

VVA's Guide on PTSD

PURPOSE

The purpose of this guide is to assist you, the veteran, or your survivor(s), in presenting your claim for benefits based on exposure to psychologically traumatic events during military service that has resulted in post-traumatic stress disorder (PTSD). It is always best to seek the assistance of an experienced veterans service representative when presenting a claim to the U.S. Department of Veterans Affairs (VA).

This guide describes the VA's current programs for providing disability compensation to veterans who suffer from PTSD, as well as for the survivors of such veterans. Under current VA regulations, you can be paid compensation for PTSD if you currently have a clear medical diagnosis of the disorder, evidence that a sufficiently traumatic event (called a "stressor") occurred during active military service and medical evidence that the in-service stressor is causally related to your PTSD. Once the VA determines that your PTSD is service-connected, it will then decide how seriously your symptoms impair your social and industrial abilities (i.e., your capacity to start and maintain personal relationships and your ability to work).

This guide does not address treatment techniques, but does provide suggestions for obtaining the appropriate care. Additional resources are available to help you to better understand what other VA programs may be available to you.

PTSD is not a new problem. It is simply a more recent label for an age-old disorder that has been in existence since stone-age warriors were beating each other with clubs. Around 1980, the American Psychiatric Association designated PTSD to describe a delayed-stress syndrome commonly experienced by combat-veterans. This condition had previously been referred to as "shell-shock" and "war/combat neurosis". Although PTSD is often associated with Vietnam veterans, it appears in veterans of all wars and eras.

There have been many changes in the VA's rules involving PTSD since 1980 and some additional changes are expected soon as a result of new understanding about PTSD. Recent decisions by the U.S. Court of Appeals for Veterans Claims have also forced changes in how the VA processes PTSD claims. It is important to keep up with these changes by accessing the VVA website (www.vva.org), as well as the VA's website (www.va.gov) for the latest information. You can also contact a VVA service representative in your area to answer any questions that you might have about PTSD or the claims adjudication process in general (www.vva.org, click on "Veterans Benefits", then on "Service Representatives" and select your state of residence).

We have included in this guide a short description of what to do if the VA denies your claim or establishes an unjust rating percentage for your disability.

What Is PTSD?

The Diagnostic and Statistical Manual of Mental Disorders, Fourth Edition (1994) (DSM-IV) describes PTSD as follows:

Diagnostic Features

The essential feature of Posttraumatic Stress Disorder is the development of characteristic symptoms following exposure to an extreme traumatic stressor involving direct personal experience of an event that involves actual or threatened death or serious injury, or other threat to one's physical integrity; or witnessing an event that involves death, injury, or a threat to the physical integrity of another person, or learning about unexpected or violent death, serious harm, or threat of death or injury experienced by a family member or other close associate (Criterion A1). The person's response to the event must involve intense fear, helplessness, or horror (or in children, the response must involve disorganized or agitated behavior) (Criterion A2). The characteristic symptoms resulting from the exposure to the extreme trauma include persistent re-experiencing of the traumatic event (Criterion B), persistent avoidance of stimuli associated with the trauma and numbing of general responsiveness (Criterion C), and persistent symptoms of increased arousal (Criterion D). The full symptom picture must be present for more than 1 month (Criterion E), and the disturbance must cause clinically significant distress or impairment in social, occupational, or other important areas of functioning (Criterion F).

Traumatic events that are experienced directly include, but are not limited to, military combat, violent personal assault (sexual assault, physical attack, robbery, mugging), being kidnapped, being taken hostage, terrorist attack, torture, incarceration as a prisoner of war or in a concentration camp, natural or manmade disasters, severe automobile accidents, or being diagnosed with a life-threatening illness. For children, sexually traumatic events may include developmentally inappropriate sexual experiences without threatened or actual violence or injury. Witnessed events include, but are not limited to, observing the serious injury or unnatural death of another person due to violent assault, accident, war, or disaster or unexpectedly witnessing a dead body or body parts. Events experienced by others that are learned about include, but are not limited to, violent personal assault, serious accident, or serious injury experienced by a family member or a close friend; learning that one's child has a life-threatening disease. The disorder may be especially severe or long lasting when the stressor is of human design (e.g., torture, rape). The likelihood of developing this disorder may increase as the intensity of and physical proximity to the stressor increase.

