



## **VA Benefits Training**

**September 25, 2018**

**1:00 p.m. – 4:00 p.m.**

**CT Bar Association**

**New Britain, CT**

**CT Bar Institute, Inc.**

CT: 3.0 CLE Credits (General)

NY: 3.0 CLE Credits (AOP)

## Table of Contents

<b>Lawyers' Principles of Professionalism .....</b>	<b>3</b>
<b>Agenda .....</b>	<b>4</b>
<b>VA Benefits Basics: Law &amp; Practice Overview .....</b>	<b>5</b>
Case Study.....	19
<b>VA Benefits Advocacy: Military Record Review .....</b>	<b>21</b>
OMPF Handout .....	39
<b>VA Benefits Advocacy: Rapid Appeals Process .....</b>	<b>40</b>
RAMP Invite .....	49
RAMP Opt-in Form .....	56
RAMP Appeal Form .....	58
RAMP OGC Memo .....	60

## Lawyers' Principles of Professionalism

As a lawyer I must strive to make our system of justice work fairly and efficiently. In order to carry out that responsibility, not only will I comply with the letter and spirit of the disciplinary standards applicable to all lawyers, but I will also conduct myself in accordance with the following Principles of Professionalism when dealing with my client, opposing parties, their counsel, the courts and the general public.

Civility and courtesy are the hallmarks of professionalism and should not be equated with weakness;

I will endeavor to be courteous and civil, both in oral and in written communications;

I will not knowingly make statements of fact or of law that are untrue;

I will agree to reasonable requests for extensions of time or for waiver of procedural formalities when the legitimate interests of my client will not be adversely affected;

I will refrain from causing unreasonable delays;

I will endeavor to consult with opposing counsel before scheduling depositions and meetings and before rescheduling hearings, and I will cooperate with opposing counsel when scheduling changes are requested;

When scheduled hearings or depositions have to be canceled, I will notify opposing counsel, and if appropriate, the court (or other tribunal) as early as possible;

Before dates for hearings or trials are set, or if that is not feasible, immediately after such dates have been set, I will attempt to verify the availability of key participants and witnesses so that I can promptly notify the court (or other tribunal) and opposing counsel of any likely problem in that regard;

I will refrain from utilizing litigation or any other course of conduct to harass the opposing party;

I will refrain from engaging in excessive and abusive discovery, and I will comply with all reasonable discovery requests;

In depositions and other proceedings, and in negotiations, I will conduct myself with dignity, avoid making groundless objections and refrain from engaging in acts of rudeness or disrespect;

I will not serve motions and pleadings on the other party or counsel at such time or in such manner as will unfairly limit the other party's opportunity to respond;

In business transactions I will not quarrel over matters of form or style, but will concentrate on matters of substance and content;

I will be a vigorous and zealous advocate on behalf of my client, while recognizing, as an officer of the court, that excessive zeal may be detrimental to my client's interests as well as to the proper functioning of our system of justice;

While I must consider my client's decision concerning the objectives of the representation, I nevertheless will counsel my client that a willingness to initiate or engage in settlement discussions is consistent with zealous and effective representation;

Where consistent with my client's interests, I will communicate with opposing counsel in an effort to avoid litigation and to resolve litigation that has actually commenced;

I will withdraw voluntarily claims or defense when it becomes apparent that they do not have merit or are superfluous;

I will not file frivolous motions;

I will make every effort to agree with other counsel, as early as possible, on a voluntary exchange of information and on a plan for discovery;

I will attempt to resolve, by agreement, my objections to matters contained in my opponent's pleadings and discovery requests;

In civil matters, I will stipulate to facts as to which there is no genuine dispute;

I will endeavor to be punctual in attending court hearings, conferences, meetings and depositions;

I will at all times be candid with the court and its personnel;

I will remember that, in addition to commitment to my client's cause, my responsibilities as a lawyer include a devotion to the public good;

I will endeavor to keep myself current in the areas in which I practice and when necessary, will associate with, or refer my client to, counsel knowledgeable in another field of practice;

I will be mindful of the fact that, as a member of a self-regulating profession, it is incumbent on me to report violations by fellow lawyers as required by the Rules of Professional Conduct;

I will be mindful of the need to protect the image of the legal profession in the eyes of the public and will be so guided when considering methods and content of advertising;

I will be mindful that the law is a learned profession and that among its desirable goals are devotion to public service, improvement of administration of justice, and the contribution of uncompensated time and civic influence on behalf of those persons who cannot afford adequate legal assistance;

I will endeavor to ensure that all persons, regardless of race, age, gender, disability, national origin, religion, sexual orientation, color, or creed receive fair and equal treatment under the law, and will always conduct myself in such a way as to promote equality and justice for all.

It is understood that nothing in these Principles shall be deemed to supersede, supplement or in any way amend the Rules of Professional Conduct, alter existing standards of conduct against which lawyer conduct might be judged or become a basis for the imposition of civil liability of any kind.

*--Adopted by the Connecticut Bar Association House of Delegates on June 6, 1994*

## **VA Benefits Training**

September 25, 2018

CBA Law Center

1:00 p.m. – 4:00 p.m.

### **AGENDA**

1:00 p.m. – 2:15 p.m.	Basics of Benefit Advocacy <b>Darren Pruslow</b> , Connecticut Veterans Legal Center
2:15 p.m. – 2:25 p.m.	Break
2:25 p.m. – 3:15 p.m.	Reviewing Military Records <b>David Sherry</b> , Connecticut Veterans Legal Center
3:15 p.m. – 3:25 p.m.	Break
3:25 p.m. – 4:00 p.m.	Review of the RAMP and new appeals process <b>Cynthia Johnson</b> , Connecticut Veterans Legal Center



# VA Benefits Basics: Law & Practice Overview

Special Thanks to:



Darren J. Pruslow  
CVLC Staff Attorney

# Overview & Agenda

- 1. VA Benefits – Substantive Background**
  - a. Service Connection, Pension and Survivor Benefits**
- 2. VA Benefits – Procedural Background**
  - a. VBA Process and Procedure**

# Service-Connected Disability Compensation: Eligibility & Entitlement

“Veteran”  
status



Service  
Connection



Service-  
Connected  
Disability  
Compensation



Rating

Standard of Review



“Benefit of the Doubt”  
38 U.S.C. § 5107(b)

# Elements of Service-Connection

## Current Disability

- Must be documented in medical opinion
- Use DSM-V for mental disabilities
- Non-VA diagnosis is admissible
- VA evaluations/records are often more probative
- May use “Disability Benefits Questionnaire”
- May use treatise evidence
- Veterans without a diagnosis may still apply, but they must articulate current symptoms to the VA to obtain a free VA “Compensation & Pension Exam” to determine diagnosis

### Non-compensable:

- Personality disorder
- Congenital defect

## In Service Event or Injury

Competent Evidence of In-Service Incurrence

- Medical Evidence
- Lay Evidence
- Presumption of Soundness (38 CFR § 3.304(b))

Competent Evidence of In-Service Incurrence

## Nexus

### THE FIVE NEXUS THEORIES

Direct Service Connection

Aggravation

Secondary Service Connection

Presumptive Service Connection

VA Medical Care





# Non-Service-Connected Pension

A monthly benefit for low-income wartime veterans who are totally & permanently disabled or elderly

- **Eligibility**

- Wartime
- Length of Service  
Requirements after 9/1/80
- Permanently Disabled or  
Elderly (65+)

- **Entitlement**

- **Low-Income:** Countable  
income below Pension rate  
(\$1,075/month for single  
veteran). Assets under  
~\$80,000

Wartime Period	Start	End
World War II	December 7, 1941	December 31, 1946
Korean Conflict	June 27, 1950	January 31, 1955
Vietnam Era	In theater: February 8, 1961  If not in theater: August 5, 1964	May 7, 1975
Gulf War Era	August 2, 1990	Present



# VA Benefits: Major Differences

Service-Connected Compensation	Non-Service-Connected Pension
Veteran's physical or mental health condition must be related to their military service	Veteran's physical or mental health conditions do not have to be related to their military service
Veteran can be service-connected for any condition – whether minimal (0%) or severe (100%)	Benefit is only available to totally disabled veterans who are unable to work (or to veterans age 65 and older)
Veteran's current income and assets are irrelevant	Veteran must be low-income and have few assets
Veteran can be compensated for injuries that occurred at any time while they were on active duty – there is no wartime service requirement	Veteran must have served 90 consecutive days with at least one day during a designated period of war
Total monthly benefit ranges from \$0-\$2,858 for a single veteran with no dependents	Total monthly benefit is \$1,054 for a single veteran with no dependents (and no other income)



# Introduction to Survivors Benefits

## Dependency & Indemnity Compensation (DIC)

- Veteran must have died of a service-connected condition or have been totally disabled by service-connected conditions at time of death
- Monthly payments, tax free
- Not means tested for surviving spouse and children
- Means tested for surviving parents

## Death Pension

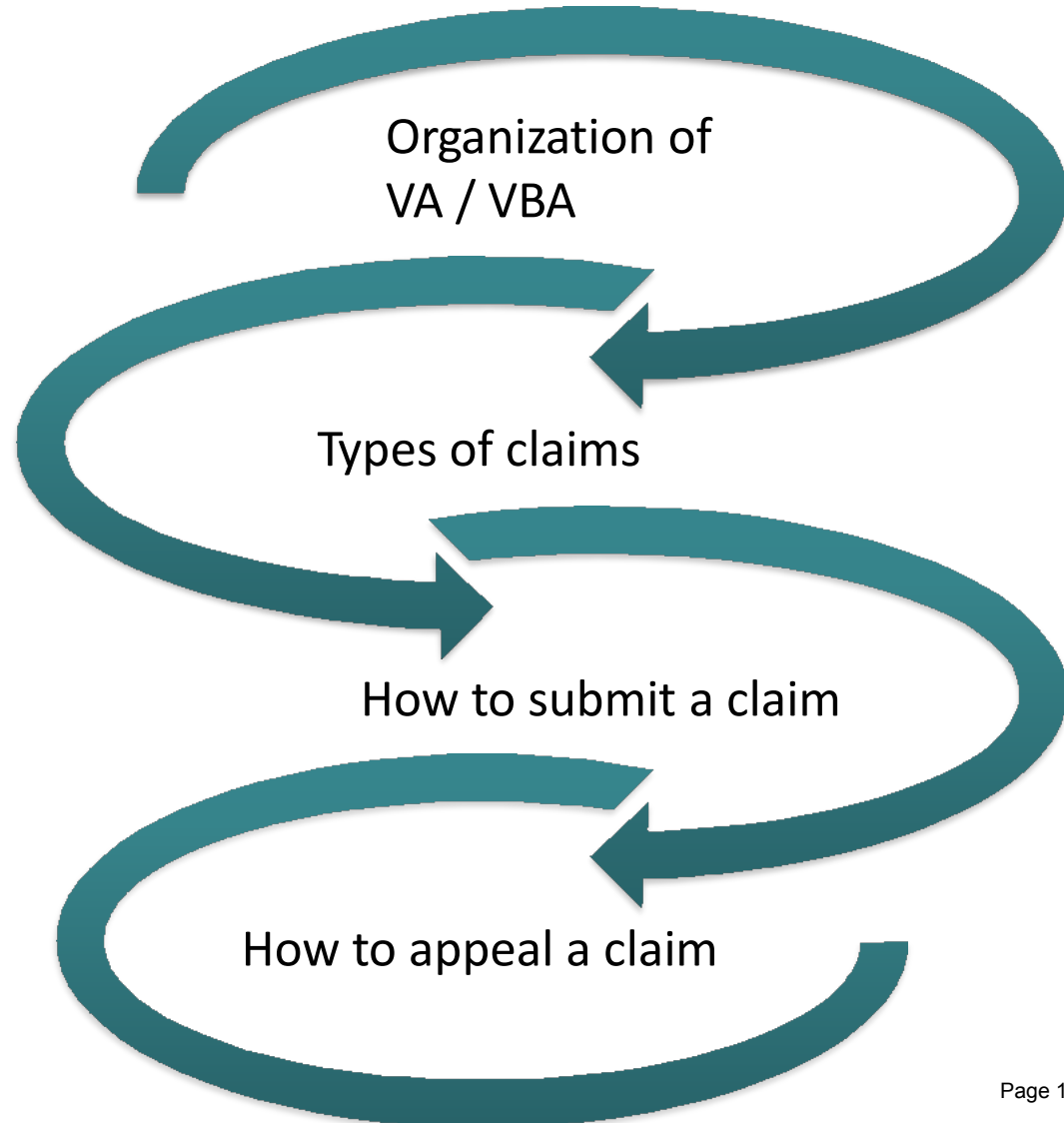
- Deceased veteran must have served during a designated period of war and have met length of service requirements
- Surviving spouse must be un-remarried
- Monthly payment, tax free
- Means tested; offset by other income



