

Handout List for Accreditation Class

1. **The VA Claims Process**
2. **The VA Adjudication Process**
3. **Benefits for Service-Connected Veterans**
4. **38 CFR References**
5. **Evaluating a Rating Decision**
6. **VA Exam Worksheet**
7. **Info NOT at NPRC**

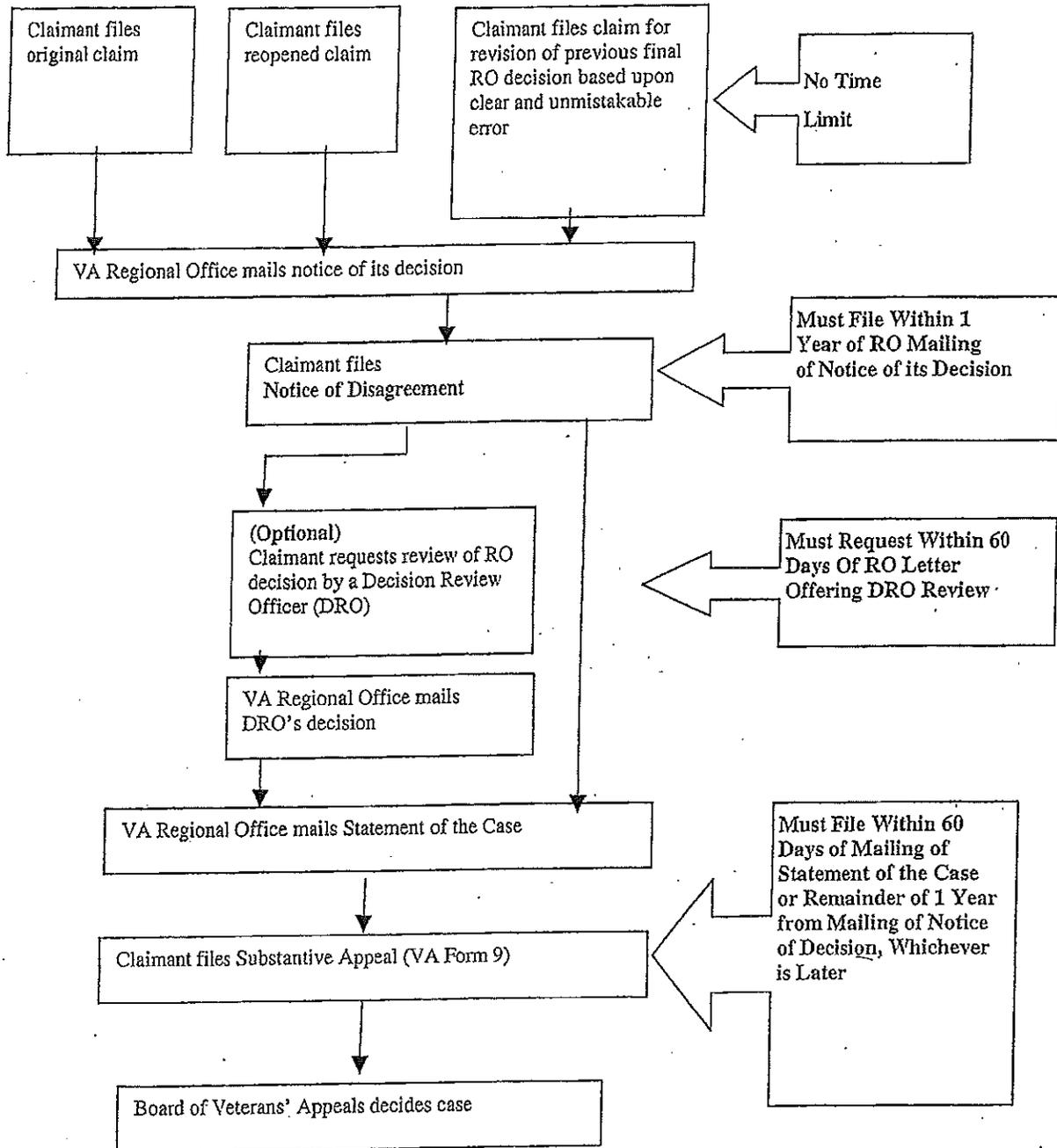
The VA Claims Process For County Veterans Service Officers

This is a brief explanation of how claims for benefits from the U.S. Department of Veterans Affairs, the VA, are typically filed.