The traumatic event can be reexperienced in various ways. Commonly, the person has recurrent and intrusive recollections of the event (Criterion B1) or recurrent distressing dreams during which the event is replayed (Criterion B2). In rare instances, the person experiences dissociative states that last from few seconds to several hours, or even days, during which components of the event are relived and the person behaves as though experiencing the event at that moment (Criterion B3). Intense psychological distress (Criterion B4) or physiological reactivity (Criterion B5) often occurs when the person is

exposed to triggering events that resemble or symbolize an aspect of the traumatic event (e.g., anniversaries of the traumatic event; cold snowy weather or uniformed guards for survivors of death camps in cold climates; hot, humid weather for combat veterans of the South Pacific; entering any elevator for a woman who was raped in an elevator).

Stimuli associated with the trauma are persistently avoided. The person commonly makes deliberate efforts to avoid thoughts, feeling, or conversations about the traumatic event (Criterion C1) and to avoid activities, situations, or people who arouse recollections of it (Criterion C2). This avoidance of reminders may include amnesia for an important aspect of the traumatic event (Criterion C3). Diminished responsiveness to the external world, referred to as "psychic numbing" or "emotional anesthesia," usually begins soon after the traumatic event. The individual may complain of having markedly diminished interest or participation in previously enjoyed activities (Criterion C4), of feeling detached or estranged from other people (Criterion C5), or of having markedly reduced ability to feel emotions (especially those associated with intimacy, tenderness, and sexuality) (Criterion C6). The individual may have a sense of foreshortened future (e.g., not expecting to have a career, marriage, children, or a normal life span) (Criterion C7).

The individual has persistent symptoms of anxiety or increased arousal that were not present before the trauma. These symptoms may include difficulty falling or staying asleep that may be due to recurrent nightmares during which the traumatic event is relived (Criterion D1), hyper-vigilance (Criterion D4), and exaggerated startle response (Criterion D5). Some individuals report irritability or outbursts of anger (Criterion D2) or difficulty concentrating or completing tasks (Criterion D3).

Tips On Working With Your Service Representative

It is always an advantage, regardless of the nature of the disorder underlying a claim for benefits, to have an experienced veterans service representative assist you in the prosecution of a claim for VA disability compensation. These individuals are familiar with veterans benefits law and procedures, and can provide more effective representation than trying to handle the claim yourself. .

Keep in touch: You should talk to your representative at least once per month while your claim is pending. Whenever you get mail from the VA, call your representative to make sure that he or she has received a copy (as required by VA regulations) and that you understand exactly what it means.

Ask questions: If you do not understand something about your claim, ask about it. Part of your service representative's responsibility is to ensure that you understand the claims process.

Exercise your judgment: Your service representative is charged with acting in your best interests. However, you are the ultimate decision maker with respect to your claim. Your service representative will tell you if he or she disagrees with what you want to do and why. They can make recommendations, but must do as you instruct. Note that the law permits service representatives to resign if there are true fundamental disagreements.

Insist that your service representative:

- discuss your case with you

- be familiar with your VA claims file and all of the evidence;

- be able and willing to discuss what VA regulations require to win your case and what evidence is needed to prevail;

- discuss your case and what to expect with respect to personal hearings;

- submit a written statement to the VA before a personal hearing. He or she should let you read the statement before it is submitted.

Get Help

As discussed in the previous section, it is always a good idea to obtain a service representative to help you present your claim to the VA. VA rules and procedures are very complicated. It can be frustrating and hazardous to go it alone.

