



**Division of
Veterans' Affairs**

New York State Division of Veterans' Affairs

**Programs and Services for New York's
Veterans, Servicemembers, and their Families**

August 2, 2016

Demographics

- Approximately 900,000 Veterans in NYS
- More than 270,000 from Vietnam Era alone
- Largely an “older” Veterans population currently in NYS (WWII, Korea, Vietnam Era.)
- NYS has the fifth-largest Veterans population of any state in USA

United States Department of Veterans' Affairs

- The VA is comprised of three branches:
 - Veterans Benefits Administration (VBA)
 - Veterans Health Administration (VHA)
 - National Cemetery Administration (NCA)
- The New York State Division of Veterans' Affairs (DVA) is **NOT** part of the federal VA.

What Does DVA Do?

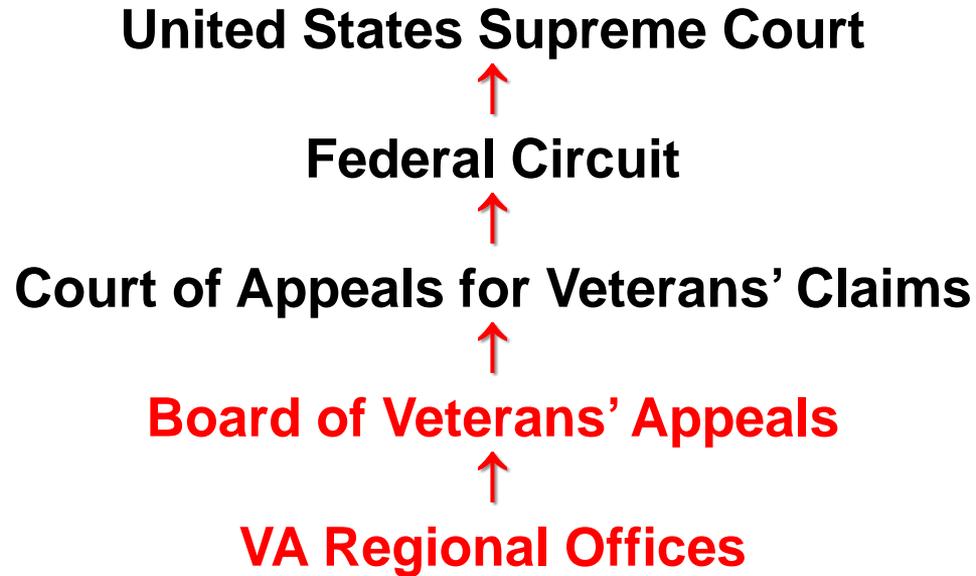
Primary work = Connecting Veterans, Servicemembers, and their family members to federal and state benefits, programs, and services earned through military service.

“Helping Veterans, Servicemembers, and their families the rest of the way.”

What Does DVA Do?

- 68 field offices to provide statewide service.
- 56 employees accredited to represent claimants before the VA in claims and appeals.
- Obtained \$75 million in VA benefits for our clients in 2015 alone.
- Subject-matter experts in Veterans' benefits offered by New York State, too.

Hierarchy of VA Claim Review



DVA's work focuses on the first two levels of this process.

Who is a “Veteran?”

Federal Law

- ***Veteran*** = A person who served in the **active military, naval, or air service** and who was discharged or released under **conditions other than dishonorable**. 38 U.S.C. §101(2); 38 CFR § 3.6
- Includes National Guard Title 32 Section 502(f) AGR.
- Does NOT include Title 32 traditional guard or reserve.
- Does NOT include active duty for training.

New York State Law = “It depends” – at least six different definitions of this word depending on the benefit sought.

Common Federal Benefits With Which DVA Assists

VA Compensation Benefits

- Disability Compensation: Tax-free monthly payment to a Veteran due to a service-connected disability incurred or aggravated by military service. See 38 U.S.C. § 1101–1163; *see also* 38 C.F.R. 3.303(a).
- Dependency and Indemnity Compensation (DIC): Tax-free monthly payment to a widow, child, or parent of a Veteran because of the service-connected death of the Veteran. See 38 U.S.C. § 1301–1323.