1. The veteran contacts your office
2. The veteran is interviewed
 - What diagnosed disability(ies) does the veteran have?
 - What un-diagnosed disability(ies) does the veteran think he/she has?
 - Does the veteran have a DD214 or separation document or a certified copy?
 - Is the veteran being treated?
 - If yes, who is treating?
 - If it's not the VA, can we get the records?
 - If no, let's get the veteran to the VA for treatment
3. The VA Forms are completed and the claim is filed
4. The Veterans Service Organizations role...
 - We strongly recommend you complete a VAF 21-22 to the Veterans Service Organization (VSO) of the veteran's choice if your state permits. This gives you an "in" at the VA Regional Office where the claim will be mailed.
5. The VA will send a 'Duty to Assist" letter to the claimant
6. Help the claimant answer the "DTA" letter as necessary
 - Is there more evidence?
 - Who is going to get it?
7. The claim will be granted or denied or some combination
8. Review the Rating Decision
9. If you agree and the claimant is happy – you're done!
10. If you don't agree and/or the claimant is not happy – start the appeal process
11. The NOD
12. DRO Review time limits – 60 days from date of denial
13. SOC
14. More evidence
15. SSOC
16. Personal Hearing
17. VAF 9 Substantive Appeal
18. BVA decision
19. If you agree and the claimant is happy – you're done!
20. If you don't agree and/or the claimant is not happy – consider an appeal to the Court of Appeals for Veterans Claims

OVERVIEW OF THE VA ADJUDICATION PROCESS

ACTIVITY
TIME LIMITS



BENEFITS FOR SERVICE-CONNECTED VETERANS

0% to 20%:

- Vocational Rehabilitation and Counseling under Title 38 USC Chapter 31 (vet must be at least 10%)
- Service Disabled Veterans Life Insurance; must be filed within two years from the date of establishing a NEW service-connection.
- Annual clothing allowance(s) for veterans who use or wear a prosthetic or orthopedic appliance(s) (artificial limb, brace, or wheelchair) or use a prescribed medication for a service-connected skin condition that tends to wear, tear, or soil clothing.
- Temporary total evaluation (100%) based on hospitalization for a service-connected disability in excess of 21 days; or surgical treatment for a service-connected disability necessitating at least one month of convalescence or immobilization by cast, without surgery of one or more major joints.
- Ten point Civil Service preference (10 points added to Civil Service Test score).

30%: In addition to the above:

- Additional allowance for dependent spouse, children, step-children, helpless children, full-time students between the ages of 18 and 23 and parents.
- Additional allowance for a spouse who is a patient in a nursing home or helpless or blind or so nearly helpless or blind as to require the regular aid and attendance of another person.

40%: In addition to the above:

- Automobile grant and/or special adaptive equipment for an automobile provided there is loss or permanent loss of use of one or both feet, loss or permanent loss of use of one or both hands, or permanent impaired vision of both eyes with central visual acuity of 20/200 or less in the better eye.
- Special adaptive equipment may also be applied for if there is ankylosis of one or both knees or one or both hips.

50%: In addition to the above:

- VA medical outpatient treatment for any condition except dental
- Hospital care and medical services in a non-VA facility under an authorized fee basis agreement.

60% to 90%: In addition to the above:

- Increased compensation (100%) based on Individual Unemployability (applies to veterans who are precluded from gainful employment due only to service-connected disabilities).

100%: In addition to the above:

- Dental treatment at the VA Medical Center.
- Waiver of National Service Life Insurance premiums
- Option of additional \$20,000.00 'S-DVI' Life Insurance
- Specially adapted housing for veterans who have loss or permanent loss of use of both lower extremities or blindness in both eyes having only light perception plus loss or permanent loss of use of one lower extremity or the loss or permanent loss of use of one lower extremity with the loss or permanent loss of use of one upper extremity or the loss or permanent loss of use of one extremity together with an organic disease which affects the function of balance and propulsion as to preclude locomotion without the aid of braces, crutches, canes, or wheelchair.
- Special home adaptation grant (for veterans who don't qualify for specially adapted housing) may be applied for if the veteran is permanently and totally disabled due to blindness in both eyes with visual acuity of 5/200 or less or the permanent loss of use of both hands.
- Department of Defense Commissary privileges.

100%: Permanent and Total: In addition to the above:

- Civilian Health and Medical Program for dependents and survivors (CHAMPVA).
- Survivors and dependents education assistance under Title 38 USC Chapter 35.

STATE BENEFITS: (Ohio as an example)

- Free motor vehicle license plates for veterans who have been awarded the automobile grant by the VA, or who are receiving compensation at the 100% rate, including individual unemployability, former POW's.
- Free hunting license, trapping permit, deer permit, turkey permit, state wetland habitat stamp, fishing license for veterans with an Ohio disabled veteran license plate, former POW's, permanent and totally disabled veterans in receipt of compensation or pension.
- Exemption from fees for camping at State Parks for veterans with an Ohio disabled veteran license plate, former POW's, permanent and total veterans in receipt of compensation or pension.
- Exemption from boat trailer registration fees and taxes for Medal of Honor recipients, permanent and totally disabled veterans in receipt of compensation or pension, veterans who have been awarded the automobile grant, former POW's.
- Exemption from registration fees for watercraft such as motorboats, sailboats, canoes, kayaks, rowboats, inflatable watercraft for Medal of Honor recipients, veterans entitled to receive compensation at the 100% rate, veterans who have been awarded the automobile grant, former POW's.
- Ohio War Orphans Scholarship Program. Dependents must be under the age of 21. Veteran must be rated at 60% or more by the VA. Must be Ohio resident for four of the last ten years. Tuition is free.

