

**I CORPS FORWARD**  
**UNITED STATES ARMY JAPAN**

# **General Overview\* of Eligibility for Benefits Available from the Department of Veterans Affairs**

Office of the Staff Judge Advocate  
January 2010

**\*This presentation is not intended as a complete review of all types of VA benefits and corresponding eligibility criteria for such benefits. Additional information concerning such benefits can be located in Title 38 of the United States Code and Title 38 of the Code of Federal Regulations. Statements contained herein are the views of the author and do not constitute the official position of the United States, the Department of the Army, or the Department of Veterans Affairs.**

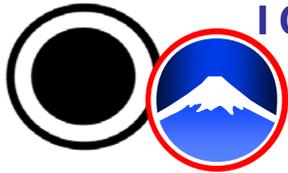
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## Topics of Discussion

- Major differences between the missions of the Department of Defense (DOD) and the Department of Veterans Affairs (VA)
- Status as a Veteran and the Minimum Active Service Requirement
- Initiating a VA Claim
- Monetary and Non-Monetary Benefits.
- The VA Administrative Appeal Process



## Missions of VA & DOD

- The missions of the VA and the DOD, while related, are derived from separate statutes and regulations and are clearly distinguishable.
- DOD's mission is "to provide the military forces needed to deter war and to protect the security of our country."  
[www.defenselink.mil/admin/about.html](http://www.defenselink.mil/admin/about.html).
- VA's mission is "to care for him who have borne the battle and for his widow and for his orphan."  
-Abraham Lincoln



## Veteran Status, the Cornerstone of Benefits Eligibility

- Definition of a Veteran.
  - An individual discharged or released from “the active military, naval, or air service” of the United States “under conditions other than dishonorable.” 38 U.S.C. § 101(2).
- When a discharge is not “honorable” or “general, under honorable conditions,” VA decides whether it is qualifying.

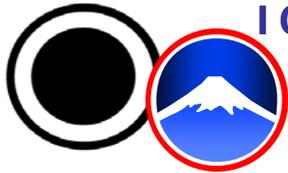




## Minimum Active Duty Service Requirement

- To qualify for VA benefits, an individual must serve at least twenty-four months of continuous active duty, if they entered active duty after October 16, 1981 or meet one of the specified exceptions. 38 U.S.C. § 5303A.
- Training duty in the Reserves, AT, ADT, and IDT, is generally not sufficient.

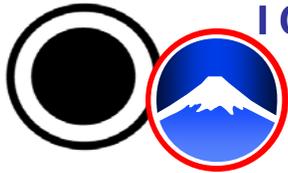




## Exceptions to the Minimum Active Duty Service Requirement

- When the servicemember completes the full period called to active duty.
- When the servicemember dies on active duty or is discharged or released from active duty based on a disability incurred or aggravated in line of duty.
- When the service member is separated via “Early Out Separation” or “Separation for Hardship” under 10 U.S.C. §§ 1171 & 1173.



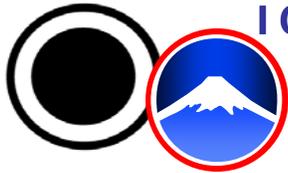


## The Three Major VA “Administrations”

- Veterans Benefits Administration (VBA)
  - Administers VA’s monetary benefits programs.  
2009 budget: \$46.9 billion.
- Veterans Health Administration (VHA)
  - Administers VA’s health care programs.
  - 2009 budget: \$40 billion.
- National Cemetery Administration (NCA)
  - Administers VA’s burial benefits and memorialization programs.  
2009 budget: \$230 million.

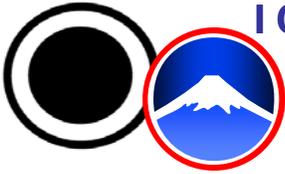
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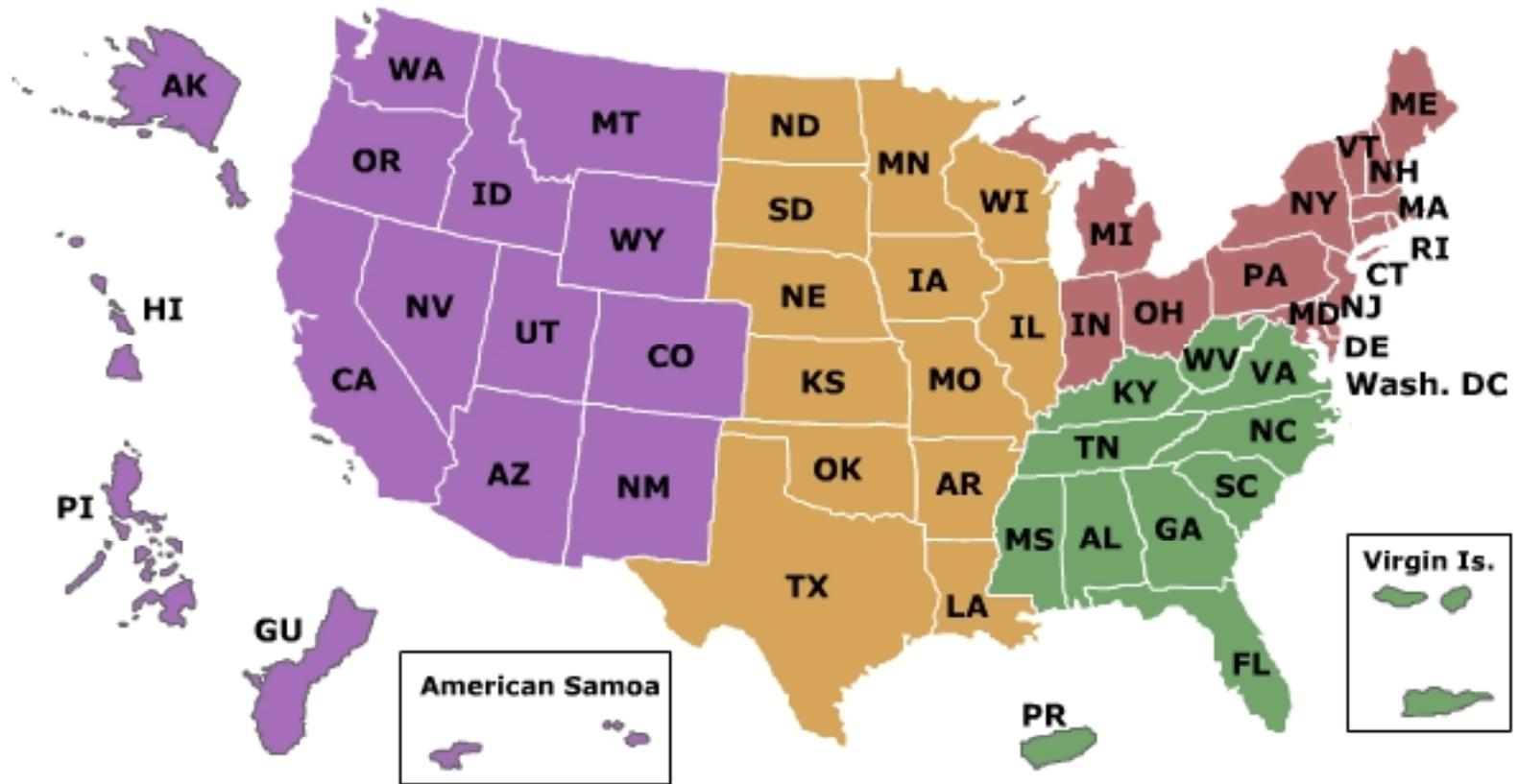
## Locating VA Offices