Veterans service organizations, as well as state and county departments of veterans affairs offer their services without charge. No matter whom you select to represent you, it is important that you be personally involved in your case and make certain that everything that should be done, is done.

Although it can be a difficult task, shop around for the best advocate. Talk to the prospective representative; ask if there are any limits on his or her representation; get a feel for the person who will be working for you before you sign a power of attorney appointing the person as your representative.

Apply

When to Apply

You should notify the VA of the benefits you want at the earliest possible time. From anywhere in the U.S., you can call the nearest VA Regional Office (VARO) by using the following number: 1-800-827-1000. Do not wait until you have gathered all of the evidence that you think you will need. Every day you delay can mean another day of benefits lost forever.

Warning: Do not be discouraged by a VA employee who says you are not entitled to benefits. Put your claim in writing and insist on a written reply from the VA.

How to Apply

To apply, send the VA a letter stating that you have a problem with your nerves, emotions, etc., that arose out of your military service. This is called an informal claim and will count as an application (although you will eventually be required to submit a formal application on VA form 21-526). If you have not heard from the VA within one month, you should call to confirm that your application has been received. If you have applied before, been denied and did not file a formal appeal, send a letter that states that you wish to reopen your claim with new and material evidence.

What to Apply For

The VA offers monetary benefits to veterans with service-connected disabilities (under its disability compensation program) and to veterans with serious nonservice-connected disabilities (under its pension program). Survivors may be entitled to benefits if the VA determines that the veteran had a service-connected disability that caused, or substantially contributed to cause, the veteran's death. (See below).

Who Can Apply

A claim for PTSD is not limited to veterans who participated in combat with the enemy. For example, sexual assaults, vehicular accidents, being a victim of a crime or other sufficiently traumatic events during service can support a diagnosis of PTSD for VA claims purposes. Merely being in stressful situations, or being "stressed-out" generally will not be sufficient.

Sometimes a veteran's survivor, including spouses, children and dependent parents can apply for service-connected death benefits (Dependency and Indemnity Compensation or DIC program) or for the nonservice-connected death benefits (pension program). A survivor might be able to show that a veteran with service-connected PTSD died as a consequence of a disease that was secondary to PTSD, e.g., cardiovascular disease, substance abuse (in certain cases).

WARNING

If you have applied in the past and were denied, you may have a hard time reopening your claim. There is no specific VA application form to use to reopen your claim, but there are specific rules you must follow in terms of the evidence required in order for the VA to reopen the claim. Consult your service representative for details on what kind of "new and material evidence" you need to present.

Develop the Evidence

The VA regulation that governs the adjudication of PTSD claims is title 38, Code of Federal Regulations, section 3.304(f) (formally cited as 38 C.F.R. § 3.304(f)). Essentially, the regulation provides that service connection for PTSD requires medical evidence of a current, clear diagnosis of PTSD, a link between current PTSD symptoms and an in-service stressor that is established by medical evidence, and credible supporting evidence that the claimed stressor actually occurred. If the evidence establishes that the veteran engaged in combat and the claimed stressor is related to combat, the veteran's lay testimony alone can establish that the claimed stressor occurred. The same applies to stressors related to captivity where the evidence demonstrates that the veteran was a prisoner-of-war. If the claimed stressor is not related to combat, the veteran must prove its existence with evidence, such as service medical or personnel records, unit records, morning reports, or buddy statements.

Where the claimed stressor is a personal or sexual assault, evidence from sources other than the veteran's service record may be used to corroborate the veteran's account. Such sources include records of law enforcement authorities, rape crisis or mental health counseling centers, physician or hospital records, tests for pregnancy or sexually transmitted diseases, statements from family, friends or fellow service personnel, evidence of changes in behavior or performance, and requests for transfers.