38 Code of Federal Regulations References

Background

- 3.102 – Reasonable doubt
- 3.103 – Procedural due process and appellate rights

- 38 USC 5107 – Claimant responsibility; benefit of the doubt

Service Connection

Direct

- 3.303 – Principles relating to service connection
- 3.304 – Direct service connection; wartime and peacetime

Presumptive

- 3.307 – Presumptive service connection for chronic, tropical or prisoner-of-war related disease, or disease associated with exposure to certain herbicide agents; wartime and service on or after January 1, 1947
- 3.309 – Disease subject to presumptive service connection
- 3.311 – Claims based on exposure to ionizing radiation
- 3.313 – Claims based on service in Vietnam

Aggravation

- 3.306 – Aggravation of pre-service disability
- 3.310(a) – Aggravation

Secondary

- 3.310 – Proximate results, secondary conditions

SC Death

- 3.22 – DIC benefits for survivors of certain veterans rated totally disabled at time of death
- 3.312 – Cause of death

Evaluation

- 3.321 – General Rating Considerations
- 4.1 – Essentials of evaluative rating
- 4.7 – Higher of two evaluations
- 4.10 – Functional impairment
- 4.21 – Application of rating schedule
- 4.45(f) – Pain on movement

Pension

- 3.321(b)(2) – General Rating Considerations; Exceptional cases, Pension
- 4.16 – Total disability ratings for compensation based on unemployability of the individual
- 4.17 – Total disability ratings for pension based on unemployability and age of the individual

Special Monthly Compensation (SMC)

- 3.351 – Special monthly dependency and indemnity compensation, death compensation, pension and spouse's compensation ratings
- 3.352 – Criteria for determining need for aid and attendance and "permanently bedridden"

Re-opened Claim

- 3.104 – Finality of decisions
- 3.156 – New and material evidence

Effective Dates

- 3.155 – Informal Claims
- 3.157 – Report of examination or hospitalization as claim for increase or to reopen
- 3.400 – General

Miscellaneous

- 3.105 – Revision of Decisions
- 3.323 – Combined Ratings
- 3.324 – Multiple non-compensable service-connected disabilities
- 3.358 – Compensation for disability or death from hospitalization, medical or surgical treatment, examinations or vocational rehabilitation training
- 3.385 – Disability due to impaired hearing
- 3.551(e)(2) – Pension reduced to \$90.00

Tips for Evaluating the Rating Decision

- Are the issues on the rating the issues that the veteran thinks he/she claimed?
- Did VA correctly interpret the basis of the veteran's claim?
- Is there an explanation of issues consolidated or not considered?
- Is every significant item of evidence listed in the EVIDENCE section?
- Is the relevant evidence addressed in the rating?
- Is there a reference to evidence VA requested but didn't get, or examinations ordered but not completed?
- For Presumptive conditions, is there a statement about the absence of findings during the presumptive period?
- Is the assigned evaluation explained?
- Are the requirements for a higher evaluation set out?
- Is the effective date explained?
- If there are citations to 38 USC, 38 CFR, or CAVC cases, is the application to this case explained?
- Can you look it up if you need to?
- If the answer is "No", does the rating explain the denial?
- Does the rating as a whole make sense?

....Example Only....

JOINTS (SHOULDER, ELBOW, WRIST, HIP, KNEE, AND ANKLE) Examination

Changed 05/10/2005

Name: SSN:

Date of Exam: C-number:

Place of Exam:

A. Review of Medical Records:

B. Medical History Subjective Complaints:

Comment on:

1. Pain, weakness, stiffness, swelling, heat and redness, instability or giving way, "locking," fatigability, lack of endurance, etc.
2. Treatment - type, dose, frequency, response, side effects.
3. If there are periods of flare-up of joint disease:
 - a. State their severity, frequency, and duration.
 - b. Name the precipitating and alleviating factors.
 - c. State to what extent, if any, *per veteran*, they result in additional limitation of motion or functional impairment during the flare-up.
4. Describe whether crutches, brace, cane, corrective shoes, etc., are needed.
5. Describe details of any surgery or injury.
6. Describe any episodes of dislocation or recurrent subluxation.
7. For inflammatory arthritis, describe any constitutional symptoms.
8. Describe the effects of the condition on the veteran's usual occupation and daily activities.
9. Dominance of extremity and means used to identify dominant extremity.
10. If there is a prosthesis, provide date of prosthetic implant and describe any complaint of pain, weakness, or limitation of motion. State whether crutches, brace, etc., are needed.