- VA's Facilities Locator & Directory contains an interactive map showing VBA, VHA, and NCA office locations and contact information.
  - Click on “locations” on the VA website or visit <http://www1.va.gov/directory/guide/home.asp>



# VBA Regions

## *Area Offices*



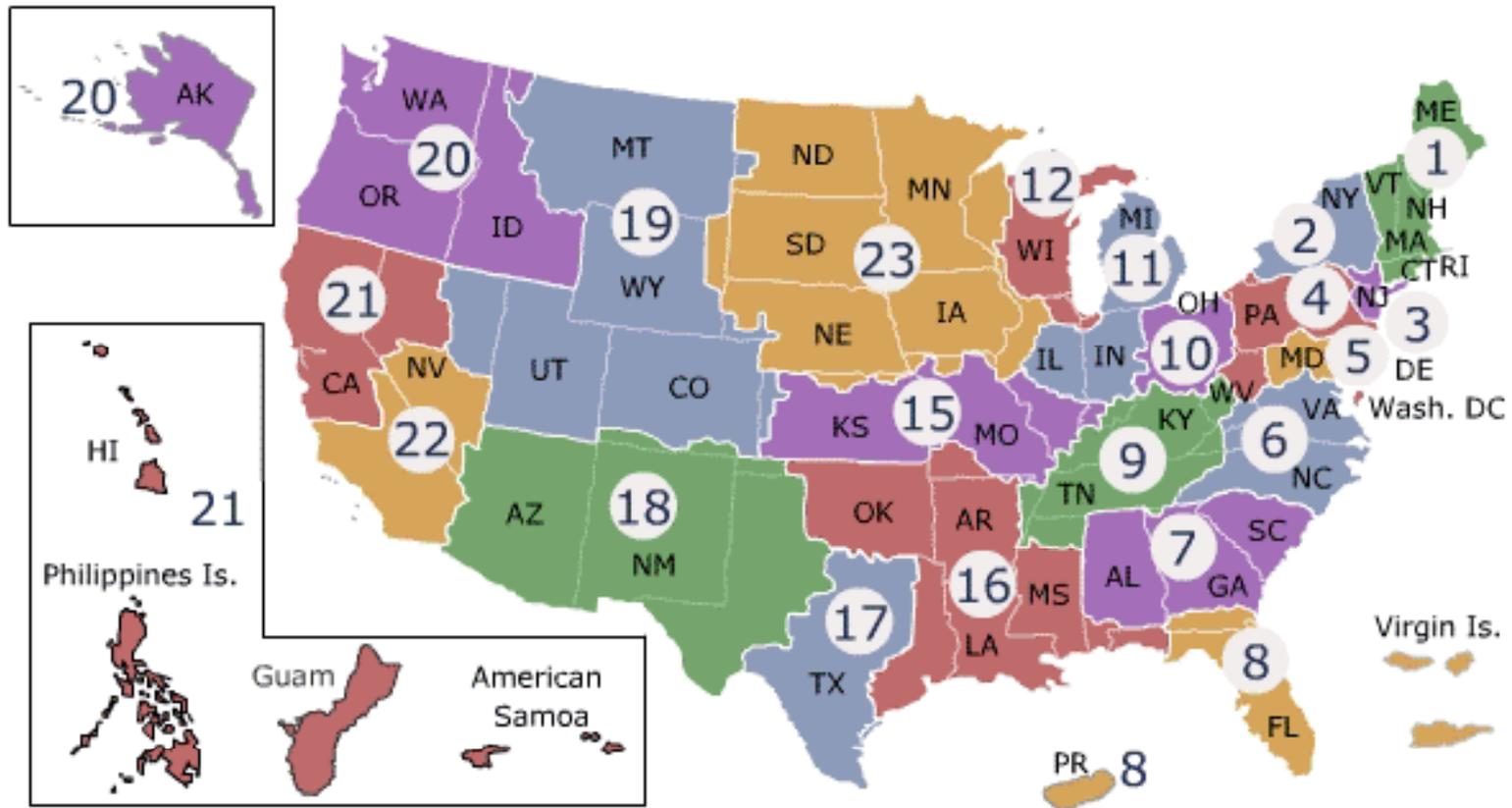
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# Veterans Health Administration Regions

