control. In addition, for veterans who have other service-connected disabilities that, in combination with the above special monthly compensation, meet certain criteria, a higher amount of SMC can also be considered.

Finally, if a veteran has a service connected disability at the 100% rate and is "housebound, bedridden, or is so helpless to need the aid and attendance of another person", then payment of additional SMC can be considered. This additional monthly payment is referred to as "Aid and Attendance and Housebound Allowance". The amount of this extra monthly payment will vary depending on the level of aid and attendance needed. VA also considers unusual medical expenses when determining some needs-based pension and compensation payments. Medical

expenses which exceed 5 percent of the maximum annual VA payment rate are considered to be “unusual”. As a result, the veteran will have a higher monthly VA payment, an extra payment, or an increase in an extra payment.

## **VA Disability Pension**

A pension is a needs-based benefit paid to a veteran because of permanent and total nonservice-connected (NSC) disability, or a surviving spouse or child because of a wartime veteran’s nonservice-connected death. The Department of Veterans Affairs (VA) currently pays the following three types of pensions:

- Improved Pension, per *Public Law (PL) 95-588*
- Section 306 Pension, per *PL 86-211*, and
- Old Law Pension

Because the Old Law and Section 306 Pension programs have been phased out, a veteran filing a new claim for pension benefits must qualify under the Improved Pension program. Pension beneficiaries who were receiving a VA pension on Dec. 31, 1978, and do not wish to elect the Improved Pension will continue to receive the pension rate they were receiving on that date. This rate generally continues as long as the beneficiary’s income remains within established limits, his or her net worth does not bar payment, and the beneficiary does not lose any dependents. These beneficiaries must continue to meet basic eligibility factors, such as permanent and total disability for veterans, or status as a surviving spouse or child. VA must adjust rates for other reasons, such as a veteran’s hospitalization in a VA facility.

NOTE: From this point forward, we will refer only to the pensions provided directly to veterans based upon disability (as opposed to death pensions provided to surviving spouses and children) and will focus on the Improved Disability Pension since this is the program currently available to veterans making claims. Since there are some differences in the way income and assets are counted in the pension programs that have been discontinued, it is important to know exactly WHICH pension benefit an individual is receiving. CWICs are cautioned to confirm which type of VA pension an individual is receiving before offering case-specific advisement!

### Improved Disability Pension

Veterans with low incomes who are permanently and totally disabled, or are age 65 and older, may be eligible for a type of monetary support known as “Disability Pension”. To qualify for this benefit, veterans must have 90 days or more of active military service, at least one day of which was during a period of war. Veterans who entered active duty on or after Sept. 8, 1980, or officers who entered active duty on or after Oct. 16, 1981, may have to meet a longer minimum period of active duty. In addition, the veteran’s discharge must have been under conditions other than dishonorable and the disability must be for reasons other than the veteran’s own willful misconduct.

Disability Pension payments are made to bring the veteran's total income, including other retirement or Social Security income, up to a level set by Congress. Unlike the Disability Compensation program, the Pension program is means-tested – eligibility is based upon meeting certain income and asset tests. In addition, Disability Pension payments are reduced by the amount of countable income of the veteran, spouse or dependent children. Just as in the SSI program, there are numerous types of income and assets that are disregarded by the VA. Pension payments may also be reduced by other factors. For example, when a veteran without a spouse or a child is furnished nursing home or domiciliary care by the VA, the pension is reduced to an amount not to exceed \$90 per month after three calendar months of care. The reduction may be delayed if nursing-home care is being continued to provide the veteran with rehabilitation services. The current and past pension rates are available online at

<http://www.vba.va.gov/bln/21/rates/>

The VA also evaluates a veteran's net worth when determining eligibility for the Pension program. The regulations state that "Pension shall be denied or discontinued when the corpus of the estate of the veteran, and of the veteran's spouse, are such that under all the circumstances, including consideration of the annual income of the veteran, the veteran's spouse, and the veteran's children, it is reasonable that some part of the corpus of such estates be consumed for the veteran's maintenance". (Authority: 38 U.S.C. 1522(a))

"Corpus of estate" and "net worth" mean the market value, less mortgages or other encumbrances, of all real and personal property owned by the claimant except the claimant's dwelling (single-family unit) including a reasonable lot area, and personal effects suitable to and consistent with the claimant's reasonable mode of life.

In determining whether some part of the veteran's estate should be consumed for his or her maintenance, VA will consider the amount of the individual's income and the following factors:

- Whether the property can be readily converted into cash at no substantial sacrifice;
- Ability to dispose of property as limited by community property laws;
- Life expectancy of the veteran;
- Number of dependents;
- Potential rate at which the estate would be depleted if used for maintenance; and
- Unusual medical expenses for the veteran and his/her dependents.

With regard to the transfer of property, the VA rules state: "a gift of property made by an individual to a relative residing in the same household shall not be recognized as reducing the corpus of the grantor's estate. A sale of property to such a relative shall not be recognized as reducing the corpus of the seller's estate if the purchase price, or other consideration for the sale, is so low as to be tantamount to a gift. A gift of property to someone other than a relative residing in the grantor's household will not be recognized as reducing the corpus of the grantor's estate unless it is clear that the grantor has relinquished all rights of ownership, including the right of control of the property". (Authority: 38 U.S.C. 501(a))



## **Disability Benefit Payment Options**

VA offers three payment options to veterans eligible to receive disability benefit payments – whether it is Disability Compensation or Disability Pension. Most veterans receive their payments by direct deposit to a bank, savings and loan or credit union account. In some areas, veterans who do not have a bank account can open a federally insured Electronic Transfer Account, which costs about \$3 a month, provides a monthly statement and allows cash withdrawals. Other veterans may choose to receive benefits by check.