# Overview & Agenda

1. VA Benefits – Substantive Background
  - a. Service Connection, Pension and Survivor Benefits
  - b. Case Study
  
2. **VA Benefits – Procedural Background**
  - a. **VBA Process and Procedure**

# VA Claims Procedure





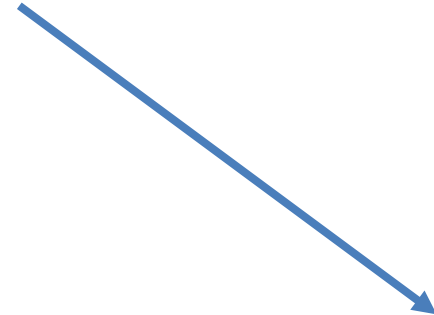
# Organization of VA and VBA

## Veterans Benefits Administration (VBA)

- 58 Regional Offices

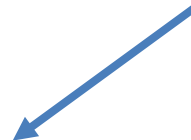
•Veterans Health Administration (VHA)

•National Cemetery Administration



## • VA Regional Offices (VARO)

- Central Office (BVA)
- Specialized Regional Offices



- Intake Processing Center
- Pre-Determination Team
- Rating Team
- Post-Determination Team
- Appeals Team
- Public Contact Team





# Types of Claims

## New issues

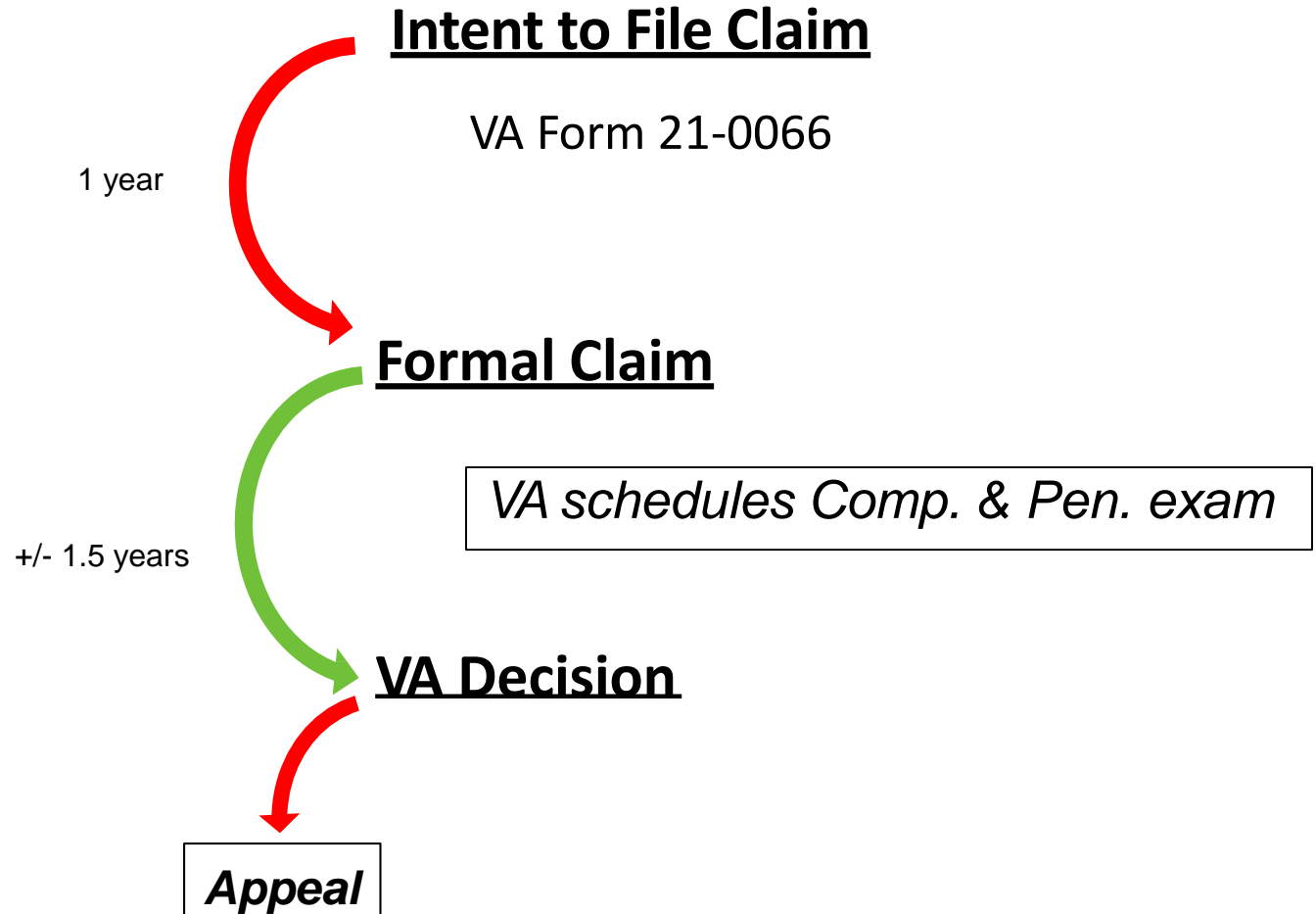
**Original**  
**Supplementary**

## “Closed” issues

**Reopened**  
**Rating increase**  
**Clear and unmistakable error**



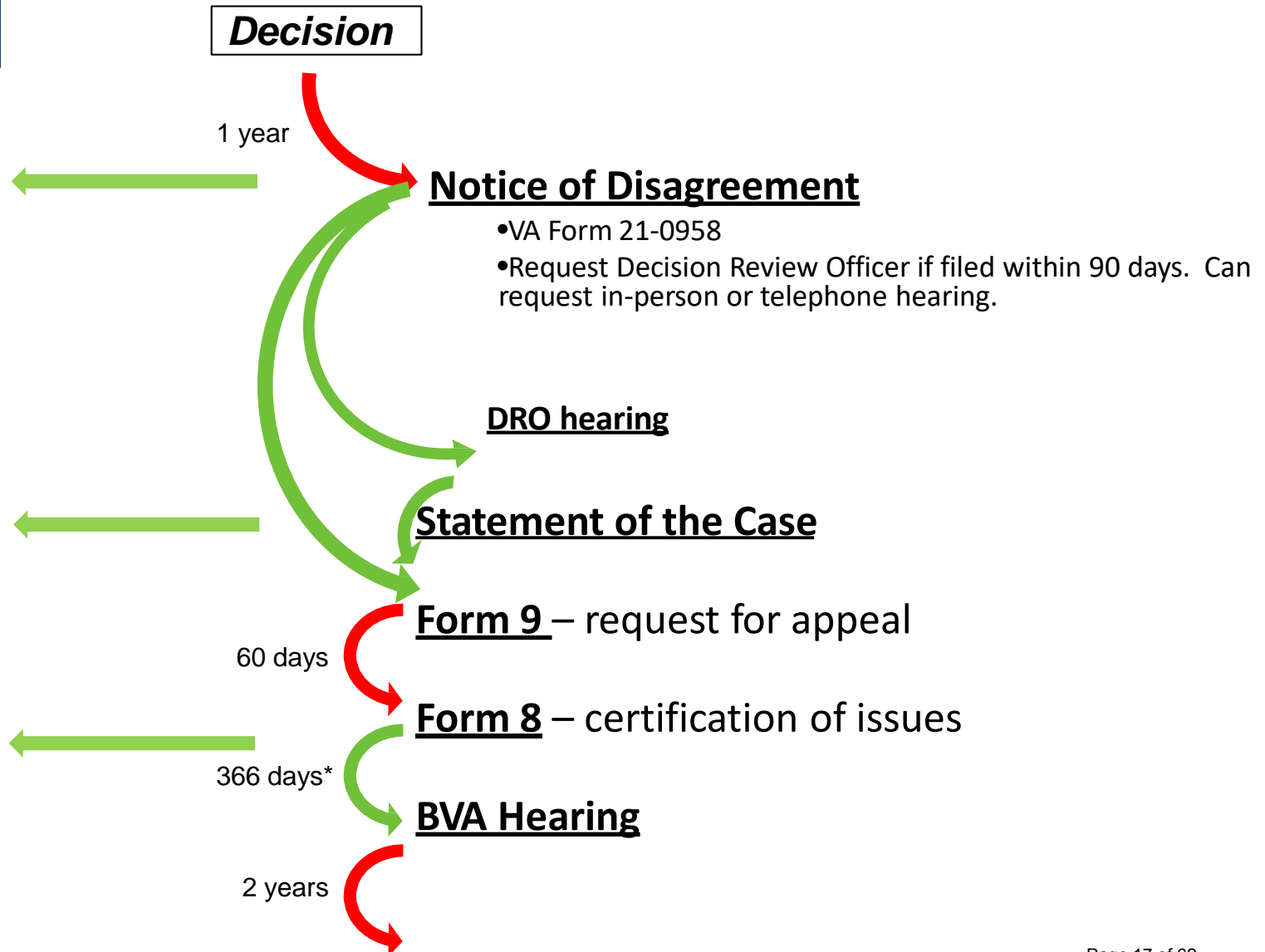
# Initial Adjudication





# VA Claims Procedure: Appeal

R  
A  
M  
P





# Questions?

## Case Study 1

### Background:

The Veteran served from May 2005 to December of 2009. He has an honorable discharge and the narrative reason for his separation is “personality disorder.” During his service he deployed to Afghanistan for 2 years (2005-2007). His MOS (military occupational specialty) is 88M10 (Motor Transport). During his deployment they did several convoys and on one occasion the convoy was hit by an IED. He was also hit with the tailgate of one of the vehicles, but was luckily wearing his helmet and ducked out of the way when it fell to minimize impact.

Some of his medical situations while in-service included a surgery for hernia, while deployed, and he was hospitalized twice in 2009 for mental health issues. On one occasion he attempted to harm himself with a knife. Early in his service he was also in a car accident which required a minor hospitalization for minor injuries to his head (concussion) and neck.

While he was being discharged he filed for numerous service connections. He listed his neck, head/TBI, PTSD and Depression. He was granted 10% for his neck. Everything else was denied, but he does not know why.

The veteran is currently unemployed (for the past six months) due to breaking his leg in a sink hole in the back yard where he is renting. He is wrapping up physical therapy and should be able to return to work. Prior to his injury he was doing landscaping work but has not worked since the injury. He currently has no income and is not receiving the \$133 a month for his service connection. There is currently an eviction pending and he also retained an attorney to sue his landlord for his leg injury.

## Case Study 2

### Background:

The Veteran served in the Marines from 1965 to 1975. He was station in both El Toro, California and Okinawa, Japan. He was an avionics specialist that worked on C-130s going to and from Vietnam. One of his specialties was radar and he would be often requested to travel along as support in case there were any issues in transport. These planes carried all sorts of cargo, including the herbicide Agent Orange. While in Japan, he was retrofitting and repairing planes as they were on route to and from Vietnam. He left the service with an honorable discharge and had very little interaction with the VA until moving to Connecticut later in life.

He currently has a HUD VASH voucher (supportive housing) but could use some assistance taking care of himself due to his medical issues. His is recently divorced and his only income is \$800 in social security retirement. He is presently involved at the Errera Community Center with CRP (Community Reintegration Program). His current diagnoses includes the following: Chronic Ischemic Heart Disease; Post Traumatic Stress Disorder (PTSD), Carcinoma of the Lung, Major Depressive Affective Disorder, and Basal Cell Carcinoma of the Skin.

Prior to coming to Connecticut 5 years ago, the veteran received most of his medical treatment outside of the VA system. It was the combination of his recent divorce (two years ago) and his cancer treatment that caused him to become homeless. He did see his primary doctor after service about his depression while living in California and is actively engaging in mental health treatment.