Disability Compensation Claim Components

- Three parts:
 - (1) A disability or disease **incurred or aggravated in qualifying service;**
 - (2) A diagnosed **current disabling condition;** and
 - (3) A **Nexus** between military service and the current disabling condition.

- “Tie goes to the claimant” — If the evidence presented on both sides is in balance, then award goes to the claimant. 38 C.F.R. § 3.102; *Donnellan v. Shinseki*, 24 Vet. App. 167, 175 (2010).

VA Disability Compensation Rates

Rate	Payment Veteran	Payment with Spouse	Rate	Payment Veteran	Payment with Spouse
10%	\$133.17	N/A	60%	\$1,059.09	\$1,156.09
20%	\$263.23	N/A	70%	\$1,334.71	\$1,447.71
30%	\$407.75	\$455.75	80%	\$1,551.48	\$1,680.48
40%	\$587.36	\$651.36	90%	\$1,743.48	\$1,888.48
50%	\$836.13	\$917.13	100%	\$2,906.83	\$3,068.90

Additional pay for children up to 18 or in school 18-23

Payments are tax-free

VA Presumptive Conditions

- **The VA presumes that certain disabilities were caused by military service.**
- Therefore, these conditions will be considered to have been incurred or aggravated by military service under the circumstances outlined in this section even though there is no evidence of such a disease during the period of service. See 38 U.S.C. § 1112; 38 CFR § 3.307(a).
- This eliminates the advocate's need to prove the nexus between the disability and the Veteran's military duties.

Common Presumptive Conditions

- Agent Orange – several presumptive conditions for Veterans who served “boots on the ground” or on the inland waterways in Vietnam.
- Conditions include prostate cancer, Type II Diabetes, Parkinson’s disease, Hodgkin’s disease — for full list, see 38 CFR § 3.309(e).
- Mustard Gas — conditions listed in 38 CFR § 3.316.
- Ionizing radiation — 24 conditions — 38 CFR § 3.311.
- Persian Gulf War — 25 conditions.
- ALS (“Lou Gehrig’s Disease”) is a presumptive condition for **all** Veterans. 38 CFR § 3.318.

Dependency & Indemnity Compensation (DIC)

- Tax-free monthly payment made to a to a widow, child or parent of a Veteran because of the service-connected death of the Veteran. 38 U.S.C. § 1311.
- Spouse must be married to the Veteran for at least 1 year prior to death or had a child with the Veteran
- Child must be either under age 18, or between ages 18 and 23 and attending school.

VA Pension

- Tax-free monthly payment based on the **FINANCIAL NEED** of a wartime Veteran, widow, or children for a non-service connected disability or death. 38 U.S.C. § 1521; 38 CFR § 3.314
- Income minus unreimbursed medical expenses = VA's calculation of household income.

VA Pension Eligibility

- Length of Service

- Prior to September 7, 1980: 90 days active duty with at least one day of wartime service.
- After September 7, 1980: 24 months on active duty (or the full period to which the individual was ordered to active duty) with at least one day of wartime service.
- Wartime service does not need to be in combat.

VA Pension Eligibility (Part 2)

- Income & Net Worth: Income and assets must fall below annual Congressional threshold. (Generally below \$80,000 in assets).
- Reportable income and assets to the VA includes bank accounts, stocks, bonds, mutual funds, annuities, and any property other than your residence and a reasonable lot area. 38 CFR § 3.261
- No “lookback” provision — different than Medicaid.
- Income and asset thresholds depend on how many dependents live in the Veteran’s household.