## *Veterans Integrated Service Networks (VISNs)*



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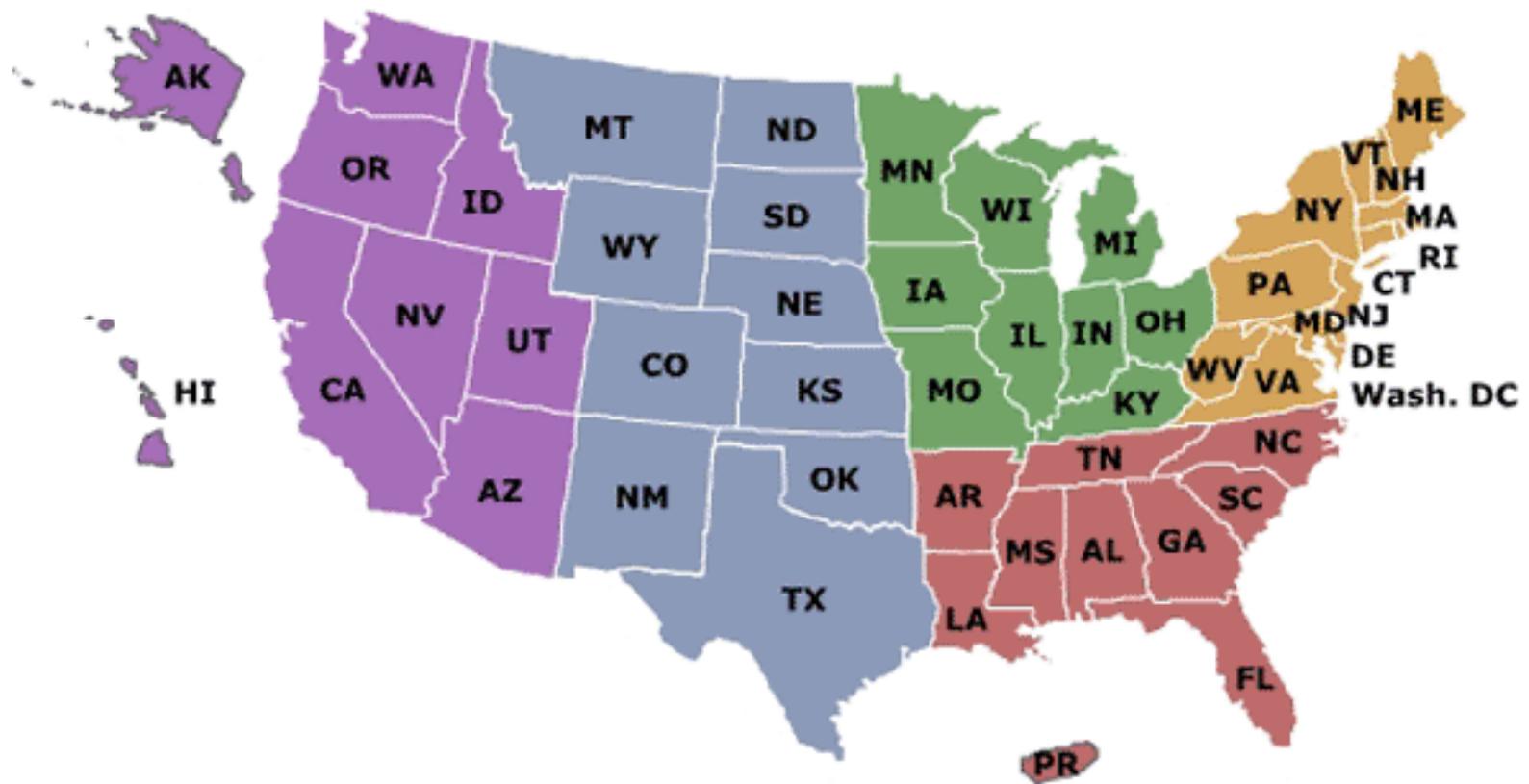




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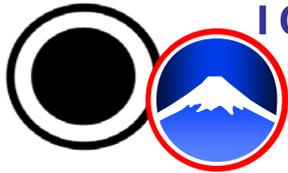
# National Cemetery Administration Regions

*Memorial Service Networks (MSNs)*



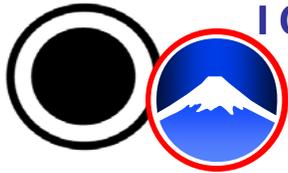
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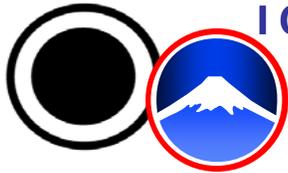
## Claims for Monetary VA Benefits

- VA must receive a claim for VA benefits as a prerequisite to awarding or furnishing benefits.  
38 U.S.C. § 5101(a).
- There is no time limit on filing a VA benefit claim.
- Claims can now be filed up to 180 days prior to separation from active duty.



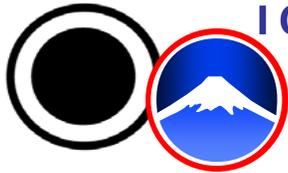
## Impact of Not Filing a Claim

- The failure to file a claim until years, and sometime decades, after military service can complicate VA's adjudicative process.
- The effective date of benefits is generally the date of the claim if the claim is not filed within one year of service.
- Benefits eligibility for dependents may be established after the death of the veteran.