## **Healthcare Programs Available to Veterans**

The Department of Veteran's Affairs is required by law to provide eligible veterans hospital care and outpatient health care services that are defined as "needed." VA defines "needed" as care or service that will promote, preserve, and restore health. This includes treatment, procedures, supplies, or services. This decision of need will be based on the judgment of the individual's health care provider and in accordance with generally accepted standards of clinical practice.

Eligibility for VA health care is dependent upon a number of variables that may influence the final determination of the services for which veterans qualify. These factors include the nature of a veteran's discharge from military service (e.g., honorable, other than honorable, dishonorable), length of service, VA adjudicated disabilities (commonly referred to as service-connected disabilities), income level, and available VA resources among others. Generally, veterans must be enrolled in VA health care system to receive benefits offered in the Medical Benefits Package. To apply for VA health care benefits, including enrollment veterans must fill out an application. VA uses the application to determine whether the individual has qualifying service as a veteran and what the individual's veteran status is related to one of the priority groups for healthcare services.

There are 8 separate and distinct priority groups that the VA has established to determine who gets care first and what levels of care are provided. These categories are very complex and cannot be adequately explained in this unit. However, it is important to note that the top 4 priority groups are comprised of veterans with disabilities as is described below:

### Priority Group 1:

- Veterans with service-connected disabilities rated 50% or more disabling, or
- Veterans determined by VA to be unemployable due to service-connected conditions

### Priority Group 2:

- Veterans with service-connected disabilities rated 30% or 40% disabling

### Priority Group 3:

- Veterans with service-connected disabilities rated 10% or 20% disabling
- Veterans who are former POWs
- Veterans awarded the Purple Heart
- Veterans whose discharge was for a disability that began in the line of duty

- Veterans who are disabled because of VA treatment or participation in VA vocational rehabilitation program

Priority Group 4:

- Veterans who are receiving aid and attendance or housebound benefits
- Veterans who have been determined by VA to be catastrophically disabled

Overview of Veteran's Medical Benefits Package

Veterans are now eligible for a comprehensive health care package that is completely portable across the entire VA health care system. In October 1996, Congress passed the Veterans' Health Care Eligibility Reform Act of 1996. This legislation paved the way for the creation of a Medical Benefits Package - a standard enhanced health benefits plan generally available to all enrolled veterans. Like other standard health care plans, the Medical Benefits Package emphasizes preventive and primary care, offering a full range of outpatient and inpatient services. The Medical Benefits Package will generally be provided to all enrolled veterans regardless of priority group and the following basic services are included in this package:

- Outpatient medical, surgical, and mental health care, including care for substance abuse
- Inpatient hospital, medical, surgical, and mental health care, including care for substance abuse
- Prescription drugs, including over-the-counter drugs and medical and surgical supplies available under the VA national formulary system.
- Emergency care in VA facilities.
- Emergency care in non-VA facilities in certain conditions: This benefit is a safety net for veterans requiring emergency care for a service connected disability or enrolled veterans who have no other means of paying a private facility emergency bill. If another health insurance provider pays all or part of a bill, VA cannot provide any reimbursement. There are numerous conditions that must be met to qualify for payment or reimbursement for non-VA emergency care service.
- Bereavement counseling.
- Comprehensive rehabilitative services other than vocational services.
- Consultation, professional counseling, training, and mental health services for the members of the immediate family or legal guardian of the veteran.
- Durable medical equipment and prosthetic and orthotic devices, including eyeglasses and hearing aids.
- Home health services.
- Reconstructive (plastic) surgery required as a result of a disease or trauma but not including cosmetic surgery that is not medically necessary.
- Respite, hospice, and palliative care.
- Payment of travel and travel expenses for eligible veterans.
- Pregnancy and delivery service, to the extent authorized by law.

The VA Medical Benefits Package also includes coverage for certain preventative services such as:

- Immunizations
- Periodic medical exams
- Health care assessments
- Health education, including nutrition education
- Screening tests

VA cannot provide the following services:

- Abortions and abortion counseling
- Cosmetic surgery except where determined by VA to be medically necessary for reconstructive or psychiatric care
- Drugs, biologicals, and medical devices not approved by the FDA unless the treating medical facility is conducting formal clinical trials under an Investigational Device Exemption (IDE) or an Investigational New Drug (IND) application, or the drugs, biologicals, or medical devices are prescribed under a compassionate use exemption.
- Gender alteration
- Health club or spa membership
- In vitro fertilization
- Services not ordered and provided by licensed/accredited professional staff
- Special private duty nursing
- Hospital and outpatient care for a veteran who is either a patient or inmate in an institution of another government agency if that agency has a duty to give the care or services.

#### Overview of Cost and Out-of-Pocket Expenses:

Veterans are requested to provide health insurance information since the VA is required to submit claims to insurance carriers for treatment of all nonservice-connected conditions. Reimbursement received from insurance carriers is retained at the VA health care facility where treatment was received. These funds are used to provide additional health care services to all veterans.

