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THE VETERANS LAW GROUP

DETERMINING ELIGIBILITY FOR
VETERANS BENEFITS

Webinar presented on 04.04.2017

RESOURCE GUIDE

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This Guide Contains:

Information Regarding:

-) Qualifying for Benefits
-) Discharge Types and Upgrades
-) Disability Compensation
-) VA Pension
-) VA Healthcare
-) Family Benefits - DIC

Determining Eligibility: Types of Discharge

Types of Discharge:

-) Honorable Discharge
-) General Discharge
-) Other than Honorable
-) Dishonorable

GENERAL NOTES:

In general, to receive veterans benefits, veterans must have received either an honorable discharge or a general discharge. If they were discharged due to bad conduct, typically through a dishonorable discharge, they may be barred from receiving many benefits.

Obtain a copy of their DD214 to determine type of discharge

Types of Discharge: Upgrading a Discharge

UPGRADE A DISCHARGE:

Consider if an additional review of the circumstances that led to their discharge may lead to excuse? Veteran may apply for a Discharge Upgrade

REQUIRES:

A Completed DD-293

HELPFUL EVIDENCE:

-) A personal statement
-) Statements from others they served with (“buddy statements”)
-) References from their employer
-) Credit reports
-) Any other information relevant to their character

HELPFUL WEBINAR ON UPGRADES:

http://www.pli.edu/Content/OnDemand/Advocating_for_Veterans_The_Basics_on_VA/_N-4nZ1z11i22?fromsearch=false&ID=305063

Disability Compensation: Definition

DEFINITION OF DISABILITY COMPENSATION:

- Tax-Free payment to Veteran w/ disability that is a result of disease or injury **incurred or aggravated** during active military service
- Amount is determined based on severity of disability
- May also include secondary injuries
- Degrees of disability %'s are determined by statute

Generally designed to compensate veteran for loss of work due to exacerbations or illnesses.

Disability Compensation:

REQUIREMENTS:

-) In service injury
-) Current injury
-) Nexus that connects the current injury with the in-service injury

WHEN DID INJURY OCCUR:

-) Active duty
-) Training for active duty
-) Travel to or from active duty

CURRENT INJURY:

-) Current Diagnosis
-) VA will not compensate for back injury in service if no current back condition
-) May give service connection but rated at 0%

Disability Compensation: NEXUS

A NEXUS:

-)] Must show the current condition is related or a result of the in-service injury
-)] Medical records/opinion
-)] is “at least as likely as not” that their current condition is a result of their “in-service” injury

Disability Compensation: VA Pension

PURPOSE:

- provides monthly benefit payments to certain wartime Veterans with financial need, and their survivors

** MUST BE FINANCIAL NEED **

SERVICE REQUIREMENT ELIGIBILITY:

-) Service before or on Sept 7, 1980, 90 days of active duty service, with at least one day during a wartime period
-) Service after September 7, 1980, 24 months or the full period for which you were called or ordered to active duty, with at least one day during a wartime period

ELIGIBLE WARTIME PERIODS:

-) Mexican Border Period (May 9, 1916 – April 5, 1917 for Veterans who served in Mexico, on its borders, or adjacent waters)
-) World War I (April 6, 1917 – November 11, 1918)
-) World War II (December 7, 1941 – December 31, 1946)
-) Korean conflict (June 27, 1950 – January 31, 1955)
-) Vietnam era (February 28, 1961 – May 7, 1975 for Veterans who served in the Republic of Vietnam during that period; otherwise August 5, 1964 – May 7, 1975)
-) Gulf War (August 2, 1990 – through a future date to be set by law or Presidential Proclamation)

Disability Compensation: VA Pension

ADDITIONAL CONSIDERATIONS:

In addition to meeting minimum service requirements, the Veteran must be:

-)] Age 65 or older, OR
-)] Totally and permanently disabled, OR
-)] A patient in a nursing home receiving skilled nursing care, OR
-)] Receiving Social Security Disability Insurance, OR
-)] Receiving Supplemental Security Income

FINALLY: Veteran's family income must be less than the amount set by Congress to qualify for the Veterans Pension benefit

Veterans/Survivor's Pension Rates:

<http://www.benefits.va.gov/pension/rates.asp>

Disability Compensation: VA Healthcare

BASIC ELIGIBILITY:

-)] Served active duty
-)] Separated under any condition other than dishonorable
-)] Reserves or National Guard who were called to active duty by a federal order and completed the full period for which they were called

SERVICE REQUIREMENT:

-)] Most Veterans who enlisted after 9/7/1980 must have served 24 continuous months for the full period they were called to active duty
-)] However, this won't apply to those conditions considered to be service connected disabilities
-)] ALL veterans are encouraged to enroll w/ VA healthcare and have their eligibility determined and priority level determined.
-)] Priority level effects copays etc.

Disability Compensation: Voc Rehab

PURPOSE:

- Help veterans with s/c disabilities prepare for, obtain and keep suitable jobs.
- Designed to provide training for new career suitable for veteran's disabilities

ELIGIBILITY:

- Honorable or other than honorable discharge.
- S/C disability rating of 10% w/ serious employment handicap or 20% or more with employment handicap
- Determined by VA to be in need of rehabilitation services because of employment handicap

Disability Compensation: Voc Rehab

ENTITLEMENT TO BENEFIT ESTABLISHED BY:

- Comprehensive Evaluation by Voc Rehab Counselor
- Assessment of interests, aptitudes and abilities
- Assessment of disabilities and how the impair veterans ability to find or hold job using skills already attained
- Explore labor market and wage info
- Prepare plan for education, training, job search etc.

Note if Veteran is turned down for VocRehab, look into TDIU

Disability Compensation: Family Benefits

DEPENDENCY AND INDEMNITY COMPENSATION (DIC):

- Tax free payment payable to surviving spouse, child or parent of service member who:
 - died while on active duty, active duty for training or inactive duty training; OR
 - died from s/c disabilities; OR
 - died from a non service-related injury or disease, but was receiving, OR was entitled to receive, VA Compensation for s/c disability that was rated as totally disabling:
 - for at least 10 years immediately before death, OR
 - since the Veteran's release from active duty and for at least five years immediately preceding death, OR
 - for at least one year before death if the Veteran was a former prisoner of war who died after September 30, 1999

Disability Compensation: Family Benefits

ELIGIBILITY (SURVIVING SPOUSE):

- Married to a Servicemember who died on active duty, active duty for training, or inactive duty training, **OR**
- Validly married the Veteran before January 1, 1957, **OR**
- Married the Veteran within 15 years of discharge from the period of military service in which the disease or injury that caused the Veteran's death began or was aggravated, **OR**
- Was married to the Veteran for at least one year, **OR**
 - Had a child with the Veteran, **AND**
 - Cohabited with the Veteran continuously until the Veteran's death or, if separated, was not at fault for the separation, **AND**
 - Is not currently remarried

Note: A surviving spouse who is over 57 and remarries on or after December 16, 2003 is entitled to continue to receive DIC

ELIGIBILITY (SURVIVING CHILD):

- Not included on the surviving spouse's DIC, **AND**
- Unmarried, **AND**
- Under age 18, or between the ages of 18 and 23 and attending school.

Disability Compensation: General Resources

- J Our Online Questionnaire:
<http://www.veteranslaw.com/consultation-request>
- J General Info About Discharge Upgrades:
<https://www.archives.gov/veterans/military-service-records/correct-service-records.html>
- J Application for Discharge upgrade:
<http://www.dtic.mil/whs/directives/forms/eforms/dd0293.pdf>
- J Directory of Veterans Services Organizations:
<https://www.va.gov/vso/>
- J U.S. Department of Veteran Affairs:
<http://www.benefits.va.gov/compensation/index.asp>

The most important thing is not to get discouraged.

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ADDITIONAL RESOURCES:

Case Specific Questions (for VSO):

Mark R. Lippman (mlippman@veteranslaw.com)

Amanda L. Mineer (amineer@veteranslaw.com)

Case Referrals (for veterans):

<http://www.veteranslaw.com/consultation-request>

Toll Free: (888) 811 - 0523

General Resources:

<http://www.veteranslaw.com/>

FOR MORE WEBINARS AND RESOURCE GUIDES:

[VSO/VSR RESOURCE CENTER](#)

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