## How to File a Claim

- Step 1: Identify the benefit(s) sought.
- Step 2: Locate and complete claim form (paper or on-line) [www.va.gov/vaforms/](http://www.va.gov/vaforms/). Include copies of documents necessary to support the claim
- Step 3: File the claim with the appropriate VA office or, if appropriate, submit the claim electronically using the Veterans On-Line Application (VONAPP)  
Website: <http://www.va.gov/onlineapps.htm>



## VA Applications Online

- VA has an extensive on-line benefit application capacity.
  - Veterans ON-line APPlications (VONAPP)  
<http://vabenefits.vba.va.gov/vonapp/main.asp>





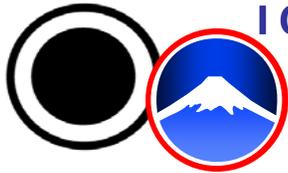
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# The Four Major VA Monetary Benefit Programs

- Disability Compensation
- Non-Service Connected Pension
- Dependency and Indemnity Compensation (DIC)
- Educational Assistance

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## **Additional Monetary Benefit Programs**

- Home Loan Guaranty
- Servicemembers Group Life Insurance
- Veterans Group Life Insurance
- Monetary burial benefits

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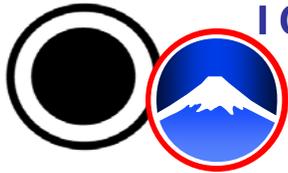




## Smaller Monetary Benefit Programs

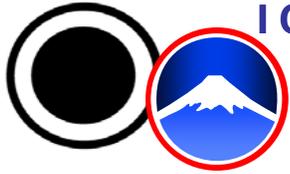
- Specially adapted housing
- Automobile allowances and adaptive equipment
- Medal of Honor pension
- Clothing allowance





## VA Compensation

- A monthly payment for a disability resulting from injury or disease that is incurred or aggravated during active service and that is not a result of the servicemember's own willful misconduct (i.e., in line of duty). 38 U.S.C §§ 1110, 1131.
- The cornerstone for VA compensation is service-connection.



## **VA Compensation Does Not Follow Civilian Compensation Principles**

- Unlike in the civilian world, negligence does not play a factor regarding the amount of compensation payable.
- There is no process whereby VA and the claimant “negotiate a settlement” designed to compensate for loss of earnings or pain and suffering.



## Evidentiary Burden

- A claimant for VA benefits bears the burden for presenting and supporting a claim for VA benefits. 38 U.S.C. 5107(a).
- VA must assist the claimant in meeting this obligation, which is referred to as VA's "Duty to Assist."
- The "benefit of the doubt" regarding a claim must be resolved in favor of the claimant.





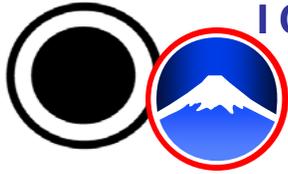
## General Standard for Establishing Eligibility for VA Compensation

- Three key factors:
  - The existence of a present disability
  - An in-service incurrence or aggravation
  - A causal relationship between the present disability and the disease or injury incurred or aggravated in service.
- The absence of any of the above factors is sufficient to deny a claim.



## Calculating the Amount of Compensation

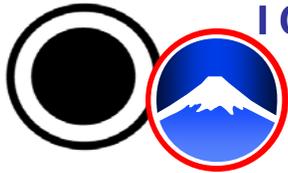
- The rating for service-connected conditions is based upon the VA Rating Schedule, which is codified as Part IV of title 38 of the Code of Federal Regulations (CFR).
- Compensation rates change annually, but the percentages for the diagnostic codes remain the same.



## VA Compensation and Pension Rate Tables

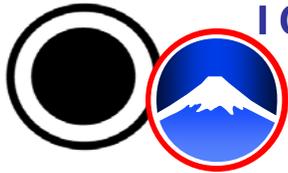
- Site for current and historical rates  
<http://www.vba.va.gov/bIn/21/rates/index.htm>
- When retroactive payments are due, VA looks back to determine the rates in prior years.





## Modification of Compensation Ratings

- Ratings may be increased or decreased over time.
- Changes in ratings are usually based on a VA medical exam (called a C&P exam).
  - Any change in rating requires notice to the claimant and other procedural rights  
38 C.F.R. § 3.103(a).



## Total Disability Due to Individual Unemployability (TDIU)

- A veteran rated less than 100% disabled may be paid at the 100% rate if VA finds that he or she is unemployable.
- A total disability due to individual unemployability is known as TDIU.
- Veterans with single ratings of 60% or higher or combined ratings where one rating is higher than 40% are eligible for TDIU.



## VA compensation is not subject to taxation or creditors' claims.

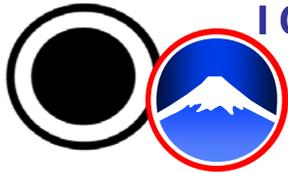
- Pursuant to 38 U.S.C. § 5301 VA monetary benefits are not assignable.
- As a result, VA compensation is currently not subject to garnishment for alimony or child support **except** to the extent it is received in lieu of waived military retirement pay.





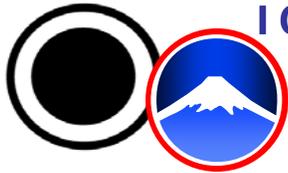
## Recoupment of VA Compensation

- VA disability compensation is generally not paid until the full amount of military disability severance pay is recouped.
- VA is required to pursue overpayment of benefits, and often does so via offset against future benefits.



## **Concurrent Retirement and Disability Pay (CRDP)**

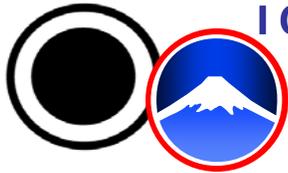
- Concurrent Receipt means to receive both military retirement benefits and VA disability compensation.
- Military retirees with 20 or more years of service and a 50% (or higher) VA rated disability will (over a span of time) no longer have their military retirement pay reduced by the amount of their VA disability compensation.



## **Combat Related Special Compensation (CRSC)**

- Allows certain military retirees to receive both military retirement pay and VA Disability Compensation.
- A DOD Program with a VA component.
- Benefits are calculated by DFAS based on a complex formula using the retired pay and VA disability payment.





