



USDVA Disability Compensation

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- Establishment
- Development (Evidence Gathering)
- Rating Decision
- Rating Evaluation
- Appeals
- Proposed actions (Severance, Reduction, Incarcerations, Incompetence, etc.)

****This is a very high-level simplification of the process. USDVA adjudication and rating process is very complex****

- Requires submittal of prescribed form for the benefit being sought.
- Effective date of claim is the date received by the USDVA
 - Exceptions: intent to file received, submittal within one year of discharge from active military service, regulation changes, etc.
- Veterans may submit an “Intent to File a Claim for Benefits” (prescribed form) to preserve their effective date of claim for 1 year.
 - Allows the veteran additional time to submit a properly developed claim without loss of benefits
 - Prescribed form, for the benefit indicated on the Intent, must be received within one year

- USDVA compensation claims are covered in 38 CFR Part 3 – Adjudication and 38 CFR Part 4 – Schedule For Rating Disabilities.
- USDVA employees are guided by the M21-1 Adjudication Procedures Manual.
 - The M21-1 is a live manual and is updated by things such as:
 - Precedent Decisions made by the Court of Appeals for Veterans Claims (CAVC).
 - Regulatory changes to 38 CFR
 - Federal ACTS being signed into law

Development - Veteran

- Veterans should:
 - Submit a statement in support of their claim which clearly expresses:
 - Their theory of entitlement (direct, secondary, presumptive, aggravation, secondary-aggravation, paired organ/extremity, or 1151). I.e. how their condition relates to military service.
 - The chronic condition(s) they are claiming. To include frequency and duration of symptoms.
 - Relevant history of condition. I.e. onset of condition/symptoms, treatment sought.
 - Submit any supporting documents relevant to their claim.
 - Medical treatment records, lay statements, medical statements, medical evaluations, studies/peer reviewed medical journals, etc.

Development - USDVA

- USDVA has a duty to assist Veterans with the development of their claim. This is covered by [38 CFR 3.159](#). It includes a duty of the USDVA to:
 - Notify claimants of necessary information or evidence.
 - Assist claimants in obtaining evidence (medical records, service records, etc.).
 - Provide medical examinations and medical opinions.
 - Notify claimants of an inability to obtain records.

Rating Decision

- Made by a USDVA employee on the rating board. The rater must:
 - Ensure required development actions were completed.
 - Ensure USDVA medical examinations and medical opinions are adequate for rating purposes.
 - Weigh all relevant evidence, considering the probative value of each (any reasonable doubt resolved in favor of claimant), to determine if relative equipoise or greater exists to grant the claim.
 - If service connection is granted, assign an evaluation of the condition(s) in accordance with [38 CFR Part 4](#).
 - Determine effective date of claim for the condition(s)
 - State reasoning for the decision (favorable findings, evidence lacking, symptoms needed for next highest evaluation, etc.)

- Evaluations are assigned by the Rater in their rating decision in accordance with [38 CFR Part 4](#) – Schedule For Rating Disabilities. Evaluative rating represents the average impairment in earning capacity resulting from such diseases and injuries and their residual conditions.
- Conditions have specific diagnostic codes that are each listed in Part 4.
- Each diagnostic code has specific rating instructions and details specific symptoms needed for each % evaluation.
 - single condition can be rated anywhere from 0-100% in increments of 10.
 - Conditions vary in the rate of % increase and max %
 - Conditions with no diagnostic code are rated [analogously](#) with a condition that most closely approximates the condition/symptoms.

Evaluations

THE SHOULDER AND ARM		
	Rating	
	Major	Minor
5200 Scapulohumeral articulation, ankylosis of:		
Note: The scapula and humerus move as one piece.		
Unfavorable, abduction limited to 25° from side	50	40
Intermediate between favorable and unfavorable	40	30
Favorable, abduction to 60°, can reach mouth and head	30	20
5201 Arm, limitation of motion of:		
Flexion and/or abduction limited to 25° from side	40	30
Midway between side and shoulder level (flexion and/or abduction limited to 45°)	30	20
At shoulder level (flexion and/or abduction limited to 90°)	20	20
5202 Humerus, other impairment of:		
Loss of head of (flail shoulder)	80	70
Nonunion of (false flail joint)	60	50
Fibrous union of	50	40
Recurrent dislocation of at scapulohumeral joint:		
With frequent episodes and guarding of all arm movements	30	20
With infrequent episodes and guarding of movement only at shoulder level (flexion and/or abduction at 90°)	20	20

- All relevant symptoms of the condition must be considered in the evidence of record (to include Veterans statement, treatment records, lay evidence, etc.).
- USDVA uses Disability Benefits Questionnaires (DBQ's) during their medical examinations to assist in the rating process (specific to different bodily systems/parts and conditions).
 - DBQ's examine and document specific diagnosis and symptoms that can be found in the rating schedule.
- A combined evaluation is determined in accordance with 38 CFR 4.25.
 - Percentage of a percentage, resulting in a combined evaluation between 0-100%.

- To keep their original effective date of claim Veterans have 1 year from the date of their USDVA decision letter to file a:
 - Supplemental claim: New decision by rating board based off submission of new and relevant evidence.
 - Higher-Level Review: New decision by a more experienced adjudicator based on evidence of record during past decision (error in fact or law).
 - Notice of Disagreement: Appeal to the Board of Veterans Appeals for a new decision by a Veterans Law Judge.

Proposed Actions

- Adverse decisions affecting the Veterans award amount/receipt must be proposed. (ex: rating reduction, severance, finding of incompetency, etc.)
 - Notification and due process period of 60 days must be afforded for the Veteran to respond to the proposed action.
 - A formal hearing can be requested by the Veteran (transcribed and entered into file as evidence).
- Veterans incarcerated in a Federal, State or local penal institution in excess of 60 days for conviction of a felony are reduced to the 10% rate (or half 10% rate if not above 10%).
- Veterans in Fugitive Felon status are not eligible for award of benefits.



Thank You!

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