

Military and Veterans' Benefits Part Two

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DETERMINING ELIGIBILITY

When most people hear or use the word “veteran,” the common assumption is it refers to an individual who has served in the military and received a discharge. While this may be correct in general terms, “veteran” has a very specific definition when it comes to discussing veterans’ benefits. Specifically, a former service member’s eligibility for certain veterans’ benefits can depend on a number of factors, such as length of service, when and where one served, how and when one suffered a disabling condition, and character (or type) of discharge. The eligibility criteria is determined by the U.S. Congress whenever it passes laws that provide benefits for veterans that are administered by the Department of Veterans Affairs (VA).

In the following, we will take a look at the more common benefits that are available to most former service members, depending on eligibility, and then focus on the benefits that are set

aside for veterans with severe disabilities, such as paralysis, traumatic brain injury, and multiple sclerosis.

Theoretically, a service member could serve one day or twenty years and be entitled to some benefit, depending on the circumstances. Eligibility for most veterans' benefits requires a minimum length of military service, but anyone who has worn the uniform should at least consult with a benefits expert at the VA or any one of many accredited veterans service organizations to be absolutely certain, whether a disability exists or not.

For example, to qualify for the full Montgomery GI Bill education benefit, you have to have served for a minimum of 36 months. To be eligible for the Post-9/11 GI Bill, the requirement is only 90 days continuous active duty or 6 months total active duty. Both, however, require the service member to have received an honorable discharge. Once the criteria is met for either benefit, that service member is recognized as a "veteran" for the purpose of receiving that benefit. Every former service member presents a unique set of circumstances that should be screened by a VA benefits expert in order to see what veterans benefits you may be eligible to receive.

SERVICE DISCHARGES

Much like the term "veteran," people generically refer to military discharges in two ways: honorable or dishonorable. However, when discussing eligibility for veterans' benefits, it's far more complicated than that. While the honorable and dishonorable discharge do sit at opposite ends of the spectrum in terms of what's referred to as one's "character of service," those are only two of the five types of discharges that impact eligibility for veterans' benefits. Those five discharges fall into two categories: administrative and punitive.

The administrative discharge types are honorable, general under honorable conditions, and general under other-than-honorable conditions. The differences are based on performance during service, and in the case of the two general discharges, either a pattern of misconduct or a single act of misconduct deemed to have violated the good order and discipline of the military. Punitive discharges are more problematic but not altogether disqualifying in every instance where VA benefits eligibility is concerned. A service member who receives a bad conduct or dishonorable discharge following a military hearing, called a court martial, will be told at first glance that he is ineligible for all veterans' benefits. Without delving further, however, this could be incorrect. Basically, if you received a dishonorable discharge, a bad conduct discharge, or a dismissal by general court martial, you're generally not entitled to veterans' benefits. If you received a general under other-than-honorable conditions administrative discharge, or a bad conduct discharge or dismissal imposed by a special court martial, you may be eligible for veterans' benefits such as short-term access to VA mental health services.

Having said that, while the VA will usually accept character of discharge as determined by the branch of service, the VA does have the prerogative to look at whether mitigating circumstances should be considered for the purpose of benefits eligibility and the character of service waived under qualifying circumstances. For example, a service member who received a dishonorable

discharge for going AWOL could make a compelling case that mitigating factors such as the existence of an untreated mental illness or an extreme family hardship contributed to the misconduct and set aside the unfavorable character of service. These determinations are rare and carry a high evidentiary standard for the claimant, but they are possible and should be considered in cases where a former service member can show he was “railroaded” by the system of military justice.

EDUCATION BENEFITS

The GI Bill, whether it’s the Montgomery or Post-9/11, is one of the most common, if not THE most common, veteran benefits sought by former service members. GI Bill benefits can be used to pay for just about any education program that leads to an accredited college degree or to an occupational goal. Approved training programs besides college undergraduate or graduate degree programs at a college or university include accredited independent or distance-learning study programs, cooperative training programs, certificate or diploma from a business, technical, or vocational school, apprenticeships, correspondence courses, or on-job training programs offered by a company or union. Qualified veterans can even take flight training or study abroad.

Some veterans believe “It’s my GI Bill, and I should be able to use it wherever I choose to.” Unfortunately, that isn’t the case. Some courses of study are not authorized for GI Bill funding, such as bartending and personality development courses, nonaccredited independent study courses, self-improvement courses, farm cooperative courses, and courses that are recreational in character or don’t lead to an educational, professional, or vocational objective.

Other restrictions include courses the former service member has taken before and successfully completed and, for federal employees, courses that can be taken under the Government Employees’ Training Act.

VETERAN DISABILITY BENEFITS

Veteran disability benefits are often a much more complicated matter than the more mainstream benefits such as education assistance, home loan guaranty, and burial entitlements. Benefits granted on the basis of disability, once the aforementioned eligibility criteria are met, often involve medical opinion, measures of imprecise factors such as “lost function” and “level of need for assistive care,” and connecting military service to disabling conditions in instances clouded by age and other intervening circumstances.