Some of the healthcare services provided by the VA require that a copayment be paid by the veteran. Most nonservice-connected veterans and noncompensable 0% service-connected veterans are required to complete an annual “means test” or to agree to pay VA the applicable copayment. A means test is a gathering of financial information by which VA determines the priority group for enrollment, and whether or a veteran is required to make copayments for the service provided. The means test is based on prior year income and net worth. However, veterans can apply for an exemption from paying those copayments to avoid a hardship if projections of the income for the current year will be substantially below the applicable income threshold. A Hardship Determination is a process by which veterans enrolled in Priority Group 7 & 8 may request a change in their enrollment priority group if their projected income for the current year will be substantially lower than their income from the previous year. Circumstances that might warrant hardship determination would be the loss of employment, business bankruptcy, or out-of-pocket medical expenses

### *Types of Co-payments*

- Medication – Prescription copayment charges are established by Congress. The charge is \$8 for each 30 day or less supply of medications provided on an outpatient basis for nonservice-connected conditions. If the VA provides the treatment, necessary prescriptions will also be provided. Service-connected veterans rated 50% or more, service-connected veterans receiving medications for a service-connected condition, or nonservice-connected veterans who meet the low-income criteria are exempt from the prescription copayment. This income threshold changes annually.
- Outpatient – The copayments will be based on primary care visits (\$15) and specialty care visits (\$50).
- Inpatient – Congress determined the appropriate inpatient copayment should be the current inpatient Medicare Deductible Rate for the first 90 days that an individual remains in the hospital plus a \$10 per diem charge.
- Long Term Care – VA charges for Long Term Care Services vary by type of service provided and the individual veteran's ability to pay.

Whether or not a veteran has other forms of health insurance does NOT affect eligibility for VA health care benefits. If a veteran receives care for a nonservice-connected condition and has other health insurance, the other insurance carrier will be billed. VA does not bill health insurance carriers for VA-adjudicated service-connected disabilities. An adjudicated service-connected disability is one that VA has determined was incurred or aggravated in the line of active duty. The law requires VA to bill private health insurance companies for all nonservice-connected care a veteran receives. Additionally, any payment received from insurance carriers is applied to outstanding copayment debt. Veterans are NOT held responsible for any unpaid balance that the insurance carrier does not pay except for VA copayments. In addition, many insurance companies will apply VA health care charges toward the satisfaction of their annual deductible.

### Application and Enrollment for VA Medical Benefits

Veterans can apply for VA health care by completing VA form 10-10EZ. The 10-10EZ may be obtained by visiting, calling, or writing to any VA health care facility or veterans' benefits office. Veterans can also call toll-free 1-877-222-VETS (1-877-222-8387) or access the form online at <https://www.1010ez.med.va.gov/sec/vha/1010ez/Form/vha-10-10ez.pdf>

Veterans who fall into one of the following categories are NOT required to apply for VA healthcare:

- VA has rated the individual as 50% or more service-connected;
- Less than one year has passed since the veterans was discharged from military service for a disability that the military determined was incurred or aggravated in the line of duty, but VA has not yet rated; OR

- The individual is seeking care from VA for a service-connected disability only (even if the rating is only 0%).

Enrollment is an ongoing process and can be performed at any VA health care facility. Once enrolled, most veterans will remain enrolled from year to year without further action on their part. Veterans may choose not to be re-enrolled, or changes in VA available resources may reduce the number of priority groups VA can enroll in a given fiscal year. VA will announce any enrollment changes and then assure that they are widely publicized.

### Other Health Related Services Offered by VA

The VA offers numerous other health programs for special populations or conditions. This includes special programs for older veterans, programs for veterans diagnosed with HIV/AIDs, mental health services, and special healthcare initiatives for homeless veterans, among many other clinical programs. To find out more about these services go to <http://www1.va.gov/health/clinical.asp>

## **Vocational Rehabilitation and Employment (VR&E)**

In addition to the monetary benefits described above, the VA also offers a variety of services or programs to veterans who experience disability. The Vocational Rehabilitation and Employment Program assists veterans who have service-connected disabilities with obtaining and maintaining suitable employment. Independent living services are also available for veterans with severe disabilities who are not currently ready to seek employment. Additional information is available on the website at: <http://www.vba.va.gov/bln/vre..>. These benefits are also summarized in Module 1, Unit 3 of this manual.

To qualify for VR&E services, 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, and be discharged or released from military service under other than dishonorable conditions. Service members pending medical separation from active duty may also apply if their disabilities are reasonably expected to be rated at least 20 percent following their discharge.

Veterans approved for the VR&E program will work with a counselor to conduct the following activities:

- Identify all viable employment options.
- Narrow vocational options to identify an appropriate career goal.
- Explore the labor market information and wage information.
- Investigate training requirements.
- Identify physical demands.
- Develop an individualized vocational plan to achieve the career goal.

The vocational plan is an individualized, written, detailed outline of services that will be provided under the Chapter 31, Vocational Rehabilitation & Employment program. The following types of plans are available:

Individualized Employment Assistance Plan (IEAP)

- Outlines steps that will be taken to assist the veterans in obtaining employment
- Employment Assistance may be offered for up to 18 months

Individualized Extended Evaluation Plan (IEEP)

- Used to help determine if veterans are able to obtain and maintain employment
- Typically does not exceed 12 months

Individualized Written Rehabilitation Plan (IWRP)

- Outlines the training or education to be completed by the veteran which will lead toward a specific job goal
- May not exceed 48 months

Individualized Independent Living Plan (IILP)

- Outlines the steps needed to assist the veteran in becoming more independent in daily living within the family and community
- Independent living services usually do not exceed 24 months

Once a plan is developed, veterans with disabilities continue to work with a Case Manager whose role is to assist the individual to achieve his/her goal of gainful employment or independent living. The Case Manager coordinates assistance including:

- Tutorial assistance, when needed
- Medical and dental referrals
- Coordination of training allowance payments
- Counseling and support during training, employment, or independent living services

Depending on an individual's needs, services provided by VA may include:

- An evaluation of interests, aptitudes and abilities.
- Assistance with writing a resume and other job seeking skills.
- Assistance with obtaining and maintaining suitable employment.
- Vocational counseling and planning.
- On-the-job training and work-experience programs.
- Training, such as certificate, two, or four-year college or technical programs
- Supportive rehabilitation services and counseling.

