



In order for an attorney to represent veterans before the U.S. Department of Veteran Affairs (VA), an attorney must be accredited by the VA. To obtain accreditation, an attorney must formally apply with the Office of the General Counsel of the VA, and after receiving proper credentials, must regularly complete continuing legal education to maintain the VA accreditation.

### ASSISTING A VETERAN WITH FILING AN INITIAL CLAIM

The VA website ([www.va.gov](http://www.va.gov)) contains the necessary forms that are needed to file an initial claim. You do not need a complete case file when you submit the initial claim; rather, submit what you have so the date of inception is triggered. You can always supplement the record after the date of inception.

Do not panic if the initial claim is denied. Denials are often based on perceived deficiencies in documentation or proof. A veteran's claim file can be freely corrected or supplemented before reconsideration.

### ANATOMY OF A VETERAN BENEFITS CLAIM

#### *Requesting the C-file.*

If you agree to investigate a claim filed by a veteran, the first step you will have to complete is requesting the veteran's claims file, called a C-file. You should request the C-file from the local VA Regional Office.

- To obtain the C-file, you can use the following forms: (1) VA Form 21-22a; (2) VA Form 10-5345 (medical); and (3) VA Form 3288 (everything). But a letter and limited power of attorney often work just as well as the forms.
- If the claim is in the Board of Veterans Appeals (BVA), the request should be sent to the BVA. The BVA then sends the C-file to the VA regional office (VARO) for copying.
- It may take 90 days or more to receive a C-file. Generally, you can arrange to go to the VARO to view the file prior to it being copied and sent to you. Resubmit the request every 30 days after you submit your request for the

C-file. Consider submitting the request by fax and mail and augmenting your request with a phone call.

#### *Reviewing the C-file.*

Before doing anything else, make a copy or scan the C-file and make sure that copy remains intact and untouched.

- Identify relevant documents.
- Sort the file. Sort it by health care provider, date, facility, location, etc.
- List the issues you and the veteran have identified.
- Analyze the C-file. List all the evidence that each decision relies on, as well as any evidence that you are aware of that is not mentioned. List the bases of the unfavorable decisions, so you can review the file while looking for evidence that contradicts the bases of those decisions.
- Annotate the C-file. Develop a method for annotating the C-file.

#### *What to Look for When Reviewing the C-File.*

These are a few things to consider when reviewing the C-file:

- Are documents missing?
- Did the VA provide a medical examination to evaluate the claimed disability? If so, review the VA Compensation & Pension (C&P) medical examination report carefully. Did the examiner note whether he or she reviewed the C-file, including reports of other medical examinations, or whether the C-file was available for review?
- Did the VA examiner(s) investigate the veteran with respect to all claimed disabilities, and did the examiner address each disability? Was the examination adequate? Did the examination follow the VA protocol, as set forth in the VA Examination Worksheets?
- Did the VA properly interpret the C&P evaluation in its decision? Does the decision refer to, and consider, any parts of the report favorable to the veteran?
- Is there any evidence in the C-file that is favorable to the veteran that the VA did not consider in its decision?

- Did the VA obtain all records of which it was, or should have been, aware before issuing a decision?
- Is there a basis for denial, substantiated by the evidence, for every claim that has been denied? Did the VA communicate with the veteran about what evidence was needed to substantiate each claim?
- Does the VA decision correctly quote and cite to the evidence on which it relied?
- Did the VA properly apply presumptions? Do the decisions consider all potential claims reasonably inferred from the claim filed?
- Are the service medical records (SMRs) in the file? If not, what attempts were made to get them?
- If the file contains orders of remand from the BVA, did the VARO comply with the orders?
- If the veteran applied for social security disability benefits, is a copy of the veteran's Social Security Administration file, including the independent examination report, in the C-file?
- Did the veteran receive notice of everything he or she should have received?
- Are there indications that the veteran did not appear for any medical or psychological examinations? If so, did the veteran receive notice of the examinations?
- Did the VA follow the case law applicable at the time of the decision?
- Are there any clear and unmistakable errors (CUEs) in the final VARO or BVA decision?

**Collecting Evidence to Support Claim.**  
**THE VA'S DUTY TO ASSIST.**

The VA has a duty to assist the veteran in supporting his or her claim. The VA must obtain the veteran's SMRs and any other relevant medical records. If the veteran's current medical condition is at

issue, the VA must provide the veteran with a physical examination. The examination must result in a readable report that renders a medical conclusion. This must be done for each of the veteran's claimed disabilities. Counsel should not rely on the VA's duty to assist, but rather should take responsibility for gathering records and other evidence to support the veteran's claim.

**INITIAL RECORDS REQUESTS.**

In addition to the C-file, you should obtain the following documents:

- Copy of the veteran's military discharge (DD-214) to verify dates of service and conditions under which the veteran was discharged.
- Obtain and copy all records that the veteran has accumulated related to his military service and his claimed disability.
- If the veteran filed for social security disability, ask the veteran to obtain his or her file from the Social Security Administration. It is generally quicker for the veteran to ask for the file directly.
- Obtain signed HIPAA-compliant medical releases from the veteran for each medical or mental health facility where he or she has received evaluation or treatment at any time for each claimed disability or condition, and request all records.
- Obtain signed releases from the veteran for requesting all service records and request the records. A request for medical records needs to specifically identify the location and period of each hospitalization. Outpatient and inpatient records are stored separately.
- Obtain signed releases from the veteran for employment records from each of the veteran's employers.
- If the veteran filed a worker's compensation claim, request the veteran's file from the Texas Department

of Insurance Division of Workers' Compensation.

**THE COMPENSATION AND PENSION (C&P) EXAMINATION.**

An important event that could determine the success of a veteran's claim is the C&P Examination. The veteran must subject him or herself to the C&P Examination conducted by a VA physician. Prior to the C&P Examination, read and review the VA Clinician's Manual diagnostic codes and examinations worksheets with the veteran. Review all the important issues that might arise at the examination.

**SOLO/SMALL FIRM PRACTICE**

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