Veterans who were injured or incurred a disease while still on active service will generally qualify for monetary compensation based on lost occupational potential, provided the disabling condition was not the result of willful misconduct, a determination made by the branch of service. Assuming a veteran didn’t become paralyzed after driving while impaired and crashing or lost a limb while engaged in criminal activity (two extreme examples of willful misconduct that could eclipse benefits eligibility regardless of the final character of service) that veteran can be fairly certain that a host of benefits are available to him or her.

Before getting into those special benefits for veterans with disabling conditions, it's worth pointing out that the "VA" everyone talks about is really a series of three mini-VAs, or Administrations, that have separate and distinct missions. The Veterans Benefits Administration, or VBA, handles most non-medical benefits with a few exceptions; the Veterans Health Administration, or VHA, deals with medical and clinical services and benefits; and the National Cemetery Administration, or NCA, provides burial benefits and support whenever an eligible veteran must be laid to final rest.



The best way to think about it is this way: VBA consists of the 56 VA regional offices around the country, VHA is made up of the 156 VA medical centers and community clinics where veterans seek care, and NCA manages the 135 VA national cemeteries in the U.S. Coordination between the three Administrations is fairly reliable although not always efficient, so one should never assume records and information are contained in one big database that all three can access when a veteran reaches out for support. Frankly speaking, veterans should be prepared to engage the three as separate VAs unless the veteran's experience proves otherwise.

DISABILITY COMPENSATION

Whenever a veteran refers to their "disability rating" or a percentage, which can be from zero to one hundred, to describe how VA has rated them, the veteran is talking about a benefit called "disability compensation." This benefit was set up to compensate veterans for any number of bodily functions that are lost or compromised due to service in the military. The percentages are the VA's way of quantifying the lost function in terms of employment or occupational potential after service based on a Disability Rating Table and formula, a formula that often confuses those of us who were taught that 2 plus 2 equals 4. Under the VA's formula, one 40% disability along with a 20% separately rated disability does not mean the veteran will be rated a total of 60%. The VA rating in this case will total 52%, rounded down to a 50% disability rating.

The best way to understand your rating is to speak with a benefits expert about how your various disabilities were rated and totaled to arrive at your total disability rating. It is this total rating that will determine how much compensation you will receive. Note that additional allowances are given to veterans who are married, have children who are under 18 or over 18 with certain special needs, or require the aid of an attendant or are housebound.

SPECIAL MONTHLY COMPENSATION

Many veterans hit the 100% permanent and total level of disability and assume that's as far as they can go. However, certain types of conditions and lost functions profoundly impact one's degree of employability and occupational potential to a degree that the VA disability rating is contemplated under an entirely different tier of compensatory levels called Special Monthly Compensation. Typically, serious conditions such as spinal cord injuries and traumatic brain injuries and diseases such as multiple sclerosis and Lou Gehrig's, amputations, and severe mental illnesses should be evaluated for possible rating under Special Monthly Compensation.

While disability compensation ratings can start as low as 0 percent for a condition that is diagnosed but has no disabling impact on the individual and go as high as 100 percent for a condition that renders one totally unable to work or function without assistance, Special Monthly Compensation ratings are assigned as letters, from the lowest being "K" for conditions such as blindness in one eye or a missing foot or hand, to L, M, N, and O ratings for progressively severe, multifaceted conditions such as paraplegia, stroke, and polytrauma.

Still yet, there are R1, R2, and S ratings, the absolute highest rating being R2, that are granted in instances where a severe condition is accompanied by the need for a personal care attendant or requires constant specialized care, or when a veteran is housebound. The new T rating was added in 2008 to compensate veterans at various levels for lost function due to traumatic brain injury. For veterans with severe disabling conditions, from cancer to heart problems to severe depression, the possibility of entitlement to this special tier of benefits should be discussed with a veterans' benefits expert.

OTHER BENEFITS

Other benefits that become available once a veteran receives either a 100% rating or Special Monthly Compensation at the L rate or higher include entitlements for spouses and children such as Dependency & Indemnity Compensation, a tax-free monthly payment made to survivors in the event the sponsoring veteran dies under qualifying circumstances, and Dependents' Education Assistance, which provides funds and other resources for dependents to pursue additional or higher education. RH Insurance, also referred to as Service Disabled Insurance, is offered at zero premium for veterans rated at 100% and those with Special Monthly Compensation ratings above the K rate.

A few health-related, "non-medical" benefits administered by VBA include Vocational Rehabilitation, the Automobile Grant, and the Housing Grant, each of which provides veterans with severe functional and vocational impairment with the opportunity to level the playing field in terms of accessibility, mobility, and support that helps overcome limitations imposed by lost bodily functions. These special benefits have very specific eligibility requirements, both medical and administrative, that factor into entitlement. Veterans who suffer blindness, partial or full loss of walking function, or full loss of hand function due to military service should speak to a VA benefits expert to explore possible eligibility for these special grants.