## VA Disability Pension

- Eligibility is premised on wartime service on active duty in the Armed Forces of the United States. Governed by Chapter 15 of Title 38, U.S. Code. 38 C.F.R. §§ 3.271- 3.277.
- VA Pension is a needs-based benefit.
  - Current amount for a veteran with one dependent is \$15,99300/year. The amount increases with the number of dependents.



## **Pension Awards are Reduced by the Claimant's Income**

- The amount of VA pension payable is offset against all sources of income unless specifically excluded.
- Eligibility for continued receipt of VA pension is verified by requiring submission by the Veteran of annual Eligibility Verification Reports (EVRs).
- VA uses computer matching to ensure compliance and accuracy of EVRs.



## VA Death Pension

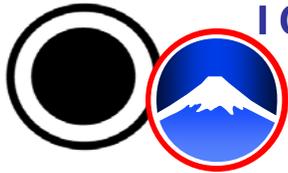
- Death pension is also needs-based benefit program.
- Benefits are issued to surviving spouses and children of wartime veterans or veterans who were entitled to VA disability compensation at the time of death. 38 U.S.C. §§ 1541, 1542.





## Dependency and Indemnity Compensation (DIC)

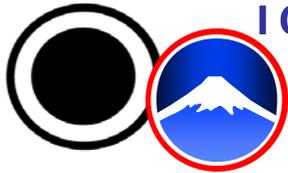
- DIC is the major VA benefit program for survivors and dependents.
  - Paid to dependents of veterans who:
    - Died as a result of a service-connected disability or a condition directly related to a service-connected disability, or
    - Were totally disabled due to a service-connected condition for a specified period prior to death.
- 38 U.S.C. § 1318.



## Important Facts About DIC

- May be paid to children when there is no surviving spouse. 38 U.S.C. §§ 1313 and 1314.
- Is also payable to parents, subject to income limitations and dependency status.
- Is also payable if the veterans dies on active duty, active duty for training, or inactive duty training.





## VA Educational Benefits

- VA administers several programs through which veterans, servicemembers, and veterans' survivors or dependents can pursue programs of education at various levels. Information relating to these programs may be obtained at <http://www.gibill.va.gov>.





## Types of VA Educational Benefits

- Post-9/11 GI Bill (Ch. 33) (Effective 8-1-2009)
- Montgomery GI Bill – Active Duty & Reserve (Ch. 30)
- Veterans Educational Assistance Program (VEAP) (Ch. 32)



## Applications for VA Educational Benefits

- Detailed Information is necessary to qualify.
- Completion of VA Form 22-1990 is required.  
<http://vbaw.vba.va.gov/bl/20/cio/20s5/forms/VBA-22-1990-ARE.pdf>
- Toll free number for Post-9/11 GI Bill questions.  
1-888-442-4551

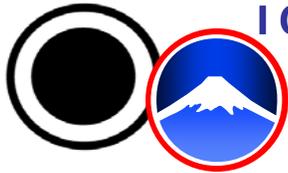




## Post 9-11 GI Bill

- The Post-9/11 GI Bill is the most comprehensive education benefit package since the original GI Bill was signed into law in 1944.
- Eligible individuals are entitled to 36 months of benefits based on a sliding scale that is linked to the length of qualifying active duty on or after 9-11-01





## Post 9-11 GI Bill

- Provides financial support for education and housing to individuals with at least 90 days of aggregate active service on or after 11 Sept. 2001 or individuals discharged with a service-connected disability after 30 days.
- An honorable discharge is required to be eligible for the Post-9/11 GI Bill.

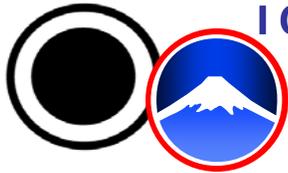




## Key Benefits

- Tuition and fees not to exceed the most expensive in state undergraduate tuition at an in-state public institution of higher education for 36 months.
- Monthly living allowance, based upon zip code for BAH of an E-5 with dependents.
- Book stipend up to \$1000/year.

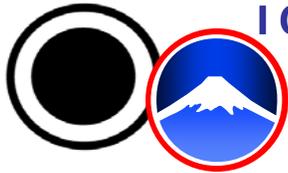




## Transferability of Post 9-11 GI Bill Benefits

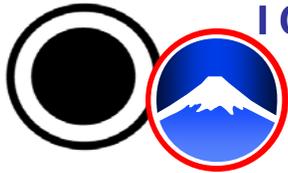
- The transfer of benefits to dependents is authorized, but the rules are set by DOD, not VA, and VA does not determine eligibility for a 9-11 GI Bill transfer.
- A approved servicemember may transfer entitlement to their spouse, one or more children, or a combination of spouse and children.





## Montgomery GI Bill – Active Duty (MGIB-AD)

- Generally requires three conditions
  - an honorable discharge
  - a high school diploma or GED
  - the service member must fall into one of four very specific eligibility categories based upon time of service.
- Generally requires a reduction of military pay by \$1200 during first 12 months of service.



## MGIB-AD

- The monthly benefit paid is based on
  - the type of training taken
  - length of service
  - whether DOD put extra money in the servicemember's MGIB fund (called "kickers").
- The current monthly amount for full-time institutional (college) training is \$1,368 for persons who served three years.



# Reserve Educational Assistance Program (REAP)

- A DOD-funded education benefit program administered by VA designed to provide educational assistance to members of the Reserves called or ordered to active duty in response to a war or national emergency (contingency operation) as declared by the President or Congress.





## **Montgomery GI Bill – Selected Reserve (MGIB-SR)**

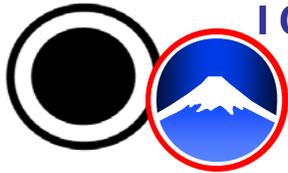
- Have a six-year obligation to serve in the Selected Reserve signed after June 30, 1985 (officers, must serve six years in addition to the original obligation).
- Remain in good standing while serving in an active Selected Reserve unit.
- Complete initial active duty for training (IADT) + HS Diploma or GED.