# VA Benefits Advocacy Military Record Review

David Sherry

CVLC Staff Attorney







**Home of 34 million OMPFs  
National Personnel Records Center  
National Archives  
St. Louis**



# **Official Military Personnel File (OMPF)**

- 1. DD214**
- 2. Enlistment Contract**
- 3. Chronological Record of Service**
- 4. Master Personnel Files**
- 5. Performance Evaluations**
- 6. Commendatory Records**
- 7. Derogatory/Disciplinary Records**



CONNECTICUT  
VETERANS  
LEGAL  
CENTER



Rank/pay grade  
Branch of service  
Total years of service

DD214 with  
Honorable  
Discharge,  
end  
of active  
service

CAUTION: NOT TO BE USED FOR  
IDENTIFICATION PURPOSES

THIS IS AN IMPORTANT RECORD  
SAFEGUARD IT

ANY ALTERATIONS IN SHADED  
AREAS RENDER FORM VOID

<b>DD FORM 1 JUL 79 214</b>		PREVIOUS EDITIONS OF THIS FORM ARE OBSOLETE.		<b>CERTIFICATE OF RELEASE OR DISCHARGE FROM ACTIVE DUTY</b>	
1. NAME (Last, first, middle)		2. DEPARTMENT, COMPONENT AND BRANCH			
[REDACTED]		ARMY/RA [REDACTED]			
4a. GRADE, RATE OR RANK	4b. PAY GRADE	5. DATE OF BIRTH	6. PLACE OF ENTRY INTO ACTIVE DUTY		
SP4	E-4	[REDACTED]	New Haven, CT		
7. LAST DUTY ASSIGNMENT AND MAJOR COMMAND			8. STATION WHERE SEPARATED		
CSC 2/502nd Inf 101st Abn Div (AASLT)			Fort Campbell, KY		
9. COMMAND TO WHICH TRANSFERRED			10. SGU COVERAGE		
USAR Control Group (Reinforcement) RCPAC, St Louis, MO 63132			AMOUNT \$ 20,000 <input type="checkbox"/> NONE		
11. PRIMARY SPECIALTY NUMBER, TITLE AND YEARS AND MONTHS IN SPECIALTY (Additional specialty numbers and titles involving periods of one or more years)			12. RECORD OF SERVICE		
16S10 Manuel Portable Air Defense Systems Crewman 8 months			a. Date Entered AD This Period		
			YEAR (y) MON (s) DAY (s)		
			81 05 25		
16P10 Air Defense Artillery Short Range Missile Crewman 2 years and 8 months			b. Separation Date This Period		
			YEAR (y) MON (s) DAY (s)		
			03 00 00		
			c. Not Active Service This Period		
			YEAR (y) MON (s) DAY (s)		
			00 00 00		
			d. Total Prior Active Service		
			YEAR (y) MON (s) DAY (s)		
			00 00 00		
			e. Total Prior Inactive Service		
			YEAR (y) MON (s) DAY (s)		
			00 00 00		
			f. Foreign Service		
			YEAR (y) MON (s) DAY (s)		
			00 00 00		
			g. Sea Service		
			YEAR (y) MON (s) DAY (s)		
			00 00 00		
			h. Effective Date of Pay Grade		
			YEAR (y) MON (s) DAY (s)		
			80 01 01		
			i. Reserve Oblig. Term. Date		
			YEAR (y) MON (s) DAY (s)		
			84 05 25		
13. DECORATIONS, MEDALS, BADGES, CITATIONS AND CAMPAIGN RIBBONS AWARDED OR AUTHORIZED (All periods of service)					
Sharpshooter Badge M16 Rifle/Sharpshooter Badge .45 Caliber Pistol/2nd Class Badge Hand Grenade/Humanitarian Service Medal/Good Conduct Medal					
14. MILITARY EDUCATION (Course Title, number weeks, and month and year completed)					
NA					
15. MEMBER CONTRIBUTED TO POST-VIETNAM ERA VETERANS' EDUCATIONAL ASSISTANCE PROGRAM <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO			16. HIGH SCHOOL GRADUATE OR EQUIVALENT <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO		17. DAYS ACCRUED LEAVE PAID 4
18. REMARKS					
NA					
19. MAILING ADDRESS AFTER SEPARATION			20. MEMBER REQUESTS COPY 6 BE		
[REDACTED]			SENT TO [REDACTED] DIR. OF VET AFFAIRS <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO		
27. TYPED NAME, GRADE, TITLE AND SIGNATURE OF OFFICIAL AUTHORIZED TO SIGN			28. MEMBER REQUESTS COPY 4		
CARL R. FISHER, CPT, ADA, Asst AG			[REDACTED]		

SPECIAL ADDITIONAL INFORMATION (For use by authorized agencies only)		
23. TYPE OF SEPARATION	24. CHARACTER OF SERVICE (Includes upgrades)	
Release from active duty	Honorable	
25. SEPARATION AUTHORITY	26. SEPARATION CODE	27. REENLISTMENT CODE
Chapter 2, AR 635-200	LBK	RE-1
28. NARRATIVE REASON FOR SEPARATION		
Completion of required service (ETS)		
29. DATES OF TIME LOST DURING THIS PERIOD		30. MEMBER REQUESTS COPY 4
None		Page 25 of [REDACTED] INITIALS



**DD214**

**Discharge under  
Other than Honorable  
conditions (OTH)**

Foreign service=combat

Sea service=time onboard ship or sub

Decorations and awards, unit and  
personal

Type and character of discharge

Separation and reentry code

Time lost, from AWOL or confinement

CAUTION NOT TO BE USED FOR IDENTIFICATION PURPOSES		THIS IS AN IMPORTANT RECORD SAFEGUARD IT		ANY ALTERATIONS IN SHADED AREAS RENDER FORM VOID	
<b>CERTIFICATE OF RELEASE OR DISCHARGE FROM ACTIVE DUTY</b> This Report Contains Information Subject to the Privacy Act of 1974 As Amended					
1 NAME (Last, First, Middle)		2 DEPARTMENT, COMPONENT AND BRANCH		3 SOCIAL SECURITY NUMBER	
[REDACTED]		USMC-11		[REDACTED]	
4a GRADE, RATE OR RANK	b PAY GRADE	5 DATE OF BIRTH (YYYYMMDD)	6 RESERVE OBLIGATION TERMINATION DATE (YYYYMMDD)		
Pvt	E-1	[REDACTED]	20111115		
7a PLACE OF ENTRY INTO ACTIVE DUTY		b HOME OF RECORD AT TIME OF ENTRY (City and state or complete address if known)			
MEPS Westfield MA		[REDACTED]			
8a LAST DUTY ASSIGNMENT AND MAJOR COMMAND			b STATION WHERE SEPARATED		
3d Bn 8th Mar 2d Mar Div Cam Lei NC 28542			IPAC MCB Cam Lei NC 28542 (RUC 45020)		
9 COMMAND TO WHICH TRANSFERRED			10 SGLI COVERAGE		NONE
N/A			AMOUNT		\$ 400,000
11 PRIMARY SPECIALTY (Last number title and years and months in specialty List additional specialty numbers and titles involving periods of one or more years)		12 RECORD OF SERVICE		YEAR(S) MONTH(S) DAY(S)	
0311 Rifleman		a DATE ENTERED AD THIS PERIOD		2007 09 04	
3 years 7 months		b SEPARATION DATE THIS PERIOD		2011 11 15	
		c NET ACTIVE SERVICE THIS PERIOD		04 00 19	
		d TOTAL PRIOR ACTIVE SERVICE		00 00 00	
		e TOTAL PRIOR INACTIVE SERVICE		00 00 00	
		f FOREIGN SERVICE		00 06 20	
		g SEA SERVICE		00 04 17	
		h INITIAL ENTRY TRAINING		0 05 23	
		i EFFECTIVE DATE OF PAY GRADE		2011 08 19	
13 DECORATIONS, MEDALS, BADGES CITATIONS AND CAMPAIGN RIBBONS AWARDED OR AUTHORIZED (All periods of service)			14 MILITARY EDUCATION (Course title number of weeks and month and year completed)		
Marine Corps Good Conduct Medal Combat Action Ribbon (Afghanistan) Sea Service Deployment Ribbon (2d Awd), Afghanistan Campaign Medal (w/1 Bronze Service Star) Global War on Terrorism Service Medal National Defense Service Medal Navy Unit Commendation, Meritorious Mast NATO Medal ISAF Afghanistan, Rifle Qualification Badge (Sharpshooter)			Infantry Rifleman crs (031) 2008 Basic Infantryman crs (HIG) 2008 Black Belt 1st Degree crs (MMH) 2010 Brown Belt crs (MMF) 2010, Green Belt crs (MMD) 2010 Gray Belt crs (MMC) 2009 Ten Belt crs (MMB) 2007		
15a COMMISSIONED THROUGH SERVICE ACADEMY			YES		X NO
b COMMISSIONED THROUGH ROTC SCHOLARSHIP (10 USC Sec 2107b)			YES		X NO
c ENLISTED UNDER LOAN REPAYMENT PROGRAM (10 USC Chap 109) (If yes, years of commitment)			YES		X NO
16 DAYS ACCRUED LEAVE PAID	17 MEMBER WAS PROVIDED COMPLETE DENTAL EXAMINATION AND ALL APPROPRIATE DENTAL SERVICES AND TREATMENT WITHIN 90 DAYS PRIOR TO SEPARATION		YES		X NO
None					
18 REMARKS SER 45020 2011 7338 Good Conduct Medal period commences 20110912 SNM contributed to the MGB \$1,200 00 Delayed Entry Program (20070810-20070903) SNM participated in Operation ENDURING FREEDOM Continuous Honorable Service from 20070904 to 20100915  The information contained here in is subject to computer matching within the Department of Defense or with any other affected Federal or non Federal agency for verification purposes and to determine eligibility for and/or continued compliance with the requirements of a Federal benefit program					
19a MAILING ADDRESS AFTER SEPARATION (Include ZIP Code)			b NEAREST RELATIVE (Name and address include Zip Code)		
[REDACTED]			[REDACTED] (pouse)		
20 MEMBER REQUESTS COPY 6 BE SENT TO (Specify state/locality)			CT OFFICE OF VETERANS AFFAIRS		X YES NO
a MEMBER REQUESTS COPY 3 BE SENT TO THE CENTRAL OFFICE OF THE DEPARTMENT OF VETERANS AFFAIRS (WASHINGTON, DC)			X YES NO		
21a MEMBER SIGNATURE	b DATE (YYYYMMDD)	22a OFFICIAL AUTHORIZED TO SIGN (Typed name grade title signature)		b DATE (YYYYMMDD)	
[REDACTED]	20111115	[REDACTED] PERSO USMC [REDACTED]		20111115	
SPECIAL ADDITIONAL INFORMATION (For use by authorized agencies only)					
23 TYPE OF SEPARATION		24 CHARACTER OF SERVICE (Include upgrades)			
Discharged		UNDER OTHER THAN HONORABLE CONDITIONS			
25 SEPARATION AUTHORITY		26 SEPARATION CODE		27 REENTRY CODE	
MARCORSEPMAN PAR 6210 5		HKK1		RE-4B	
28 NARRATIVE REASON FOR SEPARATION					
MISCONDUCT					
29 DATES OF TIME LOST DURING THIS PERIOD (YYYYMMDD)				30 MEMBER REQUESTS COPY 4	
(30) 20110615-20110714, (24) 20110819-20110911				[REDACTED]	





# DD214 Dishonorable Discharge

Last duty station:  
US Correctional Brigade

Net active duty service (3 yrs)  
vs. total time in service (5 yrs)

Continuous honorable service  
1985-1988

Dishonorable discharge as a  
result of court martial; reentry  
code JJD indicates for other  
than desertion

Time lost (prison sentence)