VA “Special Pensions”

- Aid & Attendance or Permanently Housebound
- Must require assistance with at least **two activities of daily living** to qualify for Aid & Attendance
- Qualifying activities of daily living as diagnosed by a physician include:
 - Legally blind corrected vision of 5/200 in both eyes or field of view of 5 degrees
 - In a nursing home because of mental or physical incapacity
 - Medication management
 - Inability to bathe self
 - Inability to dress self
 - Incontinence
 - Limited ability or inability to ambulate
 - Inability to feed self
- Available for the surviving spouse of a Veteran as well (“death pension”).

VA Pension Payment Rates

Veteran/Spouse	Annual income	Monthly Income
Veteran	\$12,868	\$1,057.17
Veteran with Dependent	\$16,851	\$1,404.25
Veteran with A&A	\$21,466	\$1,788.83
Veteran with A&A + dependent	\$25,448	\$2,120.66
Spouse/Widow	\$8,630	\$719.17
Spouse with A&A	\$13,794	\$1,149.50

To be deducted, medical expenses must exceed 5% of Maximum Annual Pension Rate

Veteran: \$643 or \$842 with dependent

Spouse: \$431 or \$564 with dependent

Post-9/11 G.I. Bill

- Maximum benefit is available for Veterans who served after September 10, 2001, for either:
 - An aggregate of at least 36 months of active duty military service, or
 - 30 continuous days of active duty military service and received an honorable discharge for a service-connected disability

Post-9/11 G.I. Bill (Part 2)

- Maximum benefit includes:
 - Full tuition & fees paid directly to the school for all students attending a public school (NYS law requires that out-of-state Veterans attending on the G.I. Bill receive in-state tuition rate)
 - Annual stipend for books and supplies.
 - Monthly housing allowance (equal to BAH for E-5)
 - One-time payment of \$500 to cover moving expenses under certain circumstances (e.g., moving from a highly rural area to attend school).

Post-9/11 G.I. Bill (Part 3)

- **Percentage Benefit:** Veterans who served at least 90 days on active duty, but fewer than 36 months, receive a percentage of the maximum benefit.
 - 90% - 30 total months (including service on active duty in entry level and skill training)
 - 80% - 24 total months (including service on active duty in entry level and skill training)
 - 70% - 18 total months (excluding service on active duty in entry level and skill training)
 - 60% - 12 total months (excluding service on active duty in entry level and skill training)
 - 50% - 6 total months (excluding service on active duty in entry level and skill training)
 - 40% - 90 or more days (excluding service on active duty in entry level and skill training)

Vocational Rehabilitation

- A federal program to help eligible disabled Veterans get and keep lasting, suitable jobs.
- Also helps seriously disabled Veterans achieve independence in daily living.
- Veteran must hold a service-connected rating of 20% or greater, OR rated 10% with a “serious employment handicap.”

Vocational Rehabilitation (Part 2)

- VA will pay training costs to include:
 - Tuition and fees
 - Books
 - Supplies
 - Equipment
- Also provides a subsistence allowance
- Eligibility To Use = 12 years from the date of separation from active duty OR from the date of the VA's notification with the Veteran's service-connected disability rating
 - Can get a time extension IF a VA Vocational Rehabilitation Counselor determines that the Veteran has a "serious employment handicap" that prevented him or her from using this benefit sooner.

VA Healthcare Eligibility

- Active duty (Title 10) or Title 32 Section 502(f) Service
- Character of Discharge = “Other Than Dishonorable”
 - Honorable.
 - General Under Honorable.
 - Under Honorable Conditions.
- Length of Service
 - Prior to 1980, completed their full period of service.
 - Veterans who enlisted after September 7, 1980, or entered active duty after October 16, 1981 must complete 24 continuous months or the full period for which they were called to active duty in order to be eligible.

VA Healthcare Programs Overview

- Provides complete health care system for eligible Veterans primary through specialty care.
- Provides mental health counseling at VA Medical Centers and Vet Centers
- Provides low-cost dental insurance
- Low co-pays from FREE to \$15 primary care, \$50 specialty care, \$9-12 pharmacy
- Audiology services.
- Telehealth program for Veterans who are otherwise unable to receive a consultation with a specialist.