Establish a Diagnosis

You cannot be awarded service connection for PTSD if you do not have a current, clear diagnosis of PTSD. That diagnosis should come from a mental health professional (psychiatrist, psychologist, psychiatric social worker or therapist). If at all possible, work with a private mental health professional who has had experience with treating PTSD, who understands the requirements for a clear diagnosis and is willing to provide a detailed medical opinion letter or report that explains exactly the reasons he or she concludes you have PTSD. If you have records that document the in-service stressor, let your doctor review them prior to writing his or her report. It is even better to provide your doctor with a copy of your service medical records. You can request a copy of your service medical records from the National Personnel Record Center in St. Louis, Mo., using a Standard Form 180, Request Pertaining to Military Records. This form is available from your representative or any VA office. You can also apply for a copy of your service records online (<http://vetrecs.archives.gov>).

Frequently, veterans with PTSD may have other diagnoses, e.g., personality disorder or substance abuse. It is very important that your doctor explain how your current diagnosis of PTSD relates to any other psychiatric disorder that you might have. If there is a history of alcohol or drug abuse, the doctor should state whether it preexisted PTSD or not and whether substance abuse developed because of PTSD (i.e., self-medication).

You can expect the VA to contact you for evidence or for permission to request copies of your medical records. If the VA has treated you for your PTSD, make sure to ask that the VA obtain all records from the treatment center.

The VA may schedule you for an examination by one of its doctors at a VA hospital or clinic. This examination (called a compensation or pension (or C&P) examination) is intended to confirm a diagnosis of PTSD and, if present, to describe the nature and severity of its symptoms. Bring copies of any prior psychiatric treatment records to the examination with you. If you do not have records of recent treatment for PTSD, you can specifically request that the VA provide you with a C&P examination.

If you do not already have a private doctor's report, you should expect the VA doctor to ask many questions about what symptoms you have, when you began to have them and how often and how long you have had them. Some of the hardest questions will be about the stressful experience you had. You will need to be able to describe in detail (and sometimes painful detail) exactly what you experienced. You might also be asked to take a written, standardized diagnostic test.

Establish a Stressor

To prevail in a PTSD-based claim, you must establish that you have undergone a traumatic event or events (called a stressor) during your military service that would support a clinical diagnosis of PTSD. Unless your military records document that you were in combat with the enemy, your claimed stressor must be documented. A combat-related military occupational specialty (MOS) or combat-related awards or decorations (e.g., Combat Infantryman's Badge or a Purple Heart) are examples of documented combat experience. However, if your service records do not demonstrate a combat-related MOS or decorations and you assert that you had experienced combat or enemy fire or attack, the VA is required to assist you in obtaining documentation that supports your claim (including researching government records) that could place you in a documented area of attack or an isolated hostile incident.

You are entitled to one copy of your entire VA claims file (or C-file) without charge. If you have ever had any official contact with the VA that relates to a claim for benefits, your claims file should contain all of the service and post-service medical records that the VA has, as well as any correspondence to or from the VA and adjudication-related documentation.

How The VA Evaluates Levels Of Disability

Once the VA has awarded service connection for PTSD, it will then review the most current clinical evidence of record to determine how the severity of your symptoms impairs your social and industrial (ability to work) capacity. The VA has a schedule of rating disabilities, located in title 38 C.F.R., Part 4. The VA has established “Diagnostic Codes” (DC) for various medical and psychiatric disorders, which include a description of the severity of related symptoms and a corresponding disability percentage (called a “rating” or “evaluation”). Although there are different DCs for covered psychiatric disorders, the VA evaluates the level of disability due to psychiatric disorders under the same criteria, regardless of the actual diagnosis. 38 C.F.R. §4.130, DC 9411, governs PTSD ratings. This regulation provides graduated ratings of 0%, 10%, 30%, 50%, 70% or 100%. A 0% rating is noncompensable. This means that you have service-connected PTSD, however, there is little or no impairment as a result. VA compensation payments begin at 10% and increase at each rating level.