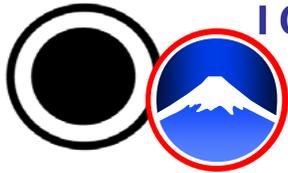
## Veterans Educational Assistance Program (VEAP)

- VEAP is available to servicemembers who
  - first entered active duty between January 1, 1977 and June 30, 1985
  - elected to make contributions from military pay to participate in this education benefit program.
- Contributions are matched on a \$2 for \$1 basis by the Government.



## Survivors and Dependents Educational Assistance

- Eligibility is based upon the death of servicemember or veteran that would qualify a dependent or survivor for DIC.
- Current rate is \$925.00/month
- Eligibility ends 10 years after a servicemember's death or when
  - a surviving spouse remarries
  - a child beneficiary reaches the age of 26.

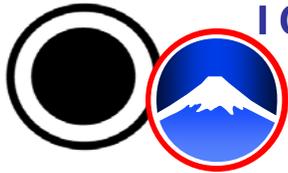


## VA Loan Guaranty Benefits

- VA home loan guaranties are issued to assist eligible servicemembers, veterans, members of the reserves, and unmarried surviving spouses in obtaining or refinancing home loans.
- Information about VA's home loan guaranty programs can be found at <http://www.homeloans.va.gov>.
- To establish eligibility, applicants must obtain a certificate of eligibility by completing a VA Form 26-1880, "Request for a Certificate of Eligibility for a VA Home Loan."

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## VA Sponsored Life Insurance Programs

- Servicemembers' Group Life Insurance (SGLI) and Veterans' Group Life Insurance (VGLI).
- Extensive information on VA life insurance programs is available at [www.insurance.va.gov/](http://www.insurance.va.gov/)

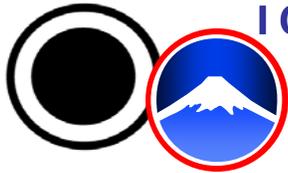




## **Traumatic Injury Servicemembers Group Life Insurance (TSGLI)**

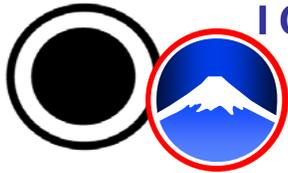
- TSGLI was designed to provide severely injured servicemembers, who suffer a loss as a direct result of a traumatic injury, with short-term monetary assistance.
- TSGLI does not cover mental or physical illnesses or diseases.





## Specially Adapted Housing

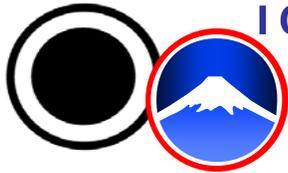
- Grant available to veterans or servicemembers who have permanent and total service-connected disability due to
  - The loss, or loss of use, of both lower extremities
  - blindness in both eyes
  - the loss of use of one lower extremity with loss of use of an upper extremity coupled with an organic disease.



## Automobile Allowances and Adaptive Equipment

- Automobile Allowance: A one-time payment of \$11,000 for veterans who have certain service-connected conditions.
- Adaptive Equipment: Equipment which must be part of or added to a vehicle to make it safe for use by the claimant and to assist them in meeting the applicable standards of licensure. See 38 C.F.R. § 3.808.





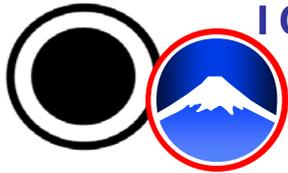
## Medal of Honor Pension

- Medal of Honor Pension: A monthly entitlement which is paid as a sole benefit or added to pension or compensation rates for veterans who were awarded the Medal of Honor for distinguished military service.
- Current monthly amount: \$1194.



## Clothing Allowances

- Use of prosthetic devices, orthopedic devices, and some skin conditions can irreparably damage clothing.
- An allowance of \$716/year is authorized for veterans who have service-connected conditions which meet this criteria.



## Section 1151 Benefits

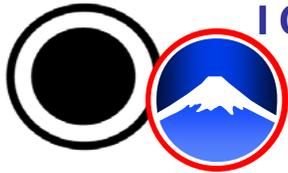
- Compensation or DIC is payable under 38 U.S.C. § 1151 when the claimant's disability or death was caused by
  - hospital care
  - medical or surgical treatment
  - examination administered by a VA employee
  - in a VA facility

and the proximate cause of the disability or death was “carelessness, negligence, lack of proper skill, error in judgment, or similar instance of [VA] fault” and was not reasonably foreseeable.



## Monetary Burial Benefits

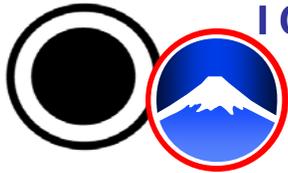
- Service-Related Death
  - VA will pay an allowance up to \$2,000 toward burial expenses for deaths on or after 11 September 2001.
- Non-Service Related Death.
  - VA will pay up to \$300 toward burial and funeral expenses and a \$300 plot-interment allowance for deaths on or after 1 December 2001.



## Non-Monetary VA Benefits

- Health Care Benefits
- Home Loan Guaranty
- Vocational Rehabilitation
- Non-Monetary Burial Benefits

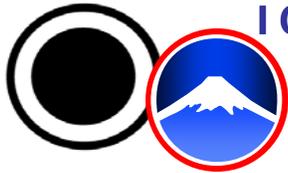




## Primary VA Health Care Programs

- Hospital Care
  - Inpatient care in a hospital including all needed medical services.  
38 U.S.C. §§ 1701(5); 1710(a), (c), (e)-(h).
- Outpatient Care
  - Medical services including medical examination, treatment, and rehabilitative services.  
38 U.S.C. §§ 1701(6); 1710(a), (c), (e)-(h).