CAUTION: NOT TO BE USED FOR IDENTIFICATION PURPOSES THIS IS AN IMPORTANT RECORD. SAFEGUARD IT. AREAS RENDER FORM VOID

## CERTIFICATE OF RELEASE OR DISCHARGE FROM ACTIVE DUTY

1. NAME (Last, First, Middle) [REDACTED]		2. DEPARTMENT, COMPONENT AND BRANCH ARMY/RA		3. SOCIAL SECURITY NO. [REDACTED]																																					
4.a. GRADE, RATE, OR RANK PVI		4.b. PAY GRADE E1		5. DATE OF BIRTH (YYMMDD) [REDACTED]																																					
6. RESERVE OBLIG. TERM. DATE Year 00 Month 00 Day 00		7.a. PLACE OF ENTRY INTO ACTIVE DUTY SPRINGFIELD, MA 01103																																							
7.b. HOME OF RECORD AT TIME OF ENTRY (City and state, or complete address if known) [REDACTED]				8.a. LAST DUTY ASSIGNMENT AND MAJOR COMMAND USA CORRECTIONAL BRIGADE FORSCOM FC																																					
8.b. STATION WHERE SEPARATED FORT RILEY, KANSAS 66442				9. COMMAND TO WHICH TRANSFERRED NA																																					
10. SGLI COVERAGE Amount: \$ 50,000				None																																					
11. PRIMARY SPECIALTY (List number, title and years and months in specialty. List additional specialty numbers and titles involving periods of one or more years.) 94B10 FOOD SERVICE SPECIALIST--4 YRS-3 MOS. NOTHING FOLLOWS		12. RECORD OF SERVICE																																							
		<table border="1"> <thead> <tr> <th></th> <th>Year(s)</th> <th>Month(s)</th> <th>Day(s)</th> </tr> </thead> <tbody> <tr> <td>a. Date Entered AD This Period</td> <td>85</td> <td>08</td> <td>27</td> </tr> <tr> <td>b. Separation Date This Period</td> <td>90</td> <td>03</td> <td>16</td> </tr> <tr> <td>c. Net Active Service This Period</td> <td>03</td> <td>10</td> <td>23</td> </tr> <tr> <td>d. Total Prior Active Service</td> <td>00</td> <td>00</td> <td>00</td> </tr> <tr> <td>e. Total Prior Inactive Service</td> <td>00</td> <td>00</td> <td>00</td> </tr> <tr> <td>f. Foreign Service</td> <td>01</td> <td>01</td> <td>00</td> </tr> <tr> <td>g. Sea Service</td> <td>00</td> <td>00</td> <td>00</td> </tr> <tr> <td>h. Effective Date of Pay Grade</td> <td>88</td> <td>12</td> <td>08</td> </tr> </tbody> </table>					Year(s)	Month(s)	Day(s)	a. Date Entered AD This Period	85	08	27	b. Separation Date This Period	90	03	16	c. Net Active Service This Period	03	10	23	d. Total Prior Active Service	00	00	00	e. Total Prior Inactive Service	00	00	00	f. Foreign Service	01	01	00	g. Sea Service	00	00	00	h. Effective Date of Pay Grade	88	12	08
	Year(s)	Month(s)	Day(s)																																						
a. Date Entered AD This Period	85	08	27																																						
b. Separation Date This Period	90	03	16																																						
c. Net Active Service This Period	03	10	23																																						
d. Total Prior Active Service	00	00	00																																						
e. Total Prior Inactive Service	00	00	00																																						
f. Foreign Service	01	01	00																																						
g. Sea Service	00	00	00																																						
h. Effective Date of Pay Grade	88	12	08																																						
13. DECORATIONS, MEDALS, BADGES, CITATIONS AND CAMPAIGN RIBBONS AWARDED OR AUTHORIZED (All periods of service) ARMY SERVICE RIBBON//ARMY ACHIEVEMENT MEDAL//OVERSEAS SERVICE RIBBON//MARKSMAN BADGE RIFLE, M-16//NOTHING FOLLOWS																																									
14. MILITARY EDUCATION (Course title, number of weeks, and month and year completed) FOOD SERVICE COURSE, 7 WEEKS, DEC 1985//NOTHING FOLLOWS																																									
15.a. MEMBER CONTRIBUTED TO POST-VIETNAM ERA VETERANS' EDUCATIONAL ASSISTANCE PROGRAM		15.b. HIGH SCHOOL GRADUATE OR EQUIVALENT		16. DAYS ACCRUED LEAVE PAID																																					
Yes No X		Yes No X		NA																																					
17. MEMBER WAS PROVIDED COMPLETE DENTAL EXAMINATION AND ALL APPROPRIATE DENTAL SERVICES AND TREATMENT WITHIN 90 DAYS PRIOR TO SEPARATION																																									
Yes X No																																									
18. REMARKS CONTINUOUS HONORABLE ACTIVE SERVICE 850827-880501//REF BLOCK 12e: DELAYED ENTRY PROGRAM: 850822-850826//REF BLOCK 12f: 870424-880518 FEPA-KOREA//NOTHING FOLLOWS																																									
21 MAR 1990																																									
19.a. MAILING ADDRESS AFTER SEPARATION (Include Zip Code) [REDACTED]			19.b. NEAREST RELATIVE (Name and address - include Zip Code) JERRY LEWIS ADDRESS SAME AS BLOCK 19a																																						
20. MEMBER REQUESTS COPY 6 BE SENT TO: GA DIR. OF VET AFFAIRS			22. OFFICIAL AUTHORIZED TO SIGN (Typed name, grade, title, and signature) GLENN E. MILLER, GS-8, C, PERS BR																																						
21. SIGNATURE OF MEMBER BEING SEPARATED [REDACTED]			22. OFFICIAL AUTHORIZED TO SIGN (Typed name, grade, title, and signature) GLENN E. MILLER, GS-8, C, PERS BR																																						
SPECIAL ADDITIONAL INFORMATION (For use by authorized agencies only)																																									
23. TYPE OF SEPARATION DISCHARGE			24. CHARACTER OF SERVICE (Include upgrades) DISHONORABLE																																						
25. SEPARATION AUTHORITY AR 635-200, CH 3, SEC. IV			26. SEPARATION CODE JJD																																						
28. NARRATIVE REASON FOR SEPARATION AS A RESULT OF COURT-MARTIAL			27. REENTRY CODE 4																																						
29. DATES OF TIME LOST DURING THIS PERIOD (UNDER 10 U.S.C. 972) 890424-890504; 890802-900315			30. MEMBER REQUESTS COPY 4 [REDACTED]																																						

DD Form 214, NOV 88 Previous editions are obsolete. SERVICE -



# ENLISTMENT / REENLISTMENT DOCUMENT

## ARMED FORCES OF THE UNITED STATES

### Privacy Act Statement


**AUTHORITY:** 5 USC 3331; 32 USC 708; 44 USC 708 and 3101; 10 USC 133, 265, 275, 504, 508, 510, 591, 672(d), 678, 837, 1007, 1071 through 1087, 1168, 1169, 1475 through 1480, 1553, 2107, 2122, 3012, 5031, 8012, 8033, 8496, and 9411; 14 USC 351 and 632; and Executive Order 9397, November 1943 (SSN).

**PRINCIPAL PURPOSES:** To record enlistment or reenlistment into the U.S. Armed Forces. This information becomes a part of the subject's military personnel records which are used to document promotion, reassignment, training, medical support, and other personnel management actions. The purpose of soliciting the SSN is for positive identification.

**ROUTINE USES:** This form becomes a part of the Service's Enlisted Master File and Field Personnel File. All uses of the form are internal to the relevant Service.

**DISCLOSURE:** Voluntary; however, failure to furnish personal identification information may negate the enlistment / reenlistment application.

### A. ENLISTEE / REENLISTEE IDENTIFICATION DATA

1. NAME (Last, First, Middle)  [REDACTED]		2. SOCIAL SECURITY NUMBER [REDACTED]  									
3. HOME OF RECORD (Street, City, State, ZIP Code)  [REDACTED]		4. PLACE OF ENLISTMENT / REENLISTMENT (Mil. Installation, City, State) SPRINGFIELD MEPS SPRINGFIELD, MA 01103-1473									
5. DATE OF ENLISTMENT/REENLISTMENT (YYMMDD) 011220	6. DATE OF BIRTH (YYMMDD) [REDACTED]	7. PREV MIL SVC UPON ENL / REENLIST									
		<table border="1"> <tr> <td>a. Total Active Military Service</td> <td>YEARS</td> <td>MONTHS</td> <td>DAYS</td> </tr> <tr> <td>b. Total Inactive Military Service</td> <td></td> <td></td> <td></td> </tr> </table>		a. Total Active Military Service	YEARS	MONTHS	DAYS	b. Total Inactive Military Service			
a. Total Active Military Service	YEARS	MONTHS	DAYS								
b. Total Inactive Military Service											

### B. AGREEMENTS

8. I am enlisting / reenlisting in the United States (list branch of service) ARMY RESERVE  
 this date for 8 years and  
00 weeks beginning in pay grade E-1. The additional details of my  
 enlistment/ reenlistment are in Section C and Annex(es) A B.

#### a. FOR ENLISTMENT IN A DELAYED ENTRY / ENLISTMENT PROGRAM (DEP):

I understand that I will be ordered to active duty as a Reservist unless I report to the place shown in item 4 above by (list date (YYMMDD)) 0600 020213 for enlistment in the Regular component of the United States (list branch of service) ARMY for not less than 3 years and 00 weeks. My enlistment in the DEP is in a nonpay status. I understand my period of time in the DEP is NOT creditable for pay purposes upon entry into a pay status. However, I also understand that this time is counted toward fulfillment of my military service obligation or commitment. I must maintain my current qualifications and keep my recruiter informed of any changes in my physical or dependency status, moral qualifications, and mailing address.

b. Remarks: (If none, so state.) NONE

c. The agreements in this section and attached annex(es) are all the promises made to me by the Government. ANYTHING ELSE ANYONE HAS PROMISED ME IS NOT VALID AND WILL NOT BE HONORED.

(Initials of Enlistee / Reenlistee) HH

(Continued on reverse side.)







STATEMENT FOR ENLISTMENT  
UNITED STATES ARMY ENLISTMENT PROGRAM  
U. S. ARMY DELAYED ENLISTMENT PROGRAM

For use of this form, see AR 601-210; the proponent agency is ODCSPER

DATA REQUIRED BY THE PRIVACY ACT OF 1974

**Authority** Title 10, United States Code, section 275; Executive Order 9397.  
**Principal Purpose** Basic form used to record contractual obligations to enlistees, guarantees and annexes enlistment contract.  
**Routine Uses** This form becomes a part of the Enlisted Master File and Field Personnel File. All uses of the form are internal to the United States Army.  
**Disclosure** Disclosure of the Social Security Number (SSN) and other personal information is voluntary. However, failure to provide the required information may result in *denial of enlistment or reenlistment*.

1. **ACKNOWLEDGEMENT** In connection with my enlistment into the United States Army Reserve, I hereby acknowledge that:

a. My enlistment in the U. S. Army Reserve obligates me to a total of 8 years service in the U. S. Armed Forces, including service in the Reserve components, unless sooner discharged by proper authority. Fulfillment of this obligation begins on the date I enlist in the Delayed Entry Program.

b. I will be assigned to the U. S. Army Reserve Control Group (Delayed Entry), during which time I will be in a nonpay status and will not be authorized to participate in any Reserve training.

c. I volunteer to serve on active duty for two years in any job assignment specified by the Army, such period to begin within 116 days unless I enlist into the Regular Army, or I am granted further delay by proper authority.

80 In lieu of performing the active duty specified in c above, I may enlist into the Regular Army for a period of 5 years 80 weeks with the following understanding:

(1) Upon enlistment into the Regular Army, I will be enlisted under the provisions of Army Regulation 601-210, program or programs as indicated below:

(Enter appropriate primary program and all associated programs; for Puerto Rican English Language option, use Program 9-A)

PROGRAM	TITLE
9A	U.S. Army Training Enlistment Program
N/A	N/A
N/A	N/A
N/A	N/A

(2) If enlisting for an Army school course, I have been assured of attending the School course for:  
MOS/CMF 95 B10 Title Military Police (Enter MOS or CMF and title; if enlisting under Puerto Rican English Language option, enter "05B10-Travise (English Language)")

(3) In the event, through no fault of my own, that my enlistment program, school course, or training of my choice is cancelled or otherwise not available before I enlist into the Regular Army, I will elect one of the following alternatives:

- (a) I will elect another program, school course, or training of my choice for which I am qualified and a vacancy exists.  
(b) I will be separated from the Delayed Entry Program.

(4) The date of my enlistment into the Regular Army is scheduled for: 20 Oct 1992

(5) In the event that I willfully fail to report for active duty on the date specified in (4) above and on my DD Form 4 enlistment contract I understand that I will be in an Absent Without Leave Status (AWOL) and subject to apprehension in accordance with article 86 (deserter) of the Uniform Code of Military Justice.

(6) I further certify that I am currently enrolled as a senior in high school and I understand that my enlistment into the Delayed Entry Program is contingent upon my successful completion of high school. N/A  
(Initials)

(7) I understand that the course I have selected requires me to present proof in the form of a transcript or letter from school officials stating I have successfully completed a course or courses of instruction in N/A

(Enter subject(s), i. e., Math, Science, etc.)

