

THE VA DISABILITY COMPENSATION PROGRAM: WHAT PROVIDERS SHOULD KNOW

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What you don't know about the Veterans Benefits Administration's compensation and pension process could hurt your patients—through missed opportunities to provide support and to recognize particular stressors affecting your patients' health.

In the United States, over 14% of the estimated 25.5 million living veterans have at least one disability related to their military service.¹ For most such disabilities, veterans and their dependents can receive monthly financial compensation from the Veterans Benefits Administration (VBA), along with other benefits. At the beginning of fiscal year 2003, the VBA calculated its total annual disability compensation payments

at over \$17 billion.² Furthermore, the number of veterans added to the disability compensation program has risen sharply, with 81,426 and 147,686 new recipients in fiscal years 2001 and 2002, respectively.²

The process of applying for VBA disability compensation for conditions related to military service (“service-connection”) often is a long and confusing one for veterans. The definitive source of information on the VA disability program—Title 38 of the Code of Federal Regulations (CFR)—is difficult for anyone outside the legal profession to decipher. And according to a 2001 VBA satisfaction survey, only about half of veterans who filed disability claims said that the claims process had been explained to them and that they understood it reasonably well.³ This rate may be even lower among veterans with severe mental health conditions, who were not included in the VBA sur-

vey. We administered a modified version of the VBA satisfaction survey in our own research involving claimants with posttraumatic stress disorder (PTSD) and found that only 27% reported that the claims process was explained to them and that they understood it reasonably well.⁴ Furthermore, when we asked veterans seeking VA disability compensation on the basis of PTSD to indicate whether they thought statements about the basic workings of the claims process were true or false, or whether they didn't know, we determined that many had a poor understanding of the process.⁴

While the primary responsibility for helping veterans navigate the disability compensation claims process falls on the VBA, VA health care providers, as points of contact for veterans with disabilities, have the potential to help by answering certain questions, referring veterans to appropriate sources of infor-

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mation and assistance, and offering support as needed. VA providers also should be able to recognize when the claims process is affecting their patients' health negatively to the point that clinical attention is warranted. Unfortunately, most VA providers have an incomplete understanding of the claims process and the disability program in general. While those clinicians who perform compensation and pension examinations for veterans seeking disability benefits are trained in the requirements of these examinations, the VA offers no educational programs (even on an optional basis) that illuminate the context in which these examinations take place, including the basic workings of the VA disability compensation system.

In this article, we outline some of the policies and procedures involved in the VA disability claims process, with a special emphasis on certain challenges faced by veterans filing claims on the basis of PTSD. By advancing providers' understanding of these topics, we hope that they will become better able to recognize their patients' needs as they undergo what can be a lengthy and stressful process.

THE CLAIMS PROCESS IN BRIEF

A veteran whose military discharge is other than dishonorable may obtain service connection for conditions incurred during or aggravated by active duty, so long as these conditions weren't the result of the veteran's own willful misconduct. Exceptions to this rule include primary substance use disorders and personality disorders, which are noncompensative.

To file a claim, a veteran must submit an application that includes a description of the claimed condi-

tion to one of the 58 VBA regional offices across the country. Once VBA personnel have determined that basic eligibility criteria are met, they are required to assist the claimant in obtaining evidence that may substantiate the claim, such as service medical records.⁵ In a small percentage of cases, the initial evidence submitted is sufficient to approve or deny the claim without further development. In most cases, however, additional evidence—such as data from medical and military records and an examination—is required.

Once the application is developed sufficiently, the VBA refers the claimant for a disability evaluation of each claimed condition. While VHA clinicians perform most of these evaluations, more and more are being conducted by off-site practitioners. After the examination, the clinician's findings are incorporated into the claims file and forwarded to a local VBA rating specialist, who evaluates the entire portfolio of evidence and determines whether a compensative condition was incurred during or aggravated by the veteran's military service.

When the evidence for and against service connection seem to be balanced, the claimant is granted the benefit of the doubt.⁶ If service connection is established, the rating specialist also determines the veteran's level of disability. Finally, the claimant receives written notification of the claim determination.