VETERAN HEALTHCARE

Everyone needs healthcare, and without it, virtually no other benefit matters. The Veterans Health Administration, or VHA, provides healthcare to nearly 9 million veterans in the U.S., both service and nonservice connected, disabled and non-disabled. While many veterans opt to use TRICARE, employer-funded insurance, community providers, and other alternatives to VA healthcare, there are some advantages to enrolling in VA, such as one-stop shopping during hospital visits when veterans can attend an appointment, pick up prescriptions or eyeglasses, meet up with a peer mentor, speak with a representative from a veteran service organization, sign up to volunteer, and apply for additional benefits all in one trip.

Veterans who seek medical care from the Department of Veterans Affairs (VA) are enrolled in one of eight priority groups that are defined on the basis of income, disability status, and other factors. The highest priority for access to health care is given to veterans who have service-connected disabilities (priority groups 1 through 3); the lowest priority is given to higher-income veterans who have no conditions that are disabling to the degree that the VA provides compensation. As of 2012, about 2.3 million veterans who were enrolled in the VA's health care system had been assigned to priority groups 7 and 8. In any given year, not all of the veterans in those groups seek medical care from VA.

Once a veteran applies for enrollment in the VA healthcare system, eligibility is verified typically at a business or enrollment office at a VA medical center. Based on your specific eligibility status, you will be assigned a priority group ranging from 1 to 8 with 1 being the highest priority for enrollment. While priority under the Medical Benefits Package, the same services are generally available to all enrolled veterans.

- 1 are Veterans with service-connected disabilities rated 50% or more disabling, or Veterans determined by VA to be unemployable due to service-connected conditions
- 2 are Veterans with service-connected disabilities rated 30% or 40% disabling
- 3 are Veterans who are Former Prisoners of War (POWs), were awarded a Purple Heart medal, have VA-rated service-connected disabilities 10% or 20% disabling, were awarded special eligibility classification under Title 38, U.S.C., § 1151, "benefits for individuals disabled by treatment or vocational rehabilitation", or were awarded the Medal of Honor (MOH)
- 4 are Veterans who are receiving aid and attendance or housebound benefits or who have been determined by VA to be catastrophically disabled
- 5 Nonservice-connected Veterans and non-compensable service-connected Veterans rated 0% disabled by VA with annual income below the VA's and geographically-adjusted (based on your resident zip code) income limits, are receiving VA pension benefits, or are eligible for Medicaid programs

- 6 Compensable 0% service-connected Veterans, Veterans who are determined to have suffered certain environmental exposures, certain Veterans who served in a theater of combat operations after November 11, 1998
- 7 Veterans with gross household income below the geographically-adjusted income limits (GMT) for their resident location and who agree to pay copays
- 8 Veterans with gross household income above the VA's geographically-adjusted income limits for their resident location and who agree to pay copays

Each priority group may have additional stipulations not mentioned here that could impact eligibility, so veterans who want to enroll should consult with a VA claims expert to find out the details for his or her individual case.

EMERGENCY MEDICAL EXPENSE REIMBURSEMENT

One of the little-known benefits of being an enrollee in the VA healthcare system is “medical emergency expense reimbursement.” A medical emergency is generally defined as a condition of such a nature that a prudent layperson would reasonably expect that delay in seeking immediate medical attention would be hazardous to life or health. You may receive emergency care at a non-VA health care facility at VA expense when a VA facility (or other federal health care facility with which the VA has an agreement) cannot furnish economical care due to your distance from the facility; or when the VA is unable to furnish the needed emergency services. Since payment may be limited to the point when your condition is stable enough for you to travel to a VA facility, you need to contact the nearest VA medical facility as soon as possible. An emergency is deemed to have ended at the point when a VA provider has determined that, based on sound medical judgment, you should be transferred from the non-VA facility to a VA medical center.

SPECIALIZED CARE SERVICES AND PROSTHETICS

Veterans who were severely injured in service typically transition straight into one of the VA's specialized services (Polytrauma, Spinal Cord Injury & Disease, Mental Health) where care is provided by a multidisciplinary team of clinicians. These same services may be available to veterans who were severely injured or developed a severely disabling condition such as multiple sclerosis or Lou Gehrig's Disease long after they'd left the military. That's why it is important for ANY veteran with a severe disabling condition, no matter the cause or where and when he or she served, to speak to a VA benefits expert about possible eligibility for benefits administered by both the VHA and VBA.

Once admitted to one of the VA's specialized services, severely disabled veterans have a host of additional ancillary benefits available to them. Adaptive Auto Equipment, such as entry ramps, hand controls, and swivel seats, are available to veterans whose partial or full lost ability to walk directly relates to military service. For those veterans who are similarly disabled but not due to

service, adaptive equipment that allows for entering and exiting the vehicle may be authorized. Both groups of veterans may also receive a small allowance to offset the cost of making their homes more accessible. The Home Improvement Structural Alterations (HISA), grant is not the same as the Housing Grant administered by VBA. Veterans may qualify for both as separate entitlements although both can be used on the same home on separate projects. Finally, veterans whose service-related conditions require the use of prosthetic appliances, such as wheelchairs or braces, or are prescribed skin medications that could stain or damage their clothing, may receive an annual clothing allowance to help offset the cost of wear and tear on the clothing.

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