ANNEX A

G

SECTION VI - CURRENT AND PREVIOUS ASSIGNMENTS				DATE	
SECTION C - ASSIGNMENT				DATE	
ASSIGNMENT DATE	ASSIGNMENT NUMBER	ASSIGNMENT LOCATION	ASSIGNMENT DESCRIPTION	DATE STARTED	DATE COMPLETED
30.12.1977	0001	BRN	BRN 1000 1000 1000 1000		
30.12.1977	0002	BRN	BRN 1000 1000 1000 1000		
30.12.1977	0003	BRN	BRN 1000 1000 1000 1000		
30.12.1977	0004	BRN	BRN 1000 1000 1000 1000		
30.12.1977	0005	BRN	BRN 1000 1000 1000 1000		
30.12.1977	0006	BRN	BRN 1000 1000 1000 1000		
30.12.1977	0007	BRN	BRN 1000 1000 1000 1000		
30.12.1977	0008	BRN	BRN 1000 1000 1000 1000		
30.12.1977	0009	BRN	BRN 1000 1000 1000 1000		
30.12.1977	0010	BRN	BRN 1000 1000 1000 1000		
30.12.1977	0011	BRN	BRN 1000 1000 1000 1000		
30.12.1977	0012	BRN	BRN 1000 1000 1000 1000		
30.12.1977	0013	BRN	BRN 1000 1000 1000 1000		
30.12.1977	0014	BRN	BRN 1000 1000 1000 1000		
30.12.1977	0015	BRN	BRN 1000 1000 1000 1000		
30.12.1977	0016	BRN	BRN 1000 1000 1000 1000		
30.12.1977	0017	BRN	BRN 1000 1000 1000 1000		
30.12.1977	0018	BRN	BRN 1000 1000 1000 1000		
30.12.1977	0019	BRN	BRN 1000 1000 1000 1000		
30.12.1977	0020	BRN	BRN 1000 1000 1000 1000		
30.12.1977	0021	BRN	BRN 1000 1000 1000 1000		
30.12.1977	0022	BRN	BRN 1000 1000 1000 1000		
30.12.1977	0023	BRN	BRN 1000 1000 1000 1000		
30.12.1977	0024	BRN	BRN 1000 1000 1000 1000		
30.12.1977	0025	BRN	BRN 1000 1000 1000 1000		
30.12.1977	0026	BRN	BRN 1000 1000 1000 1000		
30.12.1977	0027	BRN	BRN 1000 1000 1000 1000		
30.12.1977	0028	BRN	BRN 1000 1000 1000 1000		
30.12.1977	0029	BRN	BRN 1000 1000 1000 1000		
30.12.1977	0030	BRN	BRN 1000 1000 1000 1000		
30.12.1977	0031	BRN	BRN 1000 1000 1000 1000		
30.12.1977	0032	BRN	BRN 1000 1000 1000 1000		
30.12.1977	0033	BRN	BRN 1000 1000 1000 1000		
30.12.1977	0034	BRN	BRN 1000 1000 1000 1000		
30.12.1977	0035	BRN	BRN 1000 1000 1000 1000		
30.12.1977	0036	BRN	BRN 1000 1000 1000 1000		
30.12.1977	0037	BRN	BRN 1000 1000 1000 1000		
30.12.1977	0038	BRN	BRN 1000 1000 1000 1000		
30.12.1977	0039	BRN	BRN 1000 1000 1000 1000		
30.12.1977	0040	BRN	BRN 1000 1000 1000 1000		
30.12.1977	0041	BRN	BRN 1000 1000 1000 1000		
30.12.1977	0042	BRN	BRN 1000 1000 1000 1000		
30.12.1977	0043	BRN	BRN 1000 1000 1000 1000		
30.12.1977	0044	BRN	BRN 1000 1000 1000 1000		
30.12.1977	0045	BRN	BRN 1000 1000 1000 1000		
30.12.1977	0046	BRN	BRN 1000 1000 1000 1000		
30.12.1977	0047	BRN	BRN 1000 1000 1000 1000		
30.12.1977	0048	BRN	BRN 1000 1000 1000 1000		
30.12.1977	0049	BRN	BRN 1000 1000 1000 1000		
30.12.1977	0050	BRN	BRN 1000 1000 1000 1000		

CHRONOLOGICAL RECORD		
UNIT/ORGANIZATION	PRIMARY DUTY	REMARKS
2ND KIAN RUC MCC 1540 MCC 1540 RUC 1540 MCC 1540	MARKET	020224 JD FOR REC 1 KIAN RUC TR TO CG MCB CAMLEI NC MCC 1540 FOR TERMS
SOI TRNGCMD CAMLEI MCC JA4 RUC 31407	STUD 1/1TB (03) 1 (01)	020224 JD FOR REC 1 KIAN RUC TR TO CG MCB CAMLEI NC MCC 1540 FOR TERMS
ORDER 611111 2ND KIAN RUC CASE 1540 MCC 1540 RUC 12180 MCC 1540	STUD 1/1TB (03) 1 (01)	020224 JD FOR REC 1 KIAN RUC TR TO CG MCB CAMLEI NC MCC 1540 FOR TERMS
	RIFLEMAN (0311) ( )	020724 JD FOR TR W/L CO 021130 TO TAD EXCESS
	GUARD (8152) ( )	021130 ATT TAD EXCESS MCC 1540 MCC 1540 RUC 1540 MCC 1540
		030403 TAD TERM

# Master Personnel Files: the where, what and when

[illegible]



# Performance Evaluations: the how

**Unique to each branch of service—qualitative and quantitative.**

**Service members *should* be evaluated:**

- \*semiannually**
- \*upon promotion or demotion**
- \*when the evaluator is departing the command**

**Numerical or letter marks for performance for that period, with supporting commentary.**



# Commendatory Records

## Letters and/or Certificates of Commendation/Achievement

**\*must name service member *personally***

## Meritorious Masts (same as above)

## Personal decorations and awards NOT for unit or campaign

**\*Time in service**

**Good Conduct Medal**

**\*Outstanding Performance**

**Achievement Medal**

**Commendation Medal**

**Meritorious Service Medal**

**\*Personal Valor**

**Purple Heart/Bronze or Silver Star/Medal of Honor**

**For the most accurate information on military decorations and awards, visit the Institute of Heraldry—inside the Pentagon:  
[www.tioh.hqda.pentagon.mil](http://www.tioh.hqda.pentagon.mil)**



## Derogatory/Disciplinary Records

### Administrative Counselling: Navy/Marines/Coast Guard

- **Not recommended for promotion**
- **Performance needs improvement**
- **Drug and alcohol use that will result in admin separation**

### Unfavorable Information: Army/Air Force

- **same as above**

### Article 15/Nonjudicial Punishment/Captain's Mast

- **Minor disciplinary infractions including UA, one time drug use, disrespect offenses ...typically non-felony offenses**
- **Officer or enlisted may preside over the hearing (CO or OIC typically)**
- **Power to reduce in rank, withhold pay, restrict to base**
- **NOT a criminal conviction. It is an ADMINISTRATIVE tool**

# Derogatory/Disciplinary Records

## Summary Courts-Martial

- **Non-criminal result**
- **Applies to enlisted only**
- **For rapid adjudication of minor offenses**

## Administrative Separations

- **Through ADSEP boards**
- **Waiver to receive OTH in lieu**

## **Derogatory/Disciplinary cont.**

### **Special and General Courts-Martial**

- Correspondence in OMPF will confirm convening of trial and outcome but will NOT contain record of trial (must be requested separately).**
- Convening authority normally a flag officer, i.e. a general or admiral; request to court-martial referred up chain of command with letters from battalion/squadron to division level.**
- Statement by accused and character references or statements in support of member will be referred to in court-martial correspondence but not included in OMPF.**
- Record of conviction, period and place of confinement and imposition of Bad Conduct or Dishonorable Discharge should match data on DD214.**
- These are Federal convictions.**



# Questions?



<b>DD FORM 1 JUL 79 214</b>		PREVIOUS EDITIONS OF THIS FORM ARE OBSOLETE.		<b>CERTIFICATE OF RELEASE OR DISCHARGE FROM ACTIVE DUTY</b>	
1. NAME (Last, first, middle) [REDACTED]		2. DEPARTMENT, COMPONENT AND BRANCH ARMY/RA [REDACTED]			
4a. GRADE, RATE OR RANK SP4	4b. PAY GRADE E-4	5. DATE OF BIRTH [REDACTED]	6. PLACE OF ENTRY INTO ACTIVE DUTY New Haven, CT		
7. LAST DUTY ASSIGNMENT AND MAJOR COMMAND CSC 2/502nd Inf 101st Abn Div (AASLT)			8. STATION WHERE SEPARATED Fort Campbell, KY		
9. COMMAND TO WHICH TRANSFERRED USAR Control Group(Reinforcement)RCPAC, St Louis, MO 63132			10. SGLI COVERAGE AMOUNT \$ 20,000 <input type="checkbox"/> NONE		
11. PRIMARY SPECIALTY NUMBER, TITLE AND YEARS AND MONTHS IN SPECIALTY (Additional specialty numbers and titles involving periods of one or more years)  16S10 Manuel Portable Air Defense Systems Crewman 8 months  16P10 Air Defense Artillery Short Range Missile Crewman 2 years and 8 months			12. RECORD OF SERVICE		
			a. Date Entered AD This Period		
			b. Separation Date This Period		
			c. Net Active Service This Period		
			d. Total Prior Active Service		
			e. Total Prior Inactive Service		
			f. Foreign Service		
			g. Sea Service		
h. Effective Date of Pay Grade					
i. Reserve Oblig. Term. Date					
13. DECORATIONS, MEDALS, BADGES, CITATIONS AND CAMPAIGN RIBBONS AWARDED OR AUTHORIZED (All periods of service) Sharpshooter Badge M16 Rifle/Sharpshooter Badge .45 Caliber Pistol/2nd Class Badge Hand Grenade/Humanitarian Service Medal/Good Conduct Medal					
14. MILITARY EDUCATION (Course Title, number weeks, and month and year completed) NA					
15. MEMBER CONTRIBUTED TO POST-VIETNAM ERA VETERANS' EDUCATIONAL ASSISTANCE PROGRAM <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO			16. HIGH SCHOOL GRADUATE OR EQUIVALENT <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO		17. DAYS ACCRUED LEAVE PAID 4
18. REMARKS NA					
19. MAILING ADDRESS AFTER SEPARATION [REDACTED]			20. MEMBER REQUESTS COPY 6 BE SENT TO [REDACTED] DIR. OF VET AFFAIRS <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO		
[REDACTED]			22. TYPED NAME, GRADE, TITLE AND SIGNATURE OF OFFICIAL AUTHORIZED TO SIGN CARL R. FISHER, CPT, ADA, Asst AG		

## SPECIAL ADDITIONAL INFORMATION (For use by authorized agencies only)

23. TYPE OF SEPARATION Release from active duty		24. CHARACTER OF SERVICE (Includes upgrades) Honorable	
25. SEPARATION AUTHORITY Chapter 2, AR 635-200		26. SEPARATION CODE LBK	27. REENLISTMENT CODE RE-1
28. NARRATIVE REASON FOR SEPARATION Completion of required service (ETS)			
29. DATES OF TIME LOST DURING THIS PERIOD None		30. MEMBER REQUESTS COPY 4 [REDACTED] INITIALS	



# VA Benefits Advocacy Rapid Appeals Process

Cinthia Johnson

CVLC Staff Attorney



# Rapid Appeals Process

- What is RAMP?
- When *can* RAMP be used?
- How to opt-in?
- When *should* RAMP be used?

