



Quarterly Newsletter

It's No Secret

The rules governing VA benefits is available for your reading pleasure, but don't expect it to be easy to read or understand. The Code of Federal Regulation (CFR) Part 3 covers the rules governing claims. It covers such items as; what your date of claim will be; what constitutes evidence; what establishes service connection; and so forth. It is the groundwork behind claims for pension, disability and dependency. One of the easiest places to read it can be found [here](#).

Part 4 of 38 CFR covers the details of the claims process. The most important segment of part 4 is perhaps the requirements for specific ratings. For example, what symptoms determine the rate of disability for mental conditions, what lack of flexion or extension determines the rate of disability for knee conditions, etc.

The link that will take you to part 4 is [here](#). More rules concerning the rating process are found in subpart A of part 4 and the disability tables are found in subpart B.

One of the frequent disabilities we see concern the lower back, so let's use that as an example. To see flexion and extension standards of the spine you would visit subpart B, The Musculoskeletal System, 4.71a Schedule of ratings— musculoskeletal system and scroll down to the Spine. You should see that getting past 40 percent requires "Unfavorable ankyloses," which is being locked in a position other than upright.



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Disability Compensation

"I Didn't Know..."

You just learned that CFR 38 Parts three and four are the basis for VA decisions. It takes over a year of training before a Rater ever makes his/her first decision, and even then it is reviewed and approved by a senior Rater. Then it goes through the QC process. It can take over a year of daily Rating with constant oversight before a Rater is allowed to make decisions without a senior Rater co-signing the decision. Even then, some decisions (like Traumatic Brain Injury) will still require senior rater oversight.

Now that you've had a chance to review the Federal Regulation, perhaps you'll have a better appreciation for the difficulty involved in your rating decisions and you also might appreciate how easy it would be to misinterpret the Code.

[Come see us for help.](#)

Compensation: something, typically money, awarded to someone as a recompense for loss, injury, or suffering.

That definition is important to keep in mind when considering whether you should file a claim with the VA (or seek an increase). Some questions to ask yourself are:

- Are there things that I can't do anymore as a result of being injured or contracting a disease in the service? If yes, you should file an initial claim.

A good example is a bad jump. You could have broken every bone in your body, but if you have had a complete recovery, with full range of motion in all joints and no pain on motion of those joints, you'd not be granted a thing for disability. Simply put, the incident in service had no lasting effect on your ability to find or keep employment.

- Has the illness or injury I received on active duty become worse? If the answer is yes, you should file a claim for increase.

A Good example is the knee you were service connected for 10 years ago which now requires replacement, or which no longer has full range of motion. If that is the case you certainly want to submit a claim for increase.

Keep in mind what you learned from earlier articles in this newsletter. Part 4 of 38 CFR dictates the compensation you will receive based on the severity of the condition you left the service with.

Your Date of Claim

Your Date of Claim is the date as of which the VA will pay benefits (if authorized) and is identified in the benefits letter you receive from the VA. But how do they come up with that date?

Generally speaking, a Date of Claim is established the day the VA receives your claim, whether that is received at the intake center of the local VA facility, or whether it is the date you submit your claim through Ebenefits.

There are, however, other variables involved. For example, you have 12 months from the time you leave the service to file a VA claim and maintain your date of claim as the 1st day after the last day of active duty. If the 12 month period has elapsed your date of claim will be as of the date your claim was received.

There are also times when the law dictates a date of claim and it can get rather confusing. That's why we're here. When you receive your claim back from the VA be sure to check your date of claim.

And if you have questions, call us!



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Reductions in Benefits

Once you have received your VA benefits it's hard to imagine having to give them up, but that is exactly what can happen.

The most common reductions are those that come from re-examinations. When you received your claim there may have been a sentence stating that you would be scheduled for a future examination. That means that during your physical at least one of your ailments was determined to be potentially temporary, or it was determined that the condition was likely to improve over time. In those cases the VA will set up another physical to see if the condition has improved. If it has, your benefits might be reduced. Keep in mind that the *only* portion of the physical to be re-done involves the conditions identified as temporary or likely to improve. However, if there are glaringly obvious improvements in health since your last exam, these too could be addressed in the re-examination. For example, if you suffer from a back condition that had you "locked" in the bent over position and you now show up at the VA examination walking upright, that would likely be addressed in the evaluation and a reduction might occur.

One way to inadvertent reduction is to claim that a condition has gotten worse when in fact it has improved. Read your rating. It tells you what conditions you would face that warrants an increase. For example, if you were rated 10% for pain on motion of the right knee, your benefits letter would tell you that in order to receive an increase there must be a reduction in your range of motion of the knee.

Let's carry the example further. Suppose you put in a claim for increase because that knee now aches occasionally at night. Let's also assume that during the exam you forget to say "ow" during the examination and you were able to duck walk. You would now have an examination without pain on motion and with full range of motion and therefore would likely face a reduction in benefits.

Don't be afraid to request an increase if warranted, but don't submit claims for increase without talking to us first. If the time comes for that knee or hip to be replaced, you'll definitely want the VA to know.

Tentative Travel

One of the unique aspects of the OASIS Group is that for many of you, we come to you. We coordinate every year with units to put on Benefits Briefings to the SOF community. As of the date of this publication (subject to changes) we will travel:

Feb Coronado, CA
Mar Hawaii
Apr Ft. Carson, Co
May Little Creek, VA
Jun Eglin AFB, FL
Jun Fayetteville, NC
Jul Ft. Bragg, NC
Jul Little Creek, VA
Aug Stuttgart, Germany
Aug Coronado, CA
Sep Ft. Campbell, KY
Oct Little Creek, VA
Oct Las Vegas, NV
Nov 2 Okinawa, Japan

There are also quarterly briefings at JBLM on the following dates:

Apr
Jul
Oct

Not coming to your area? We can help with your claim via mail and phone. We'll have you send your documents to us for review and then help you complete your claim over the phone. All that we ask is that you pay the necessary postage (We are a non-profit and have no budget for mailing claims).

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