This application process can last anywhere from six months to several years, with an average duration of 241 days in fiscal year 2002.⁷ In some states, county veterans service officers are available to represent veterans free of charge, helping them navigate this complex

and legalistic process. In addition, veterans can—and often do—enlist the aid of such veterans service organizations as the American Legion, the Veterans of Foreign Wars of the United States, and the Disabled American Veterans.

THE DISABILITY RATING

The disability rating assigned to each service-connected condition by a VBA rating specialist is determined according to the VA's Schedule for Rating Disabilities.⁸ This schedule includes a list of clinical criteria for physical and mental conditions and levels of medical severity for each diagnosis on a scale that ranges from 0% (nondisabling service-related condition) to 100% (total disability) and increases by increments of 10.

Unlike worker's compensation, actual lost earnings as a result of the disabling condition don't affect the compensation amount. The rating formula for mental disorders is the only one that explicitly instructs VBA rating personnel to consider all evidence pertaining to occupational and social impairment, instead of relying solely on the clinical examiner's impressions of disability at the time of the evaluation.⁹

For veterans with more than one service-connected disability, the overall disability rating is determined according to the Combined Rating Table, which reflects an attempt to approximate the degree of disability incurred by the veteran through the cumulative effect of all disabling conditions.¹⁰ For example, according to the table, a veteran with a 40% disability for service-connected hypertension and a 30% disability for a service-connected knee injury receives a combined disability rating of 60%. The amount of disability compensation this vet-

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eran will receive—along with other VA benefits—is based on the combined rating.

Nonpermanent conditions are given temporary ratings and then are reevaluated, usually every two to five years. A disability rating may be reduced or terminated, however, if there has been significant improvement in the disabling condition that's sustainable under ordinary conditions of daily living or if the rating board determines that the original rating was based on an "unmistakable error." An example of the latter would be if medical or other evidence revealed that the veteran's medical condition was misdiagnosed originally or that it was not attributable to military service.

The CFR contains specific rules for preserving disability ratings—many of which are based on the amount of time the veteran has had the rating. For example, reexaminations are no longer necessary once the disabling condition has remained unchanged for at least five years or has been determined to be permanent with improvement unlikely.¹¹ After 10 years, service connection can't be revoked unless evidence establishes that the original claim was fraudulent.¹² In short, the most frequent reason for ending disability benefits is veteran death, which accounted for almost 96% of benefits terminated in fiscal year 2001.¹³

DISABILITY BENEFITS

Regardless of the particular condition, veterans with the same disability rating receive the same basic benefit amount as established by statute. Congress adjusts the benefit amount for each rating level annually to reflect changes in the cost of living. For fiscal year 2003, disabled veterans' basic monthly

compensation levels ranged from \$104 for conditions rated at 10% to \$2,193 for conditions rated at 100%.¹⁴ Veterans whose service-connected disabilities are rated at 30% or more are entitled to additional allowances for dependents. Disability compensation is tax exempt.

Generally, veterans do not receive compensation for conditions with 0% ratings, but this rating entitles them to service connection priority access to VA medical services for the disabling condition without charge. Veterans with service-connected disabilities are also eligible for Social Security Disability Income—and many utilize this supplementary source of income.

Furthermore, in cases in which VBA staff determine that the severity of a veteran's condition is captured inadequately by the Combined Rating Table, the compensation and pension program provides for additional monthly compensation over and above the scheduled amount. For example, if the VA determines that a veteran with service connection for one condition at 60% or higher is "unemployable," the VA will provide the amount set for a rating of 100%. Veterans also may receive additional compensation for "loss of physical integrity," such as the loss of a foot or an eye.

Generally, disability compensation is paid retroactively to the date of application or to the date the veteran incurred the disability, whichever is later. Depending on the level of service connection, benefits may include monthly payments, free or reduced-cost access to VA medical care and pharmacy services, rehabilitative and employment services, life insurance, survivor benefits, and educational and

health insurance benefits for family members.¹⁵ Unlike worker's compensation benefits, VA benefits aren't limited in either duration or the total amount that can be paid. And unlike Social Security Disability Insurance, VA disability benefits aren't discontinued automatically if the recipient returns to work, nor are they reduced to offset other income.