# Rapid Appeals Process: What is RAMP

## Rapid Appeal Modernization Process

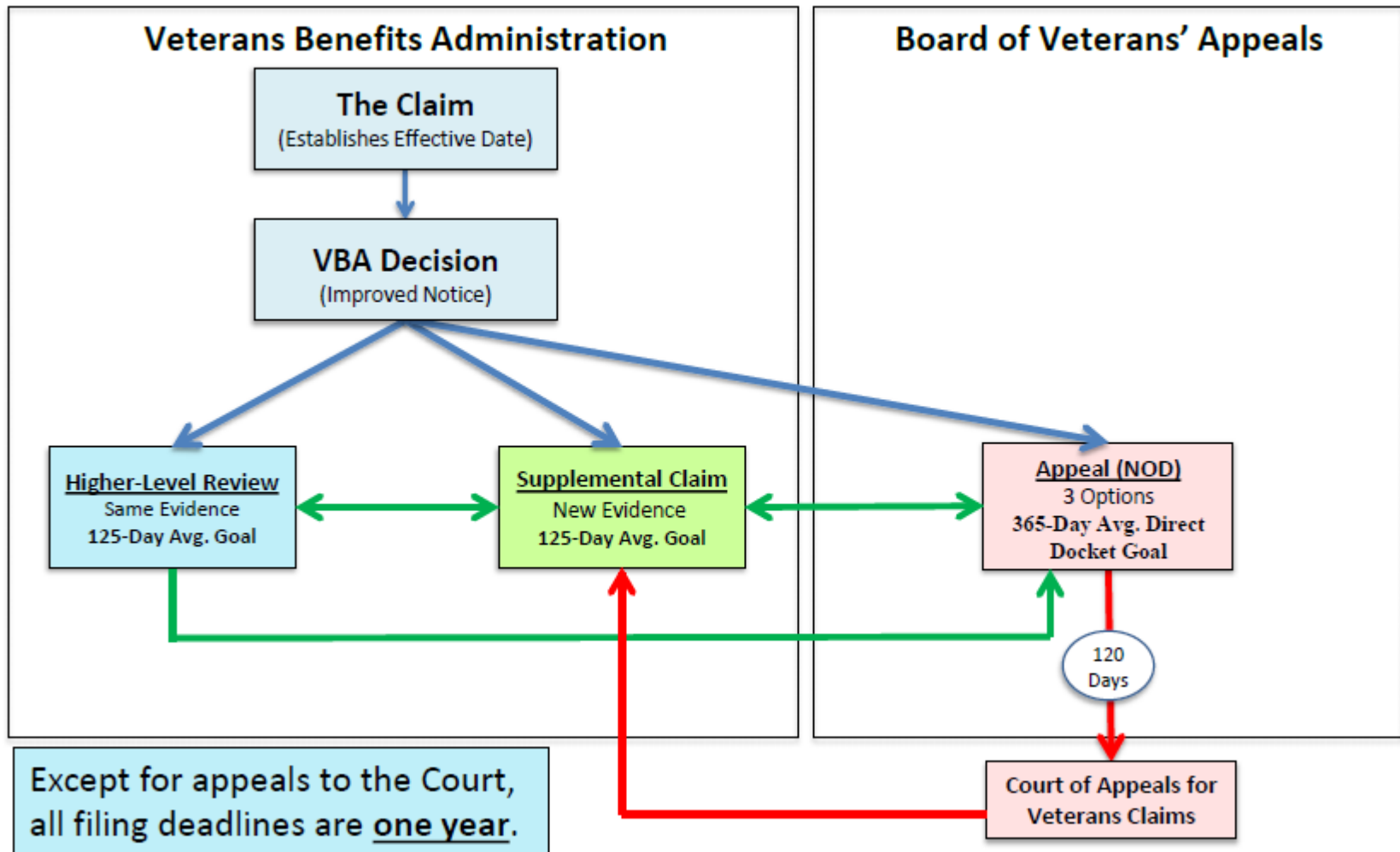
- Part of Veterans Appeal Improvement and Modernization Act of 2017
  - Reduce wait time and complexity of the appeals process
  - Introduce three lanes into the decision review process
  - Improve decision information
- Opt-in Process started in November 2017
  - First by invitation only
  - April 2018 open to all (with limitations)



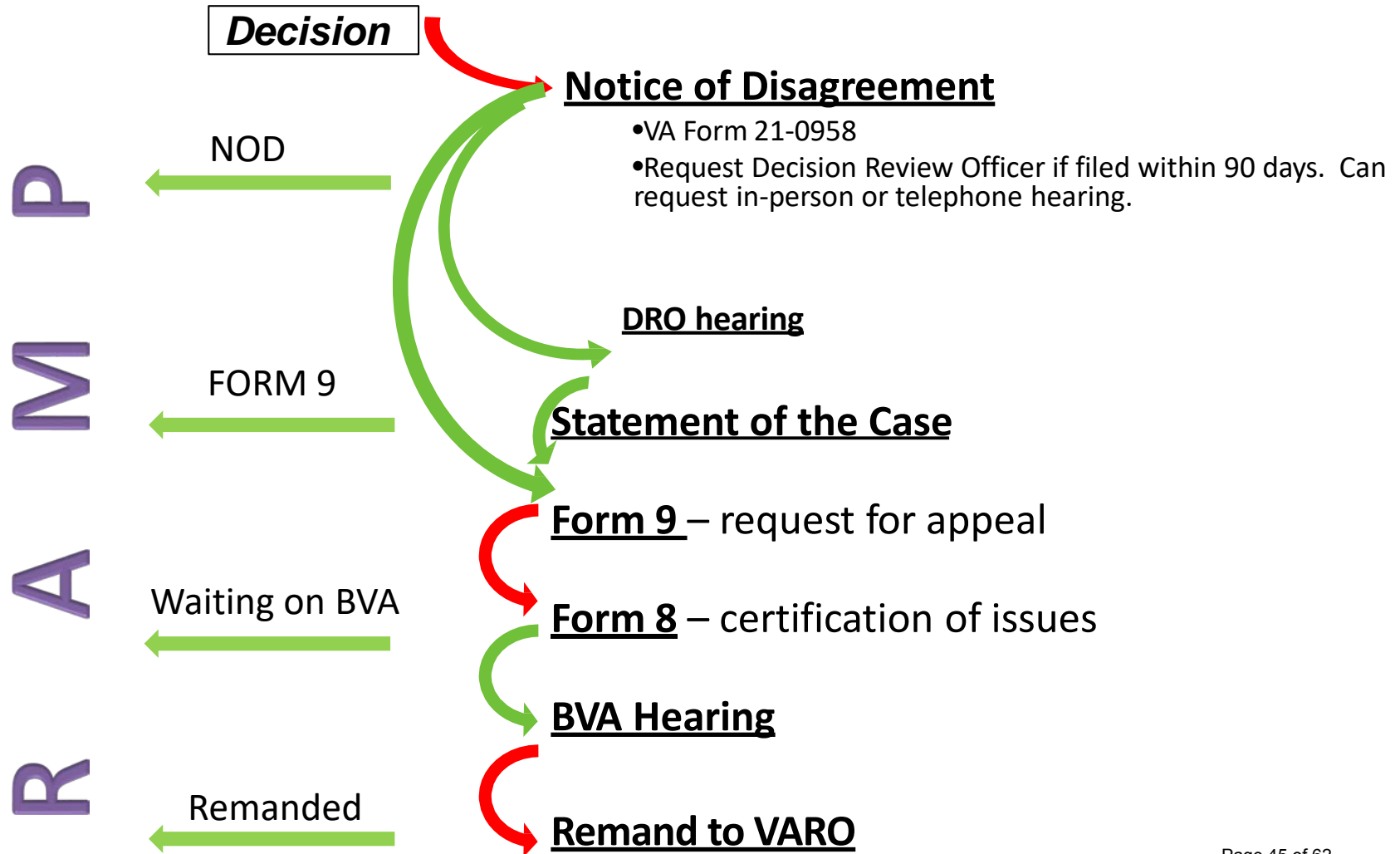
# Rapid Appeals Process: What is RAMP

- LANE 1 - Supplemental Claim Lane
  - Requires “New and Relevant” evidence
  - Duty to Assist applies
- LANE 2 – Higher Level Review Lane
  - DRO Level Review
  - No personal hearing – optional tele-conference
  - No new evidence and no duty to assist
- LANE 3 – Appeal to BVA (not available until Oct 2018)
  - Hearing and Evidence Docket
  - Evidence Only Docket
  - Direct Docket

# Rapid Appeals Process: What is RAMP




# Rapid Appeals Process: When RAMP





# Rapid Appeals Process: How to Opt-in

## By Invitation

 **Department of Veterans Affairs**  
EVIDENCE INTAKE CENTER  
PO BOX 4444  
JANESVILLE WI 53547-4444

September 1, 2018

RECEIVED SEP 04 2018

(POA COPY: CINTHIA L JOHNSON)

In reply, refer to:  
397/AMO

Dear [REDACTED]:

The Department of Veterans Affairs (VA) is actively looking for ways to put Veterans in control of how they receive services and interact with VA. Modernization efforts are occurring across the Department to include changes to our review process for benefit claim decisions. We are contacting you regarding your pending disability compensation benefit appeal(s).

On August 23, 2017, the President signed into law the *Veterans Appeals Improvement and Modernization Act of 2017* (Appeals Modernization Act), creating a new claims and appeals process for pursuing VA benefits. The new process provides you streamlined options for seeking review of VA's decision on your disability compensation claim. You may review a copy of this legislation (Public Law 115-55) online at [www.congress.gov](http://www.congress.gov). The new law does not take effect until February 2019 at the earliest.

**Rapid Appeals Modernization Program**

We are contacting you to inform you of a new program, known as the *Rapid Appeals Modernization Program* (RAMP) that allows you to "opt-in" to the new claims and appeals process before the law goes into full effect. Choosing to "opt-in" to RAMP may lead to an earlier resolution of your claim and/or appeal. This program will not affect or change your potential effective date. You may take advantage of this program by sending us the enclosed RAMP Opt-In Election document. Please ensure that the "Notice Appeals Resource Center" cover sheet with barcode is included in your package. If a Veterans Service Organization (VSO), attorney, or agent represents you, you should contact them for assistance in making a decision.

RAMP is a temporary program that allows early participation in the **Supplemental Claim** and **Higher-Level Review** lanes in the new modernized review process. Participation in RAMP is voluntary; however, taking advantage of this unique opportunity to use several aspects of the new process may help you avoid the delays you are experiencing in the current process. Participation in RAMP requires withdrawing your pending compensation benefit appeal(s) and substituting the review procedures set forth in the Appeals Modernization Act. VA will process all of your eligible appeals under the review lane you select. For the issues addressed under RAMP, you will not be able to request additional review of VA's decision under the current (legacy) appeals process; however, you will have access to all the review options and benefits of the new process.

See the attached fact sheet regarding your options, information on how to participate in RAMP, and the benefits of participating.

If you choose not to participate in RAMP, YOU DO NOT NEED TO RESPOND TO THIS LETTER and your appeal(s) will remain in the current (legacy) appeals process.

## Without an Invitation


VETERAN NAME: \_\_\_\_\_ Submitted by: \_\_\_\_\_

FILE NUMBER: \_\_\_\_\_

**RAMP OPT-IN ELECTION**

**RETURN THIS PAGE ONLY IF YOU WANT TO PARTICIPATE IN RAMP**  
(DO NOT complete this form if you wish to remain in the current legacy appeals process)

Once you have read and understood the attached VA letter, please indicate your election by completing and returning this notice with the coversheet provided to the address noted below.



DEPARTMENT OF VETERANS AFFAIRS  
EVIDENCE INTAKE CENTER  
PO BOX 4444  
JANESVILLE WI 53547-4444  
OR  
FAX TO: 844-531-7818

By completing this form, I elect to participate in RAMP. I am withdrawing all eligible pending compensation appeals in their entirety, and any associated hearing requests, to participate in VA's RAMP initiative and have my eligible appeals proceed under the new process described in the Appeals Modernization Act. I understand that I cannot return to the current (legacy) appeals system for the issues withdrawn. I also acknowledge that, in the event I want the Board to review my claim, the Board will not consider my appeal under the new process until no earlier than October 2018.

I elect the following review option (select only one):

**Supplemental Claim**

I elect to have all eligible issues currently on appeal processed as a supplemental claim. I would like to submit or have already submitted new and relevant evidence in support of my claim for benefits. I understand that I have 30 days from the date of my election to submit additional evidence or notify VA of evidence that VA can assist in gathering.

**Higher-Level Review**

I elect to have all eligible issues currently on appeal reviewed in the higher-level review process. I understand that this review will be based upon the evidence submitted to VA as of the date of this election and VA will not seek additional evidence on my behalf as part of the higher-level review.

Place a check in the box below if you would like a one-time telephonic informal conference with the Higher-Level Reviewer. If you have an accredited representative (VSO, attorney, or agent) please include his or her contact information below. (This option may cause some delay in the processing of your higher-level review.)