Specialized employment services may also be provided by the Case Manager, Employment Specialist, and/or Disabled Veterans Outreach Placement Coordinator (DVOP) for eligible veterans. These services include:

- Job Placement Assistance and Placement follow-up support services
- Job Seeking Skills Training such as Interviewing Techniques and Resume Preparation
- Education of Employers regarding Tax Incentive Programs
- In some cases, Special Employment Programs including:
  - On-the-Job Training Placement
  - Non-Paid Work Experience Placement
  - Special Employer Incentive Placement

Generally, veterans must complete their VR&E program within 12 years from their separation from military service or within 12 years from the date VA notifies them that they have a compensable service-connected disability. Depending on the length of program needed, veterans may be provided up to 48 months of full-time services or their part-time equivalent. These limitations may be extended in certain circumstances.

In addition to receiving the monthly disability compensation payment, some veterans who are participating in training or education programs may also qualify for a monthly subsistence allowance. This is paid each month during training and is based on the rate of attendance (full-time or part-time), the number of dependents, and the type of training. Veterans training at the three-quarter or full-time rate may also participate in VA's work-study program. Work-Study participants may provide VA outreach services, prepare and process VA paperwork, and work at a VA medical facility or perform other VA-approved activities. A portion of the work-study allowance equal to 40 percent of the total may be paid in advance.

## **Specially Adapted Housing (SAH) Grants from VA**

Certain veterans and service members with service-connected disabilities may be entitled to a Specially Adapted Housing (SAH) grant from VA to help build a new specially adapted house or buy a house and modify it to meet their disability-related requirements. Eligible veterans or service members may now receive up to three grants, with the total dollar amount of the grants not to exceed the maximum allowable. Previous grant recipients who had received assistance of less than the current maximum allowable may be eligible for an additional SAH grant.

Eligible veterans who are temporarily residing in a home owned by a family member may also receive assistance in the form of a grant to assist the veteran in adapting the family member's home to meet his or her special needs. Those eligible for a \$50,000 total grant would be permitted to use up to \$14,000 and those eligible for a \$10,000 total grant would be permitted to use up to \$2,000. (See eligibility requirements for different grant amounts.) However, VA is not authorized to make such grants available to assist active duty personnel.

### Eligibility for up to \$50,000

VA may approve a grant of not more than 50 percent of the cost of building, buying, or adapting existing homes or paying to reduce indebtedness on a previously owned home that is being adapted, up to a maximum of \$50,000. In certain instances, the full grant amount may be applied

toward remodeling costs. Veterans and service members must be determined eligible to receive compensation for permanent and total service-connected disability due to one of the following:

1. Loss or loss of use of both lower extremities, such as to preclude locomotion without the aid of braces, crutches, canes or a wheelchair.
2. Loss or loss of use of both upper extremities at or above the elbow.
3. Blindness in both eyes, having only light perception, plus loss or loss of use of one lower extremity.
4. Loss or loss of use of one lower extremity together with (a) residuals of organic disease or injury, or (b) the loss or loss of use of one upper extremity which so affects the functions of balance or propulsion as to preclude locomotion without the use of braces, canes, crutches or a wheelchair.

#### Eligibility for up to \$10,000

VA may approve a grant for the cost, up to a maximum of \$10,000, for necessary adaptations to a veteran's or service member's residence or to help veterans and service members acquire a residence already adapted with special features for their disability. To be eligible for this grant, veterans and service members must be entitled to compensation for permanent and total service-connected disability due to either blindness in both eyes with 5/200 visual acuity or less, or anatomical loss or loss of use of both hands.

#### Supplemental Financing

Veterans and service members with available loan guaranty entitlement may also obtain a guaranteed loan or a direct loan from VA to supplement the grant to acquire a specially adapted home. Amounts with a guaranteed loan from a private lender will vary, but the maximum direct loan from VA is \$33,000.

### **Service-Disabled Veterans Insurance (S-DVI)**

Service-Disabled Veterans Insurance is life insurance for veterans who have received a service-connected disability rating by the Department of Veterans Affairs. The basic S-DVI program, commonly referred to as "RH Insurance", insures eligible veterans for up to \$10,000 of coverage. Veterans who have the basic S-DVI coverage and are totally disabled are eligible to have their premiums waived. If a waiver is granted, totally disabled veterans may apply for additional coverage of up to \$20,000 under the Supplemental S-DVI program. Premiums for Supplemental S-DVI coverage, however, cannot be waived. To be found eligible for S-DVI, an individual must:

- Have been released from service under other than dishonorable conditions on or after April 25, 1951;
- Have been notified by VA that they have a service-connected disability;



- Be healthy except for the service-related disability; and
- Apply within two years of being notified of your service-connected disability.