VA Healthcare Programs Overview

- A Veteran with a service-connected disability rating of 50% or higher, or in receipt of a VA pension, receives **free** VA healthcare.
- A Veteran receiving VA healthcare for non-service-connected conditions who *does not* meet the above requirements generally pay a co-pay.
- The co-pay is **always a single charge** per visit to a VA medical facility, **regardless of the number of healthcare providers** whom the Veteran sees during that visit.
- Veterans with a disability rating of 30% or higher, Veterans who are traveling for a scheduled compensation or pension examination, Veterans traveling to receive care for a service-connected disability, and Veterans meeting the income requirements for a VA pension can receive a reimbursement for travel to and from a VA medical facility.

VA Vet Centers

- Important health resource for Veterans and for their families.
- **Services Include:**
 - Individual and group counseling for Veterans and for their families
 - Family counseling for military-related issues
 - Bereavement counseling for families who experience an active duty death
 - Military sexual trauma counseling and referral
 - Substance abuse assessment and referral
 - Employment assessment & referral
 - VBA benefits explanation and referral
 - Screening & referral for medical problems including PTSD, TBI, depression, etc.
- Location: **(800) 905-4675 (Eastern)/ (866) 496-8838 (Pacific)**



Common State Benefits With Which DVA Assists

Blind Annuity

- Monthly monetary benefit for wartime Veterans who are blind, and for the surviving spouses of blind wartime Veterans.
- Veteran must serve at least 90 days active duty or receive a discharge from the military because of a service-connected disability in order to qualify.
- Blindness **does not** need to be service-connected to qualify.
- Applicant must be a New York State resident to qualify.

Real Property Tax Exemptions

- Real Property Tax Law Sections 458, 458-a, 458-b.
- Applications go to local tax assessor.
- A Veteran can receive only one of the three exemptions that NYS offers.
- Cold War Exemption (458-b) : Residential property of a Veteran who served during Cold War Period (Sept. 2, 1945 to December 26, 1991) & who was discharged “under honorable conditions.”

Real Property Tax Exemptions (Part 2)

- Alternative Veterans Exemption (Sect. 458-a) : Residential property of a Veteran who served during a designated period of war or received an Expeditionary Medal.
 - Exemption increases for combat Veterans and for Veterans with service-connected disabilities.
- Eligible Funds Exemption (Sect. 458) : Exemption for property that Veteran, spouse, dependent parent, or child under age 21 purchased using money from a VA pension, POW compensation, bonus, or insurance money received upon discharge.



Gold Star Parent Annuity

- Eligibility = Gold Star Parents as defined in 10 U.S.C. § 1126.
 - Some private organizations use a different definition.
 - Federal definition is the only applicable definition for this benefit.
- Applicant must be a New York State resident.
- Payment of \$500 per year for each eligible Gold Star Parent.

State Veterans Nursing Homes

- Five State Veterans Homes → Locations = Montrose, Oxford, St. Albans, Batavia, and Stony Brook.
- Governed by Article 26-A of the NYS Public Health Law.
- Provides skilled nursing care (both short-term and long-term) for Veterans and their spouses.
- Significantly less expensive than private nursing home.
- 70% service-connected disability rating = Skilled nursing care provided free of charge (VA reimburses facility).

Veterans With Disabilities Employment Program

- Section 55-c of the New York State Civil Service Law
- Hire Veteran at an entry-level position with NYS **without taking the Civil Service exam for that job.**
- Aimed at wartime Veterans with disabilities.
- To qualify, the Veteran's disability does not need to be service-connected.
- Veteran must meet the qualifications for the position.
- Can still be hired during a hiring freeze.

Incorporating This Information Into Your Work

- Start by asking the key question:
 - “Have you ever served in the military?”
 - “Did someone in your immediate family ever serve in the military?”
- If the answer is “yes,” then help this individual get in contact with the right services . . . including a DVA Veterans Benefits Advisor

Questions??

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