Informal Conference ☐ Representative/Org. \_\_\_\_\_  
Phone Number \_\_\_\_\_

Claimant or Authorized Representative Signature \_\_\_\_\_ Date \_\_\_\_\_

# Rapid Appeals Process: Should I use RAMP

- Not recommended when waiting on a decision after a DRO hearing
- RAMP does not affect fee agreements (see OGC memo)
- Useful for bringing multiple claims in multiple postures together
- Useful when a case is stuck in limbo – 930 error state
- Useful to pull a case back to RO level from the BVA
- Once BVA dockets open, RAMP will be first in line
- Grant rates are not encouraging

– From March 2018 ----->

Grant & Denied Rates		
Lane	Claims Granted	Claims Denied
Higher-Level Review	53.6%	46.4%
Supplemental Lane	40.9%	59.1%
Total	51.3%	48.7%

- Not all VARO's are trained. Started in 2 VAROs – now in 11



# Questions?





**Department of  
Veterans Affairs**

EVIDENCE INTAKE CENTER  
PO BOX 4444  
JANESVILLE WI 53547-4444

September 1, 2018

(POA COPY: CINTHIA L JOHNSON)

RECEIVED SEP 04 2018

In reply, refer to:  
397/AMO

Dear [REDACTED]

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On August 23, 2017, the President signed into law the *Veterans Appeals Improvement and Modernization Act of 2017* (Appeals Modernization Act), creating a new claims and appeals process for pursuing VA benefits. The new process provides you streamlined choices for seeking review of VA's decision on your disability compensation claim. You may review a copy of the legislation (Public Law 115-55) online at [www.congress.gov](http://www.congress.gov). The new law does not take effect until February 2019 at the earliest.

**Rapid Appeals Modernization Program**

We are contacting you to inform you of a new program, known as the *Rapid Appeals Modernization Program* (RAMP) that allows you to "opt-in" to the new claims and appeals process before the law goes into full effect. Choosing to "opt-in" to RAMP may lead to an earlier resolution of your claim and/or appeal. This program will not affect or change your potential effective date. You may take advantage of this program by sending us the enclosed RAMP Opt-in Election document. Please ensure that the "Notice Appeals Resource Center" cover sheet with barcode is included in your package. If a Veterans Service Organization (VSO), attorney, or agent represents you, you should contact them for assistance in making a decision.

RAMP is a temporary program that allows early participation in the **Supplemental Claim** and **Higher-Level Review** lanes in the new modernized review process. Participation in RAMP is voluntary; however, taking advantage of this unique opportunity to use several aspects of the new process may help you avoid the delays you are experiencing in the current process. Participation in RAMP requires withdrawing your pending compensation benefit appeal(s) and substituting the review procedures set forth in the Appeals Modernization Act. VA will process all of your eligible appeals under the review lane you select. For the issues addressed under RAMP, you will not be able to request additional review of VA's decision under the current (legacy) appeals process; however, you will have access to all the review options and benefits of the new process.

See the attached fact sheet regarding your options, information on how to participate in RAMP, and the benefits of participating.

If you choose not to participate in RAMP, YOU DO NOT NEED TO RESPOND TO THIS LETTER and your appeal(s) will remain in the current (legacy) appeals process.

### **If You Have Questions or Need Assistance**

If you have any questions about this opportunity or need assistance, please contact your representative (Veterans Service Organization, attorney, or claims agent). Your representative can assist in determining the best review option for your appeal(s) and can also file an election on your behalf.

If you do not have a representative, or if you want to change your representative, you can contact us for a listing of the recognized Veterans Service Organizations and/or representatives. Veterans Service Organizations, which are recognized to provide claims services to the veteran community, can also help you with any questions.

For Veterans who are represented by an attorney or claims agent, opting into RAMP will not, by itself, prevent VA from recognizing an existing or new fee agreement for issues processed under RAMP that complies with applicable power-of-attorney and fee agreement requirements.

You may also contact us at 1-800-827-1000. If you use a Telecommunications Device for the Deaf (TDD), the Federal number is 711.

For Veterans residing outside of the United States, call or visit the nearest American Embassy or Consulate for assistance. In Canada, call or visit the local office of Veterans Affairs Canada. From Guam, American Samoa and N. Marianas, call us at 1-800-827-1000. All other calls outside the US please call 412-395-6272. If you use a TDD, the number is 1-800-829-4833.

For all written communications, put your full name and VA file number on the letter. Please mail all written correspondence to the address listed on the "RAMP Opt-in Election" enclosure.

Sincerely yours,

**Regional Office Director**

Enclosures:

RAMP Fact Sheet

Mail Cover Sheet

RAMP Opt-in Election

CC: CINTHIA L JOHNSON

# RAPID APPEALS MODERNIZATION PROGRAM

## Fact Sheet

**Rapid Appeals Modernization Program (RAMP) gives Veterans the opportunity for early participation in the new Supplemental Claim and Higher-Level Review lanes.**

As a RAMP participant, you will benefit from:

- Early participation in the new, more efficient review process
- Potentially faster decisions and early resolution of disagreements
- Multiple review options
- The same potential effective date for your benefits regardless of the review option that you choose
- A new requirement that VA must have clear and convincing evidence to change any findings favorable to you in a VA decision

### Which Appeals are Eligible for RAMP Processing?

Your appeal must be for a disability compensation-related claim, and pending in one of the following appeal stages at the time of election:

- Notice of Disagreement (NOD) has been filed
- Form 9, Appeal to the Board of Veterans' Appeals (Board), has been filed
- Certified to Board (but not activated)
- On remand from the Board

Compensation-related appeals certified to the Board and "activated" through formal placement on the Board's docket are excluded and will remain pending in the current appeals process. The Board will have notified you in writing if your appeal was formally placed on the docket. If you would like to see if your appeal meets the RAMP eligibility criteria listed above, you may check the status and stage of your appeal by visiting VA's vets.gov website at: <https://www.vets.gov/>

### Which Review Lane is Right for You?

- **Supplemental Claim Lane**
  - Select this option if you have additional evidence that is *new and relevant* to support granting your benefit claim. VA's goal is to complete these supplemental claims in an average of 125 days.
  - VA will assist you in gathering new and relevant evidence to support your claim.
  - VA's review will include any new and relevant evidence submitted since we last decided your claim.
  - If necessary, you can continue to submit supplemental claims with new and relevant evidence or use the Higher-Level Review Lane after you receive a decision in the Supplemental Claim Lane by making an election for further review within one year of the date on your decision notice.
- **Higher-Level Review Lane**
  - Select this option if you have **no additional evidence** to submit in support of your claim but you believe that there was an error in the initial decision. VA's goal is to complete these higher-level reviews in an average of 125 days.
  - A higher-level review consists of an entirely new review of your claim by an experienced claim adjudicator.
  - Factual findings that are favorable to you cannot be changed unless there is evidence to the contrary that is clear and convincing.

- The Higher-Level Reviewer will only consider evidence that was in VA's possession at the time you opt-in. **You and/or your representative will NOT be able to add new evidence during this process. VA will stop developing for any pending evidence.**
- VA cannot assist you in developing additional evidence. However, if the Higher-Level Reviewer discovers an error in VA's duty to assist in the prior decision your claim will return to initial decision makers for correction of the error.
- You or your representative can request an optional **one time telephonic** informal conference with the Higher-Level Reviewer to identify specific errors in the case. Requesting an informal conference may cause some delay in the processing of your higher-level review.
- If necessary, you can use the Supplemental Claim Lane after you receive a decision in the Higher-Level Review Lane, by making an election for further review within one year of the date on your decision notice.

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### What It Means to Opt-In

There are two different review lanes under RAMP as noted above. If you choose to opt-in to one of the new review lanes, we will no longer process your compensation appeal in the current process. Designated claims adjudicators at a local VA office will conduct a new review and provide you with a decision. For the issues addressed under RAMP, you will not be able to request additional review of VA's decision under the current (legacy) appeals process; however, you will have access to all the review options and benefits of the new process.

Choosing one review option now does not prevent you from submitting another supplemental claim or choosing another review option after receiving an initial decision in RAMP. In addition, you will have the ability to appeal to the Board if you determine that further review of VA's decision is necessary. However, the Board will not process your appeal under the new streamlined process until no earlier than October 2018.

When appealing to the Board, you may submit additional evidence and/or request a hearing before a Veterans Law Judge (VLJ). You may also choose for the Board to review your claim without any additional evidence or a hearing, which will likely lead to a faster decision. By selecting one of these options, the Board will place your appeal onto a list for consideration in the order it was received, depending on the hearing and evidence submission elections you make.

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### What It Means to Stay in the Current Appeals Process

If you choose not to participate in RAMP, **you do not need to respond to this letter.** Your appeal(s) will remain in the current appeals process. If you wish to withdraw any or all of your current claims on appeal, please consult your representative (if you have one) for assistance or contact us in writing.

You may experience long processing delays if you decide to remain in the current appeals process. Although each individual case is different, in 2016, Veterans in the current process waited an average of 3 years for resolution of their appeals, and those that received a decision from the Board waited an average of 7 years from the date that they filed their NOD.

### How You Can Opt-In

You can choose to have your compensation claim placed into one of the new review lanes by selecting one of the options on the attached RAMP Opt-in Election document, dating and signing where indicated, and then returning it to us along with the attached cover sheet on top. If you do not want your claim to stay in the current appeals process and wish to participate in RAMP, please respond within 60 days from the date of this letter. Send the RAMP Opt-in Election document along with the cover sheet to the address listed on the document.

# NOTICE

## Appeals Resource Center

Please place this cover sheet on top of any information or documents you send in response to this letter. Failure to do so may delay review of the material you submit.

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### Section completed by VA personnel:

**VA File Number (or Social Security Number)**

[REDACTED]

**Last Name**

[REDACTED]

**First Name**

[REDACTED]

Access to these records is limited to: AUTHORIZED PERSONS ONLY.

Information may not be disclosed from this file unless permitted by all applicable legal authorities, which may include the Privacy Act; 38 U.S.C. §§ 5701, 5705, 7332; the Health Insurance Portability and Accountability Act; and regulations implementing those provisions, at 38 C.F.R. §§ 1.460 – 1.599 and 45 C.F.R. Parts 160 and 164.

Anyone who discloses information in violation of the above provisions may be subject to civil and criminal penalties.

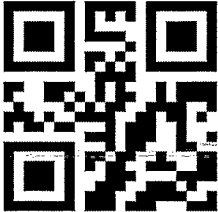
Appeals Resource Center/397



## RAMP OPT-IN ELECTION

**RETURN THIS PAGE ONLY IF YOU WANT TO PARTICIPATE IN RAMP**  
**(DO NOT complete this form if you wish to remain in the current legacy appeals process)**

Once you have read and understood the attached VA letter, please indicate your election by completing and returning this notice with the coversheet provided to the address noted below.



DEPARTMENT OF VETERANS AFFAIRS  
EVIDENCE INTAKE CENTER  
PO BOX 4444  
JANESVILLE WI 53547-4444  
OR  
FAX TO: 844-531-7818

**By completing this form, I elect to participate in RAMP.** I am withdrawing all eligible pending compensation appeals in their entirety, and any associated hearing requests, to participate in VA's RAMP initiative and have my eligible appeals proceed under the new process described in the Appeals Modernization Act. *I understand that I cannot return to the current (legacy) appeals system for the issues withdrawn.* I also acknowledge that, in the event I want the Board to review my claim, the Board will not consider my appeal under the new process until no earlier than October 2018.

**I elect the following review option (*select only one*):**

☐ **Supplemental Claim**

I elect to have all eligible issues currently on appeal processed as a **supplemental claim**. I would like to submit *or* have already submitted new and relevant evidence in support of my claim for benefits. I understand that I have 30 days from the date of my election to submit additional evidence or notify VA of evidence that VA can assist in gathering.

☐ **Higher-Level Review**

I elect to have all eligible issues currently on appeal reviewed in the **higher-level review** process. I understand that this review will be based upon the evidence submitted to VA as of the date of this election and VA will not seek additional evidence on my behalf as part of the higher-level review.

Place a check in the box below if you would like a **one-time** telephonic informal conference with the Higher-Level Reviewer. If you have an accredited representative (VSO, attorney, or agent) please include his or her contact information below. (This option may cause some delay in the processing of your higher-level review in scheduling.)

☐ **Informal Conference**

Representative/Org. \_\_\_\_\_

Phone Number \_\_\_\_\_

\_\_\_\_\_  
Claimant or Authorized Representative Signature

\_\_\_\_\_  
Date





**Department of  
Veterans Affairs**

EVIDENCE INTAKE CENTER  
PO BOX 4444  
JANESVILLE WI 53547-4444

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CINTHIA L JOHNSON  
CONNECTICUT VETERANS LEGAL CENTER  
114 ORANGE AVENUE, 2ND FLOOR  
WEST HAVEN, CT 06516

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VETERAN NAME:

Submitted by:

FILE NUMBER:

## RAMP OPT-IN ELECTION

### **RETURN THIS PAGE ONLY IF YOU WANT TO PARTICIPATE IN RAMP**

**(DO NOT complete this form if you wish to remain in the current legacy appeals process)**

Once you have read and understood the attached VA letter, please indicate your election by completing and returning this notice with the coversheet provided to the address noted below.