To be eligible for Supplemental S-DVI, an individual must:

- Have an S-DVI policy;
- Have the premiums on the basic coverage waived due to total disability;
- Apply within one year of being notified of the waiver; and
- Be under 65 years of age.

Veterans may be eligible for a waiver if they become totally disabled before the 65th birthday and remain disabled for at least six consecutive months. Premiums for Supplemental S-DVI can't be waived. The cost of the premiums varies depending upon age, type of plan (term or permanent), and the amount of coverage.

### **Assistance with Adapting an Automobile to Meet Disability Needs**

Veterans and service members with disabilities may be eligible for a one-time payment of not more than \$11,000 toward the purchase of an automobile or other conveyance if they have service-connected loss or permanent loss of use of one or both hands or feet, permanent impairment of vision of both eyes to a certain degree, or ankylosis (immobility) of one or both knees or one or both hips.

They may also be eligible for adaptive equipment, and for repair, replacement, or reinstallation required because of disability or for the safe operation of a vehicle purchased with VA assistance. To apply, contact a VA regional office at 1-800-827-1000 or the nearest VA medical center.

### **Annual Clothing Allowance for Veterans with Service-Connected Disabilities**

Any veteran who is service-connected for a disability for which he or she uses prosthetic or orthopedic appliances may receive an annual clothing allowance. The clothing allowance also is available to any veteran whose service-connected skin condition requires prescribed medication that irreparably damages his or her outer garments. To apply, contact the prosthetic representative at the nearest VA Medical Center.

### **Veterans Requiring Aid and Attendance or Housebound Veterans**

A veteran who is determined by VA to be in need of the regular aid and attendance of another person, or a veteran who is permanently housebound, may be entitled to additional disability compensation or pension payments. A veteran evaluated at 30 percent or more disabled is entitled to receive an additional payment for a spouse who is in need of the aid and attendance of another person.

## **Concurrent Retirement and Disability Payments (CRDP) for Disabled Veterans**

Concurrent Retirement and Disability Payments (CRDP) restores retired pay on a graduated 10-year schedule for retirees with a 50 to 90 percent VA-rated disability. Concurrent retirement payments increase 10 percent per year through 2013. Veterans rated 100% disabled by VA are entitled to full CRDP without being phased in. Veterans receiving benefits at the 100% rate due to individual unemployability are entitled to full CRDP in 2009. To qualify for concurrent retirement and disability payments, veterans must also meet all three of the following criteria:

- a. Have 20 or more years on active duty, or a reservist age 60 or older with 20 or more creditable years.
- b. Be in a retired status.
- c. Be receiving retired pay (must be offset by VA payments).

Retirees do not need to apply for this benefit. Payment is coordinated between VA and the Department of Defense (DOD).

## **How Employment Affects VA Disability Benefits**

The Disability Pension program is means-tested and earned income from employment would definitely impact a veteran's eligibility for this program as well as the amount of payment due each month. In the Disability Pension program, the VA will consider all income from sources such as wages, salaries, earnings, bonuses from employers, income from a business or profession or from investments or rents as well as the fair value of personal services, goods or room and board received in lieu thereof will be included. Furthermore, salary is not determined by "take-home" pay, but is based on "gross pay" before any deductions made under a retirement act or plan and amounts withheld by virtue of income tax laws.

In the case of self-employment, the gross income from a business or profession may be reduced by the necessary operating expenses, such as cost of goods sold, or expenditures for rent, taxes, and upkeep. Depreciation is not a deductible expense. The cost of repairs or replacement may be deducted. The value of an increase in stock inventory of a business is not considered income. A loss sustained in operating a business, profession, or farm or from investments may not be deducted from income derived from any other source.

Disability Pension is reduced dollar for dollar for any income that is deemed countable under the VA rules. For example, if a veteran was entitled to a Disability Pension in the amount of \$400 per month and went to work earnings \$300 in gross wages per month, the Disability Pension would be reduced one dollar for each of the 300 dollars received in wages. The reduced Disability Pension payment would be \$100. Veterans receiving disability pension are required to report all income to the VA.

Disability Compensation benefits are not means-tested so they are not affected by income or resources. Neither wages nor net income from self-employment affects Disability

Compensation payments in the sense that in and of themselves they would cause a reduction or “offset” in the VA payment amount. Other forms of income (not related to employment) and assets are also not taken into consideration by the Disability Compensation program and have no impact on benefit eligibility or amount of monthly payment.

### Impact of Employment on Disability Rating

While wages do not cause a reduction in Disability Compensation payments per se, it is critically important to understand that a veteran’s disability rating is related to his/her ability to work and earn a living. As the reader will recall from the section describing the VA disability evaluation system, the percentage “rating” assigned to an individual is directly related to the impact which the disability is expected to have on that individual’s earnings capacity. The lower the rating, the less the disability is expected to diminish the earnings capacity of the individual; the higher the rating, the more the disability is expected to diminish earnings capacity. It is reasonable to expect, therefore, that individuals who go back to work after the VA establishes their disability rating evaluation may need to be re-examined or re-evaluated - especially if the individual engages in “substantially gainful employment”. This level of employment is defined in rather vague terms in the VA disability benefit manual in the following manner:

*“Substantially gainful employment is defined as employment at which non-disabled individuals earn their livelihood with earnings comparable to the particular occupation in the community where the veteran resides.” (M21-1MR Part IV, Subpart ii, Chapter 2, Section f)*

The question then becomes one of how often the VA checks to see if veterans receiving disability benefits are working and how they determine when an individual is engaging in “substantially gainful employment”. First of all, there are some veterans who are NOT monitored at all for changes in employability status, including those who:

- Are 69 years of age or older;
- Have been rated totally disabled due to individual unemployability for a period of 20 continuous years, or
- Are assigned a 100 % schedular evaluation.