## Primary VA Health Care Programs (cont.)

- Domiciliary Care
  - Inpatient care, but not in a hospital or nursing home, including needed medical services.  
38 U.S.C. § 1710(b).
- Nursing Home Care
  - The accommodation of persons who are not acutely ill and not in need of hospital care, but who require nursing care and related medical services. 38 U.S.C. §§ 101(28), 1710(a)(2)-(5), 1710A.





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## Applying for VA Health Care

- Enrollment is a prerequisite to receiving care
  - VA Form 10-10EZ

<https://www.1010ez.med.va.gov/sec/vha/1010ez/>

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## VA Civilian Health and Medical Program

- The VA Civilian Health and Medical Program (CHAMPVA) 38 U.S.C. § 1381
  - Authorizes VA medical care for
    - The spouse or child of a veteran who is totally disabled as a result of a service-connected condition.
    - The surviving spouse or child of a veteran who died as a result of a service-connected condition, or who was rated as totally disabled at the time of death.
    - The surviving spouse or child of a servicemember who dies on active duty in line of duty.

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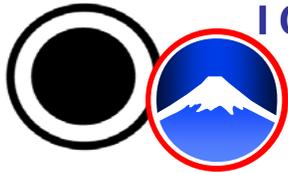




## Additional VA Health Care Programs

- Other VA health care programs include:
  - Community Residential
    - The monitoring, supervision, and assistance of the daily living activities of referred veterans in a VA-approved home in the community.
  - Dental Care
    - Comprehensive care provided by a VA dental professional.

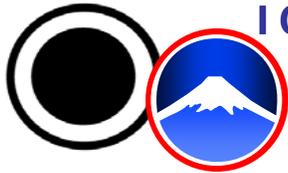




## VA Veterans Centers (Vet. Centers)

- The Department of Veterans Affairs Vet. Center Program operates a system of 232 community-based counseling centers. These Vet. Centers are staffed by small multi-disciplinary teams of dedicated providers, many of whom are combat veterans.

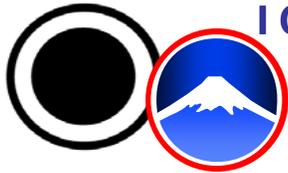




## Services Provided at VA Vet. Centers

- Readjustment Counseling is normally provided at one of 232 community-based Vet. Centers.
- Vet. Centers provide counseling and outreach services to all veterans who served in any combat zone.
- Services are also available for family members of eligible veterans on military-related issues.



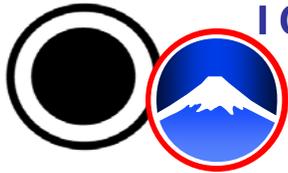


## Mental Health Services

- VA has a full range of mental health services available for veterans. Detailed information on such services can be located at <http://www.mentalhealth.va.gov/>.
- Services range from clinical mental health evaluation and treatment to specialized services for veterans suffering from alcohol or drug dependency.
- Services include sexual trauma counseling and counseling for those suffering from stress-induced illnesses.

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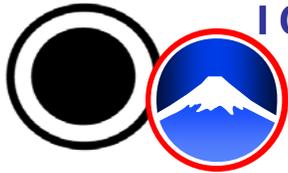
## VA Vocational Rehabilitation Benefits

- Chapter 31 of title 38, U.S.C., authorizes VA to provide service-disabled veterans and servicemembers awaiting medical discharge from active military duty with the necessary services to assist them in preparing for, finding, and maintaining suitable employment.



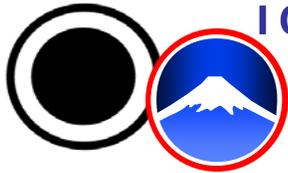
## VA Vocational Rehabilitation Benefits

- Veterans eligible under this program who cannot participate in programs of vocational rehabilitation due to their disabilities may participate in programs of independent living in order to enable them to achieve the maximum level of independence in their daily living.



## Important Facts about VA Vocational Rehabilitation Benefits

- Eligibility Requirements
  - A qualifying discharge (one issued under conditions other than dishonorable).
  - A service-connected disability rating of at least 10 percent.
  - A completed application can be completed manually or by VONAPP at <http://vabenefits.vba.va.gov/vonapp/main.asp>.



## VA Loan Guaranty Benefits

- VA home loan guaranties are issued to assist eligible servicemembers, veterans, members of the reserves, and unmarried surviving spouses in purchasing and refinancing home loans.
- To establish eligibility, applicants must obtain a certificate of eligibility by completing VA Form 26-1880, “Request for a Certificate of Eligibility for a VA Home Loan.”

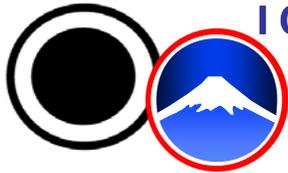




## Important Facts About VA's Loan Guaranty Program

- Loans are subject to VA underwriting criteria, which balance sound lending principles and veterans' unique circumstances.
- Active duty servicemembers and members of the Reserves are also entitled to VA Loan Guaranty benefits, as long as certain length of service requirements are met.

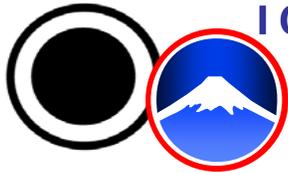




## Recent Change Regarding Maximum Guaranty Amount

- Section 501 of Public Law 110-389, enacted 10 October 2008, increased the maximum guaranty amount for certain refinance loans and eliminated the equity requirement for obtaining such loans. This increase means that, in most cases, VA can guaranty up to 25% of 125% of the area median price for a single-family residence.

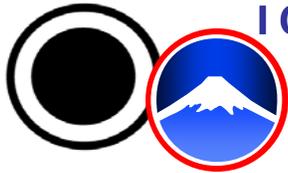




## Non-Monetary Burial Benefits

- The major VA burial benefit programs are administered by the National Cemetery Administration (NCA). Non-monetary burial benefits include:
  - Burial in VA National Cemetery.  
38 U.S.C. § 2402.
  - Headstones and Markers. 38 U.S.C. § 2306.
  - Burial Flags. 38 U.S.C. § 2301.
  - Presidential Memorial Certificates.  
38 U.S.C. § 112.