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**By completing this form, I elect to participate in RAMP.** I am withdrawing all eligible pending compensation appeals in their entirety, and any associated hearing requests, to participate in VA's RAMP initiative and have my eligible appeals proceed under the new process described in the Appeals Modernization Act. *I understand that I cannot return to the current (legacy) appeals system for the issues withdrawn.* I also acknowledge that, in the event I want the Board to review my claim, the Board will not consider my appeal under the new process until no earlier than October 2018.

**I elect the following review option (select only one):**

#### **Supplemental Claim**

I elect to have all eligible issues currently on appeal processed as a **supplemental claim**. I would like to submit *or* have already submitted new and relevant evidence in support of my claim for benefits. I understand that I have 30 days from the date of my election to submit additional evidence or notify VA of evidence that VA can assist in gathering.

#### **Higher-Level Review**

I elect to have all eligible issues currently on appeal reviewed in the **higher-level review** process. I understand that this review will be based upon the evidence submitted to VA as of the date of this election and VA will not seek additional evidence on my behalf as part of the higher-level review.

Place a check in the box below if you would like a **one-time** telephonic informal conference with the Higher-Level Reviewer. If you have an accredited representative (VSO, attorney, or agent) please include his or her contact information below. (This option may cause some delay in the processing of your higher-level review.)

#### **Informal Conference**

Representative/Org. \_\_\_\_\_

Phone Number \_\_\_\_\_

\_\_\_\_\_  
Claimant or Authorized Representative Signature

\_\_\_\_\_  
Date

# NOTICE

## Appeals Resource Center

Please place this cover sheet on top of any information or documents you send in response to this letter. Failure to do so may delay review of the material you submit.

### Section completed by VA personnel:

**VA File Number** *(or Social Security Number)*

**Last Name**

**First Name**

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Information may not be disclosed from this file unless permitted by all applicable legal authorities, which may include the Privacy Act; 38 U.S.C. §§ 5701, 5705, 7332; the Health Insurance Portability and Accountability Act; and regulations implementing those provisions, at 38 C.F.R. §§ 1.460 – 1.599 and 45 C.F.R. Parts 160 and 164.

Anyone who discloses information in violation of the above provisions may be subject to civil and criminal penalties.

Appeals Resource Center/397





# STATEMENT IN SUPPORT OF CLAIM

**PRIVACY ACT INFORMATION:** The VA will not disclose information collected on this form to any source other than what has been authorized under the Privacy Act of 1974 or Title 38, Code of Federal Regulations 1.576 for routine uses (i.e., civil or criminal law enforcement, congressional communications, epidemiological or research studies, the collection of money owed to the United States, litigation in which the United States is a party or has an interest, the administration of VA Programs and delivery of VA benefits, verification of identity and status, and personnel administration) as identified in the VA system of records, 58VA21/22/28, Compensation, Pension, Education, and Vocational Rehabilitation and Employment Records - VA, published in the Federal Register. Your obligation to respond is required to obtain or retain benefits. VA uses your SSN to identify your claim file. Providing your SSN will help ensure that your records are properly associated with your claim file. Giving us your SSN account information is voluntary. Refusal to provide your SSN by itself will not result in the denial of benefits. The VA will not deny an individual benefits for refusing to provide his or her SSN unless the disclosure of the SSN is required by Federal Statute of law in effect prior to January 1, 1975, and still in effect. The requested information is considered relevant and necessary to determine maximum benefits under the law. The responses you submit are considered confidential (38 U.S.C. 5701). Information submitted is subject to verification through computer matching programs with other agencies.

**RESPONDENT BURDEN:** We need this information to obtain evidence in support of your claim for benefits (38 U.S.C. 501(a) and (b)). Title 38, United States Code, allows us to ask for this information. We estimate that you will need an average of 15 minutes to review the instructions, find the information, and complete this form. VA cannot conduct or sponsor a collection of information unless a valid OMB control number is displayed. You are not required to respond to a collection of information if this number is not displayed. Valid OMB control numbers can be located on the OMB Internet Page at [www.reginfo.gov/public/do/PRAMain](http://www.reginfo.gov/public/do/PRAMain). If desired, you can call 1-800-827-1000 to get information on where to send comments or suggestions about this form.

FIRST NAME - MIDDLE NAME - LAST NAME OF VETERAN ( <i>Type or print</i> )	SOCIAL SECURITY NO.	VA FILE NO.
		C/CSS -

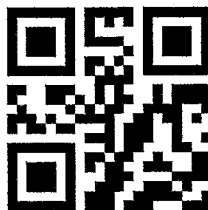
The following statement is made in connection with a claim for benefits in the case of the above-named veteran:

## RAMP SELECTION

Use this form to seek additional review under RAMP until the new system becomes effective **on or after February 14, 2019**, at which time you will have to follow the new application requirements outlined in the new appeals system. Filing instructions will be available at <https://www.benefits.va.gov/benefits/appeals>.

**Instruction:** Please list the issues you are seeking review of below and on the next page select the type of review you would like from the choices provided. Note that you may select **ONLY ONE** type of review for all issues identified on this form. See the "RAMP Review Rights" document for information on each review option and mailing instructions.

**I would like to seek further review of the following issues (use additional page if necessary):**



I CERTIFY THAT the statements on this form are true and correct to the best of my knowledge and belief.		
SIGNATURE	DATE SIGNED	
ADDRESS	TELEPHONE NUMBERS ( <i>Include Area Code</i> )	
	DAYTIME	EVENING

**PENALTY:** The law provides severe penalties which include fine or imprisonment, or both, for the willful submission of any statement or evidence of a material fact, knowing it to be false.

I elect to have all issues reviewed under the following option (Check ONLY ONE of the boxes below):

- ☐ I am filing a **Supplemental Claim**. I understand that I must submit or identify new and relevant evidence that was not previously considered by the local VA office.
- ☐ I am requesting a **Higher-Level Review** based on the evidence of record at the time of the prior decision.
- ☐ I am requesting a **Higher-Level Review** based on the evidence of record at the time of the prior decision and I am requesting a one-time informal conference with the Higher-Level Reviewer. If you have an accredited representative (VSO, attorney, or agent) please include his or her contact information below. (This option may cause some delay in the processing of your higher-level review.)

Representative/Org. \_\_\_\_\_

Phone Number \_\_\_\_\_

I am appealing to the **Board of Veterans' Appeals (Board)**. I understand the Board will not process my appeal under the new system until **no earlier than October 2018**. I would like the following review option:

- ☐ **Direct Review** (Based on the evidence of record at the time of the prior decision; NO evidence submission or hearing request)
- ☐ **Evidence Submission** (Evidence submission within 90 days; NO hearing request)
- ☐ **Hearing** (Hearing with evidence submission allowed) (This option may cause some delay in receiving a decision by the Board.)

**Department of  
Veterans Affairs**

# Memorandum

Date: August 6, 2018

VAOPGCPREC 1-2018

From: General Counsel (022)

Subj: Fee Agreements and the Rapid Appeals Modernization Program

To: Director, Appeals Management Office, Veterans Benefits Administration (397)

**QUESTION PRESENTED:**

How does a claimant's opt-in to the Rapid Appeals Modernization Program (RAMP) affect an existing fee agreement?

**HELD:**

If a claimant, who is represented by a claims agent or attorney, withdraws his or her notice of disagreement (NOD) to opt-in to RAMP, that withdrawal does not obstruct the representative's eligibility for fees. The Department of Veterans Affairs (VA) does not construe the RAMP election as returning the claimant and representative to a period in the VA administrative process for which fees may not be charged or as otherwise affecting a legal existing fee agreement.

**DISCUSSION:**

1. RAMP is a VA initiative testing the feasibility and advisability of facets of the new statutory appeals process prior to full implementation. See Veterans Appeals Improvement and Modernization Act of 2017, Pub. L. No. 115-55, §§ 4(a), 6(3). According to Appeals Management Office (AMO) Policy Letter (PL) 18-01, to participate in RAMP, a claimant must (1) have already filed a notice of disagreement and (2) submit a written RAMP opt-in election to VA. PL 18-01, at 2-3. RAMP opt-in involves "withdrawing his or her pending eligible compensation appeal(s) and substituting the review options set forth in Public Law 115-55." *Id.* at 3. The RAMP election form sent to thousands of claimants requires the claimant to affirm that "I am withdrawing all eligible pending compensation appeals in their entirety . . . to participate in VA's RAMP initiative and have my eligible appeals proceed under the new process described in the Appeals Modernization Act."

2. Because current law prohibits a fee from being charged for services provided by an attorney or claims agent "before the date on which [an NOD] is filed with respect to the case," 38 U.S.C. § 5904(c)(1) (2017), the AMO wants to confirm that VA's position—that "withdrawing" an appeal for purposes of a RAMP election will not return the claimant and representative to the "pre-NOD" period in which a fee may not be charged—is not in conflict with the law. For the reasons discussed below, we believe that the law supports VA's position; the "withdrawal" of an appeal in a RAMP election is solely for the purpose of entering the new



2.

Director, Appeals Management Office, Veterans Benefits Administration (397)

appeals process, as noted in both the AMO's Policy Letter and the RAMP election form.

3. First, the new appeals process will permit a fee to be charged for services provided by an attorney or claims agent after "a claimant is provided notice of the agency of original jurisdiction's initial decision"—a circumstance that is met for all RAMP participants. Pub. L. No. 115-55, § 2(n) (revising 38 U.S.C. § 5904(c)(1)). If a RAMP participant's existing fee agreement conforms with current 38 U.S.C. § 5904(c)(1), it will necessarily conform with Public Law 115-55's revision of that section, such that a claimant's opt-in to the new appeals process, and the laws that govern it, will not return the claimant and representative to any period in which a fee may not be charged. Although the revision of section 5904(c)(1) is not currently effective, it provides strong evidence that Congress did not intend participation in the modernized appeals system to have any restrictive, much less preclusive, effect on eligibility for attorney fees. It is, therefore, reasonable to conclude that, in authorizing a testing program under section 4(a) of Public Law 115-55, Congress did not intend such program to defeat existing eligibility for attorney fees.

4. Second, both the AMO's Policy Letter and the RAMP election form are clear that RAMP opt-in is not a pure appeal "withdrawal," but a substitution of one appeals process for another. Because Congress has permitted, since 2006, fees to be charged for services once the appeals process is initiated, *see* 38 U.S.C. § 5904(c)(1) (2017); Pub. L. 109-461, tit. I, § 101(c)(1) (2006); *see also* 38 U.S.C. § 7105(a) (2017), the substitution of appeals processes after initiation would not raise any section 5904(c)(1) concerns. In fact, any interpretation of RAMP election that would cause claims agents and attorneys to discourage claimants from opting in to the new appeals process—based on concerns that a RAMP election will adversely affect their own fees—would defeat Congress's specific intent to provide various opportunities for opting in to the new appeals process, *see* Pub. L. No. 115-55, §§ 2(x)(3), 2(x)(5), 4(a), 6(3), not to mention create conflicts of interest for attorneys and claims agents in numerous cases.

5. Third, claimants and representatives entered into their existing fee agreements with the understanding—since the NODs had already been filed—that there would be a payment for services provided; the technicalities required for RAMP election should not disrupt that settled expectation. *See Landgraf v. USI Film Prods.*, 511 U.S. 244, 265 (1994) ("Elementary considerations of fairness dictate that individuals should have an opportunity to know what the law is and to conform their conduct accordingly; settled expectations should not be lightly disrupted."); *Cline v. Shinseki*, 26 Vet. App. 18, 26-27 (2012). As noted above, there is ample reason to conclude that Congress intended not to disrupt such settled expectations in enacting the provisions of Public Law 115-55, including those authorizing a test program such as RAMP. To the extent fee

3.

Director, Appeals Management Office, Veterans Benefits Administration (397)

agreements in particular cases do not explicitly address RAMP, such agreements nonetheless would most logically be construed to apply to election of RAMP in the same manner as they would apply to traditional appeals. Courts have previously examined the context of veterans' benefits fee agreements to find implicit provisions therein, see, e.g., *Scates v. Principi*, 282 F.3d 1362, 1365 (Fed. Cir. 2002), and we see no reason why a court would disrupt settled expectations between a claimant and representative based on an isolated focus on the word "withdrawal" on the RAMP election form.



James M. Byrne