This means that employment even at a substantial level would not cause a reduction of disability rating for veterans who are elderly (defined by VA as 69 or older), those who have been determined to have total disability due to individual unemployability (IU) for an extended period of time (20 or more years), or who have a designation of total disability due to a 100% disability rating. Obviously this would also include those individuals who have been determined to have a permanent and total disability. These individuals are in effect “protected” from having their disability rating reduced and thus are not at risk of losing monetary benefits due to employment. It seems that veterans who are possibly at risk of experiencing a disability rating reduction caused by employment are those who have less than 100% disability rating and those who have had a total disability rating on the basis of individual unemployability (IU) for less than 20 years.

It is quite possible that these individuals would have their disability rating reevaluated by the VA if they engage in substantial employment on an ongoing basis.

When the VA conducts an evaluation of employment, they are looking to see whether or not the veteran is working in a substantially gainful occupation as defined above. Low levels of employment, which the VA describes as “marginal employment” would not be sufficient to reduce the disability rating. Marginal employment exists when a veteran’s earned annual income does not exceed the amount established by the U.S. Department of Commerce, U.S. Census Bureau, as the poverty threshold for one person. Even when earned annual income does exceed the poverty threshold, it may still not represent substantially gainful employment if the employment occurred in a protected environment, such as a family business, or a sheltered workshop, or when supported employment services are being provided.

Furthermore, effective January 1, 1985, a veteran’s total disability rating based on IU may not be reduced solely on the basis of having secured a substantially gainful occupation unless the veteran maintains that occupation for a period of 12 consecutive months. Temporary interruptions in employment that are of short duration are not considered breaks in otherwise continuous employment.

Finally, the fact that a veteran is either participating in a program of rehabilitation or has completed such a program and is “*rehabilitated*” would not automatically preclude a finding of IU. The Federal regulations state that caution must be exercised in determining that actual employability is established by clear and convincing evidence. When the veteran is undergoing vocational rehabilitation, education or training, the disability rating will not be reduced unless there is evidence of marked improvement or recovery in physical or mental conditions or evidence of employment progress, income earned, and prospects of economic rehabilitation, which demonstrates affirmatively the veteran’s capacity to pursue the occupation for which the training is intended, or unless the physical or mental demands of the course are obviously incompatible with total disability. Neither participation in, nor the receipt of remuneration as a result of participation in, a therapeutic or rehabilitation activity shall be considered evidence of employability. (Authority: 38 U.S.C. 1718(f))

The Federal regulations go on to state that if a veteran secures employment within the scope of a vocational goal identified in the individualized written VR plan (or in a related field), the VA may not reduce the disability rating by reason of the veteran’s capacity to engage in such employment until the veteran has maintained that employment for a period of not less than 12 consecutive months. (Authority: 38 U.S.C. 1524(c))

If a reexamination of disability or employability status is conducted by the VA and the lower evaluation would result in a reduction or discontinuance of disability payments currently being made, a rating proposing the reduction or discontinuance is prepared which sets forth all material facts and reasons. The veteran is notified in writing of the VA’s planned action and all of the reasons and details are furnished in this correspondence. The individual will be given 60 days for the presentation of additional evidence to show that compensation payments should be continued at their present level. If the individual does not provide additional evidence to the VA within the 60 day period, final rating action will be taken and the award will be reduced or

discontinued effective the last day of the month in which a 60-day period from the date of notice to the beneficiary of the final rating action expires. This process is the same regardless of whether the individual receives VA Disability Compensation or Pension.

Determinations of substantially gainful employment are intended to be highly individualized and will depend greatly on the unique circumstances of the veteran. VA Ratings Specialists are directed to consider a wide variety of factors and have clear and convincing evidence before pursuing a reduction in disability rating. Due to the somewhat subjective nature of these determinations, it may be impossible to predict exactly when an individual will be considered to be in a substantially gainful occupation. Veterans and the WIPA projects serving them are encouraged to seek a formal determination from the local VA in these cases.

## **Interaction of SSA and Veteran’s Disability Benefits**

It is possible for certain veterans to receive both a form of disability benefit payment from VA as well as from the Social Security Administration. Since certain benefits within both of these systems are means-tested (SSI and Disability Pension) it is possible for receipt of one form of benefit to affect eligibility for or payment amount due from the other system. The rules governing how each of the two systems view benefits from the other can be very complex. We have afforded a general summary below, but when in doubt a formal determination will have to be sought from the VA or SSA accordingly.

NOTE: Military service members can receive expedited processing of disability claims from the Social Security Administration. The expedited process is used for military service members who become disabled while on active military service on or after October 1, 2001, regardless of where the disability occurs. For information about SSA benefits developed specifically to meet the needs of veterans go to: <http://www.ssa.gov/woundedwarriors/>. SSA also has produced several publications on SSA benefits for wounded warriors. These may be found online at: <http://www.ssa.gov/pubs/10030.html>, and <http://www.ssa.gov/pubs/10131.html>.