## VA Administrative Appeal Process

- A set of procedures established by Congress and VA to provide a full-range of due process and appellate rights to veterans and their dependents.
- While any VA benefit determination may be appealed, decisions regarding the type of medical treatment provided is not subject to review.

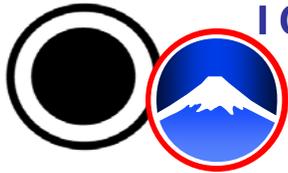




## **Disagreeing with a VBA Benefit Determination**

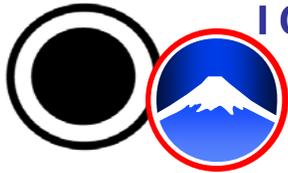
- The VA Administrative Appellate Process
  - Notice of Disagreement Phase
  - Statement of the Case, Additional Development Phase
  - Board of Veterans' Appeals Phase
- Judicial Review of Final VA Decisions
  - U.S. Court of Appeals for Veterans Claims
  - U.S. Court of Appeal for the Federal Circuit





## Notice of Disagreements (NOD) Phase

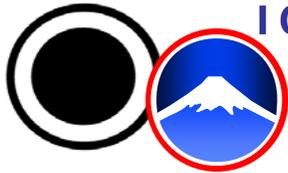
- A NOD must be filed within one year from the date of the mailing of the notice of the benefit determination.
- If an NOD is not filed, the claim becomes final, thereby ending the opportunity to appeal that claim.
- Final determinations may not be reopened except upon the submission of new and material evidence, or upon a finding of clear and unmistakable error.



## Statement of the Case/ Additional Development Phase

- When a timely NOD is filed, the Agency of Original Jurisdiction (AOJ) “will take such development or review action as it deems proper under [the applicable regulations].” 38 U.S.C. § 7105(d)(1).
- The AOJ often writes to the claimant and representative to see if any additional evidence exists or follows up on statements made in the NOD.

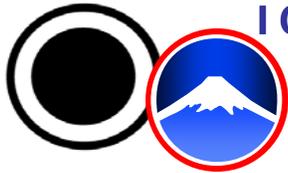




## Statement of the Case/Additional Development (continued)

- If the AOJ's development or review of the matter does not result in a full grant of the benefits sought or withdrawal of the NOD, the AOJ must issue a Statement of the Case (SOC).  
38 U.S.C. § 7105(d)(1).
- The Statement of the Case (SOC) contains an extensive description of the evidence and the basis for the decision.





## Board of Veterans' Appeals (BVA) Phase

- The Board of Veterans' Appeals (BVA or Board) is the VA office responsible for deciding appeals from AOJ decisions on claims for VA benefits. It is located in Washington, D.C.
- All matters falling within the scope of 38 U.S.C. § 511(a) ("Decisions of the Secretary; finality") are subject to review on appeal from an AOJ to the BVA.





## BVA Review

- Review by the BVA is “based on the entire record in the proceeding and . . . all evidence and material of record.”  
38 U.S.C. § 7104(a) (de novo review).
- The Board may, and often does, remand a case to the AOJ for additional development.

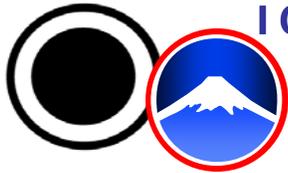




## BVA Decisions

- Each BVA decision must include:
  - a written statement of the BVA's findings and conclusions on all material issues of fact and law presented on the record,
  - the reasons or bases for those findings and conclusions, and
  - an order granting or denying relief.
- Board decisions can be complex.





## Searching BVA Decisions

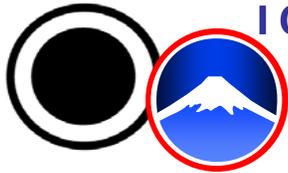
- BVA decisions can be searched at the following site  
<http://www.index.va.gov/search/va/bva.html>
- BVA decisions provide general guidance, but are not precedential.



## Finality of BVA Decisions

- A Board decision is final unless:
  - The BVA Chairman orders reconsideration  
38 U.S.C. § 7103
  - The claimant appeals the decision to the U.S. Court of Appeals for Veterans Claims (Veterans Court). 38 U.S.C. § 7266
  - or the Board revises or reverses the decision based on clear and unmistakable error.  
38 U.S.C. § 7111.





## Appealing BVA Decisions

- A claimant seeking to appeal a BVA decision must file his notice of appeal with the Veterans Court within 120 days after the date the Board decision was mailed. 38 U.S.C. § 7266(a).
- The date stamped on the Board decision is presumed to be the date the decision was mailed.





## Judicial Review of VA Administrative Decisions

- Final decisions of the BVA are subject to review only by the independent, Article I Veterans Court. 38 U.S.C. Ch. 72.

[www.uscourts.cavc.gov](http://www.uscourts.cavc.gov)

- VA benefit decision may not be appealed to United States district courts or any other courts.
  - An exception exists if the case presents a legitimate constitutional issue.
  - Life Insurance and Loan Guaranty matters may be litigated in Federal district courts.

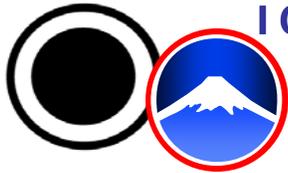
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## Summary

- There are a wide range of monetary and non-monetary VA benefits.
- Veterans Status and Service Connection are cornerstones of eligibility.
- Veterans who are dissatisfied with VA decisions should pursue an appeal by filing an NOD, appeal to BVA, and possibly appeal to the Veterans Court.



I CORPS FORWARD  
UNITED STATES ARMY JAPAN

# Questions?

Office of the Staff Judge Advocate  
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