THE APPEALS PROCESS

If a claim is denied, or if the veteran disagrees with the assigned rating, a one-year period is given to appeal the rating decision.¹⁶ To begin this process, the veteran must write a statement disagreeing with the claim's determination and indicate the intention to appeal. If the regional VBA office doesn't change its determination based on this statement, the veteran can initiate a "substantive appeal" by submitting to this regional office the required form and a statement of the reasons for appealing.

A second level of appeal is available by petitioning the Board of Veterans Appeals in Washington, DC. Due to the complexity of the appeals process at this point, most individuals who appeal to the board obtain representation from a qualified veterans service officer or a lawyer. Even so, the board generally takes at least two years after an appeal is filed to issue a final decision.

The appeals process doesn't necessarily end at this point. Under certain circumstances, a veteran may file a "motion for reconsideration" with the board, attempt to show that the board's decision contained "clear and unmistakable error," or request that the regional VBA office reopen its adjudicated case based on "new and material evidence."

Veterans also can appeal board decisions to the U.S. Court of Appeals for Veterans Claims.

PTSD CLAIMS: SPECIAL CONSIDERATIONS

The VA is the largest provider of PTSD services in the United States,¹⁷ and PTSD is the most common mental condition for which veterans claim disability.² Considering these facts, the majority of VA health care providers will, at some point in their careers, treat a patient actively seeking PTSD disability benefits. Therefore, knowledge of the VA disability claim process—particularly of how it applies to patients with diagnosed or suspected PTSD—can prove especially important in treating and advising such patients.

The disability evaluation process for PTSD is unique in that it involves discussion of trauma. To obtain PTSD service connection, a veteran needs to articulate military-related trauma and its impact on his or her life. This process can be stressful. The discussion of trauma in clinical and research contexts has been associated with temporary increases in symptoms and service utilization.^{18,19} And since the pathology of PTSD itself involves avoidance of trauma-related memories, veterans with this condition may find the disability evaluation process particularly challenging.²⁰

Concerns about being believed during the disability examination for PTSD may further compound this stress. In a sample comprised largely of veterans seeking compensation for PTSD on the basis of combat trauma, we found that only 45% thought the examining clinician would believe them (N.A. Sayer, PhD and M. Spont, PhD, unpublished data, 2002). Concerns

about being believed may be an even greater issue for victims of sexual trauma in the military setting, due to the difficulty of collecting the evidence needed to corroborate such claims.²¹

In our experience, veterans place considerable importance on obtaining service connection for PTSD not only because of the tangible benefits accompanying VA disability status but also for symbolic reasons. Our research indicates that PTSD claimants hope to obtain a sense of validation and official recognition from the government through the claims process. In fact, these individuals cited validation more frequently than the financial benefits derived from PTSD service connection as a valued goal.²² By the same token, veterans who are denied PTSD disability compensation may feel invalidated, and this may have a negative impact on their view of the VA.

IMPLICATIONS FOR CLINICAL CARE

Providers who lack a basic understanding of the VA disability system may be missing opportunities to support and assist veterans seeking VA disability compensation. Providers should be aware that the difficulties veterans face in navigating the various steps of the disability claims process have the potential to influence their health and even their attitudes about the VA health care system. By familiarizing themselves with the claims process, however, providers may become more sensitive toward these patients, better able to provide emotional support and respond to veterans' concerns, and more vigilant about referring patients who require assistance to veterans service officers or other experts in claims processing—or, in

certain circumstances, to mental health professionals.

Some providers may be reluctant to discuss the compensation and pension process with their patients due to concerns about symptom exaggeration or malingering. This concern is well known among providers in specialized PTSD programs.^{23,24} Research suggests, however, that most veterans seeking compensation for PTSD aren't prone to extreme exaggeration.²⁵ And it is our belief that many patients could benefit from such discussions with a trusted provider. We recommend that when a patient seeking service-connected VA disability benefits presents in the health care setting, providers should attempt to evaluate the patient's presenting condition in the context of the challenges he or she may be facing in the claims process, to balance any concerns about illness simulation with known facts about this process, and to remain open to talking with the patient about the potential effects of the process on health, health behaviors, and treatment-related attitudes. ●

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adverse effects—before administering pharmacologic therapy to patients.

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