### SSA Beneficiaries who also Receive Veterans Benefits

As described above, veterans with disabilities in some instances may also be eligible for Social Security Administration (SSA) benefits. Kregel (2008) recently studied the employment and benefit status of 2,943 veterans receiving both Veterans Benefits and SSA benefits served through the SSA funded national network of Benefits Planning Assistance and Outreach (BPAO) Programs. The self-reported primary disabilities of individuals served from 2000 to 2006 through the national BPAO initiative are identified in the Table below.

<b>Primary Disability of Beneficiaries Served by BPAO Programs who also Reported Receiving Veterans Benefits</b>		
<b>Disability</b>	<b>Frequency</b>	<b>Percent</b>
Visual Impair	70	2.4%
Hearing / Speech	23	0.8%

SCI	197	6.7%
Orthopedic Disability	432	14.7%
Mental / Emotional	1038	35.3%
Cognitive Disorder	71	2.4%
System Diseases	670	22.7%
TBI	109	3.7%
Other	189	6.4%
Infectious Diseases	41	1.4%
Cancer / Neoplasm	8	0.3%
Unknown	95	3.2%
Total	2,943	100%

Over one-third (35%) of the beneficiaries were individuals with mental/emotional disorders, including PTSD. Persons with SCI or an orthopedic disability accounted for nearly one-fourth (21.4%) of the sample. The next group of individuals systems diseases, which included persons with chronic health problems such as cardiac, pulmonary, or other conditions.

The results provided by a review of the BPAO data highlight many of the challenges faced by veterans attempting to improve their economic self-sufficiency. Key findings included:

VCU National BPAO Database Individuals Receiving Both Veterans Benefits and SSA Benefits Summary Findings N = 2,943	
Item	Percentage
<b>Health Care Coverage</b>	
Medicare	65%
Medicaid	21%
Private Health Insurance	8%
<b>Employment Status</b>	
Employed Full Time	3%
Employed Part Time	12%
Not Employed – Seeking Employment	71%
Not Employed – Not Seeking Employment	14%
<b>Educational Status</b>	
Plans to Seek Additional Education or Vocational Training	22%
<b>Services Provided by Benefits Planning Agency</b>	
Required Intensive Benefit Support Services	52%
Received Information and Assistance in the Use of SSA Work Incentives	71%

Many veterans reported that access to federal Medicare and Medicaid was a significant source of the financial support needed to address their health care needs. Over 65% of veterans receiving SSA benefits reported receiving Medicare and 21% reported receiving Medicaid. Only 8% indicated that they received private health insurance.

The veterans seeking benefits planning and support services reported only a marginal attachment to the workforce. Only 15% of the veterans were employed full or part-time at the point of contacting the Benefits Planning and Assistance program. However, many veterans were interested in procuring employment or furthering their education. Nearly three-fourths of the veterans (71%) reported that they were presently unemployed, but seeking employment. Nearly a quarter 22% indicated that they intended to pursue additional education or vocational training.

Many of the veterans seeking benefits planning services required extensive services and supports. Over half (52%) received three or more hours of intensive benefits services from the Benefits Planning and Assistance Program. Nearly three-fourths (71%) received direct information and assistance in the use of specific SSA work incentives.

The experiences of the veterans receiving services from the SSA funded national network of Benefits Planning and Assistance projects should not be viewed as representative of all Veterans, particularly more recent OEF/OIF veterans. At the same time, the findings of the Kregel (2008) study illustrate the significant levels of unemployment among the veterans population, the extent to which many veterans may be eligible for and receive other federal or state benefits based on their disability, and many veterans may require intensive services and supports to utilize all available work incentives to pursue their employment and educational goals.

#### How SSA Disability Benefits are affected by VA Disability Benefits

SSA disability benefits paid under title II (SSDI, CDB, DWB) are generally offset by other forms of Public Disability Benefits (PDB) which means that SSA reduces the monthly payment when other forms of disability benefits are received from a public (i.e.: governmental) source. While some forms of military disability benefit or a military retirement pension based on disability may be subject to this offset, SSA does not count Veterans Administration (VA) benefits (including Agent Orange payments) paid under title 38 U.S.C. This exclusion covers payments received under both the Disability Compensation and Disability Pension programs described in this unit. These VA disability benefits are specifically excluded from offset by law. (For more information, see DI 52001.060 Military Public Disability Benefits.)

The SSI program is means-tested and in most cases, eligibility for SSI and/or the SSI payment amount would be affected by receipt of VA disability benefits. In general, VA disability payments would be counted as a form of unearned income for SSI purposes. VA Disability Compensation benefits would count as unearned income with only the \$20 general income exclusion available to reduce the amount of this benefit that SSI would count. However, the SSI program specifically disregards any portion of a VA Disability Compensation payment that is a VA Aid and Attendance Allowance or Housebound Allowance as well as Compensation payments resulting from unusual medical expenses. In addition, there are certain special Disability Compensation benefits paid on the basis of a Medal of Honor or a special act of Congress that are also NOT counted as income at all by the SSI program.

VA Disability Pension payments are federally funded income based on need. As such, SSI treats these payments as unearned income to which the \$20 general income exclusion does NOT apply. Again, SSI disregards VA pension payments resulting from Aid and Attendance or Housebound

Allowances and VA pension payments resulting from unusual medical expenses. All or part of a VA pension payment may be subject to this rule.