C. Physical Examination (Objective Findings):

Address each of the following as appropriate to the condition being examined and fully describe current findings: *A detailed assessment of each affected joint is required, including joints with prostheses.*

1. Using a goniometer, measure the passive and active range of motion, including movement against gravity and against strong resistance. Provide range of motion in degrees.
2. If the joint is painful on motion, state at what point in the range of motion pain begins and ends.
3. Describe presence or absence of: pain (including pain on repeated use); fatigue; weakness; lack of endurance; and in-coordination.
4. Describe objective evidence of painful motion, edema, effusion, instability, weakness, tenderness, redness, heat, abnormal movement, guarding of movement, etc.
5. For weight bearing joints (hip, knee, ankle), describe gait and functional limitations on standing and walking. Describe any callosities, breakdown, or unusual shoe wear pattern that would indicate abnormal weight bearing.

6. If ankylosis is present, describe the position of the bones of the joint in relationship to one another (in degrees of flexion, external rotation, etc.), and state whether the ankylosis is stable and pain free.
7. If indicated, measure the leg length from the anterior superior iliac spine to the medial malleolus.
8. For *inflammatory arthritis*, describe any constitutional signs.
9. Describe range of motion with prosthesis in same detail as described above for nonprosthetic joints.

D. Normal Range of Motion: All joint Range of Motion measurements must be made using a goniometer. Show each measured range of motion separately rather than as a continuum. For example, if the veteran lacks 10 degrees of full knee extension and has normal flexion, show the range of motion as extension to minus 10 degrees (or lacks 10 degrees of extension) and flexion 0 to 140 degrees.

.....

2. Knee range of motion:

a. Normal range of motion, using the anatomical position as zero degrees.

Flexion = 0 to 140 degrees.

Extension - zero degrees = full extension. Show loss of extension by describing the degrees in which extension is not possible. (e.g., Show range of motion as extension to minus 10 degrees and flexion 0 to 140 degrees when full extension is limited by 10 degrees and full flexion is possible.)

b. **Stability.**

Medial and Lateral Collateral Ligaments: Varus/valgus in neutral and in 30 degrees of flexion - normal is no motion.

Anterior and Posterior Cruciate Ligaments: Anterior/posterior in 30 degrees of flexion with foot stabilized - normal is less than 5 mm. of motion (1/4 inch - Lachman's test) or in 90 degrees of flexion with foot stabilized - normal is less than 5mm. of motion (1/4 inch - anterior and posterior drawer test).

Medial and Lateral Meniscus: Perform McMurray's test.

1. Do any of the above factors additionally limit joint function? If so, express the additional limitation in degrees.

2. Indicate if you cannot determine, without resort to mere speculation, whether any of these factors cause additional functional loss. For example, indicate if you would need to resort to mere speculation in order to express additional limitation due to flare-ups.

Signature: Date:

Frequently Requested Records Which Are NOT at the National Personnel Records Center

1. Department of Veterans Affairs (VA) records.
2. Pay records. If available at all, these would be at the various Department of Defense Finance Centers.
3. Records of veterans that have been separated from active service but have reserve status, either active or inactive. Contact the Reserve Component of the appropriate branch of service.
4. Records of veterans who have been discharged, retired, or who died in service since 1995 (Navy), 1999 (Marine Corps), or 2005 (Air Force). Contact the Personnel Center or Headquarters of the appropriate branch of service. The Army also has not retired records of veterans who have been discharged, retired, or who died in service since October 1, 2002, but the National Personnel Records Center has access to those records and will service your requests.
5. Records of members currently in the National Guard. Contact the Adjutant General's office of the appropriate state. The National Guard Bureau website contains additional information.
6. Records of former National Guard members who were not called into active federal service. Contact the Adjutant General of the state in which the member served.
7. Selective Service Records.
8. Most active duty health records have not been retired to NPRC (MPR) since the dates in the chart below. Those records are managed by the Department of Veterans Affairs (VA), Records Management Center, 4360 Goodfellow Blvd. Bldg. 104, St. Louis, Mo. 63120-8950. Call the VA toll free number at

1-800-827-1000 to identify the current location of specific health records and to find out how to obtain releasable documents or information.

Branch	Status	Health Record To VA
Army	Discharged, retired, or separated from any component	October 16, 1992
Air Force	Discharged, retired, or separated from Active Duty, Discharged or retired from Reserve or Air National Guard	May 1, 1994 June 1, 1994
Navy	Discharged, retired, or separated from any component	January 31, 1994
Marine Corps	Discharged, retired, or separated from any component	May 1, 1994
Coast Guard	Discharged, retired, or separated from Active Duty - Reservists with 90 days active duty for training	April 1, 1998