The SSI program has numerous rules governing the treatment of other VA benefits provided on the basis of disability. The following items are specifically excluded as income by the SSI program in addition to the aid and attendance or housebound allowances and VA pension payments resulting from unusual medical expenses:

- Vocational Rehabilitation — Payments made as part of a VA program of vocational rehabilitation are not income (VR&E). This includes any augmentation for dependents.
- VA clothing allowance

For more information about how SSI treats specific forms of VA benefit, refer to POMS SI 00830.300 - Department of Veterans Affairs Payments.

#### How VA Disability Benefits are Affected by SSA Disability Benefits:

The VA Disability Compensation program is not means-tested so it would not be affected in any way by receipt of a Social Security benefit of any type. Military service members with disabilities are actively encouraged to apply for disability benefits available from the SSA in addition the VA benefits.

The VA Disability Pension programs are based on need and eligibility for these benefits as well as the amount of the monthly payment may be affected by receipt of SSA disability benefits. Retirement, survivors and disability insurance under title II of the Social Security Act will be considered income for the purposes of VA Disability pension. Remember that VA reduces pension payments using a dollar-for-dollar approach. Every dollar of SSA title II benefit received will result in a dollar being taken away from the VA Pension payment. However, the VA Pension program does NOT count SSI payments as income. SSI is considered to be a benefit received under a “noncontributory program” (i.e.: a form of welfare) that is subject to the rules applicable to charitable donations.

## **The VA Appeals Process**

An appeal is a request for a review of a VA determination on a claim for benefits issued by a local VA office. Anyone who has filed a claim for benefits with VA and has received a determination from a local VA office is eligible to appeal to the Board of Veterans' Appeals. The Board of Veterans' Appeals (also known as "the BVA" or "the Board") is a part of the Department of Veterans Affairs (VA), located in Washington, D.C. "Members of the Board" review benefit claims determinations made by local VA offices and issue decisions on appeals. These Board members, attorneys experienced in veterans' law and in reviewing benefit claims, are the only ones who can issue Board decisions. Staff attorneys, referred to as Counsel or Associate Counsel, are also trained in veterans' law. They review the facts of each appeal and assist Board members.



Individuals may file an appeal up to one year from the date the local VA office mails its initial determination on the claim. After that, the determination is considered final and cannot be appealed unless it involved clear and unmistakable error by VA. Veterans may appeal any determination issued by a VA regional office (RO) on a claim for benefits. Some determinations by VA medical facilities, such as eligibility for medical treatment, may also be appealed to the Board. Veterans may appeal a complete or partial denial of a claim or may appeal the level of benefit granted.

No special form is required to begin the appeal process. All that's needed is a written statement that the individual disagrees with the local VA office's claim determination and wants to appeal this decision. This statement is known as the Notice of Disagreement, or NOD. Normally, a veteran files the appeal with the same local VA office that issued the original decision since this is where the individual's claims file (also called a claims folder) is kept.

Veterans who are appealing a determination made by the VA should submit any evidence that supports their argument that the original determination was wrong. This evidence could include records from recent medical treatments or evaluations or anything else that the veteran feels supports their contentions. If the individual wants the Board to consider the new evidence without sending the case back to the local VA office, a written statement to this effect should be included in the letter requesting the appeal. If this statement is neglected, a considerable delay may occur as the information will be sent back to the local VA office to consider.

Help preparing and submitting an appeal can be obtained from a veterans' service organization (VSO) representative, an attorney-at-law, or an "agent". Representatives who work for accredited veterans' service organizations know how to prepare and present claims and will represent veterans. A listing of these organizations is available on the Internet at: <http://www.va.gov/vso>. Veterans may also hire private attorneys or "agents" to represent them in the appeals process. The local bar association may be able to provide a list of attorneys with experience in veterans' law. VA only recognizes attorneys who are licensed to practice in the United States or in one of its territories or possessions. An agent is a person who is not a lawyer, but who VA recognizes as being knowledgeable about veterans' law.

For more information about appeal rights, how to submit and appeal and a user-friendly guide to the VA Appeals Process, go to <http://www.va.gov/vaforms/va/pdf/VA4107c.pdf>

## **State Veterans Benefits**

Many states offer special benefits to veterans in addition to the benefits available from the Federal government. These benefits may include educational grants and scholarships, special exemptions or discounts on fees and taxes, home loans, veteran's homes, free hunting and fishing privileges, and more. Each state manages its own benefit programs. The following is a list of links to the websites for each of the individual states that offer veterans benefits. Be sure to take advantage of the benefits you have earned by clicking on the link to your State Department of Veterans Affairs: <http://www.military.com/benefits/veteran-benefits/state-veterans-benefits-directory>

## **Conclusion**

The benefits available to veterans who experience disability are numerous and complex. The DoD and VA benefit systems are fully as complicated as the Social Security disability system and in many instances, veterans receive benefits from both of these enormous systems. CWICs must investigate eligibility for the various types of benefits and encourage veterans to apply for all programs for which they are potentially eligible. In addition, CWICs must carefully verify which benefits are received from both the DoD/VA and the SSA systems before offering any specific advice about how employment might affect these benefits.

## **Conducting Independent Research**

Federal Benefits for Veterans and Dependents” – a VA publication  
<http://www1.va.gov/opa/vadocs/fedben.pdf>

A Handbook for Injured Service Members and Their Families  
<http://www.fallenheroesfund.org/common/page.php?ref=familyinfo>

Veterans Benefits Administration Website  
<http://www.vba.va.gov/>

Veterans Benefits Explained – Military.com Website  
<http://www.military.com/benefits/veteran-benefits/veterans-benefits>

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