The VA has adopted the criteria established in the DSM-IV as the basis for its psychiatric ratings, including PTSD. There is also a diagnostic matrix called the Global Assessment of Functioning Scale (GAF) that is used to determine your level of disability. The lower the GAF score, the higher the level of social and industrial impairment. Section 4.130 is reproduced below. You can share this with your psychiatric provider of care, who can prepare a report or opinion letter for submission to the VA that describes your level of impairment.

Bear in mind that even if the severity of your symptoms do not satisfy the diagnostic criteria for a 100% (or total) evaluation under the rating schedule, if your rating is high enough, another VA regulation (38 C.F.R. § 4.16) allows the VA to pay you at the 100% level if medical evidence demonstrates that you are unable to obtain or maintain substantially gainful employment as the result of your service-connected PTSD. The technical term for this is a total rating on the basis of individual unemployability due to service-connected disability (TDIU or IU).

38 C.F.R. § 4.130, DC 9411

General Rating Formula for Mental Disorders:

Total occupational and social impairment, due to such symptoms as: gross impairment in thought process or communication; persistent delusions or hallucinations; grossly inappropriate behavior; persistent danger of hurting self or others; intermittent inability to perform activities of daily living (including maintenance of minimal personal hygiene); disorientation to time or place; memory loss for names of close relatives, own occupation, or own name100%

Occupational and social impairment, with deficiencies in most areas, such as work, school, family relations, judgment, thinking, or mood, due to such symptoms as: suicidal ideation; obsessional rituals which interfere with routine activities; speech intermittently illogical, obscure, or irrelevant; near-continuous panic or depression affecting the ability

to function independently, appropriately and effectively; impaired impulse control (such as unprovoked irritability with periods of violence); spatial disorientation; neglect of personal appearance and hygiene; difficulty in adapting to stressful circumstances (including work or a worklike setting); inability to establish and maintain effective relationships 70%

Occupational and social impairment with reduced reliability and productivity due to such symptoms as: flattened affect; circumstantial, circumlocutory, or stereotyped speech; panic attacks more than once a week; difficulty in understanding complex commands; impairment of short- and long-term memory (e.g., retention of only highly learned material, forgetting to complete tasks); impaired judgment; impaired abstract thinking; disturbances of motivation and mood; difficulty in establishing and maintaining Effective work and social relationships50%

Occupational and social impairment with occasional decrease in work efficiency and intermittent periods of inability to perform occupational tasks (although generally functioning satisfactorily, with routine behavior, self-care, and conversation normal), due to such symptoms as: depressed mood, anxiety, suspiciousness, panic attacks (weekly or less often), chronic sleep impairment, mild memory loss (such as forgetting names, directions, recent events) 30%

Occupational and social impairment due to mild or transient symptoms which decrease work efficiency and ability to perform occupational tasks only during periods of significant stress, or; symptoms controlled by continuous medication 10%

A mental condition has been formally diagnosed, but symptoms are not severe enough either to interfere with occupational and social functioning or to require continuous medication 0%

To find the current VA disability compensation monthly payment rates, please go to the VA website at www.va.gov. From the homepage, click on “Compensation”, then on “Rate Tables”. Additional monthly payments may be available based on the beneficiary’s number of dependents.

How To Respond To The VA's Decision

You do not help yourself if you simply dump a pile of loose records on the VA. Organize the records and explain their significance in a letter you and your representative prepare together. Once the VA regional office makes a decision with respect to your claim, you (and your service representative) will receive a notice of that decision which explains the reasons for the VA's determination. Read the notice carefully and discuss it with your representative. Your appeal should address the specific reasons why the VA denied the claim or awarded a rating that is too low or an effective date that is too late.

The first step in appealing a claim is to send the VA regional office a "Notice of Disagreement" (NOD). There is no official NOD form. Generally, the NOD can be a written statement on VA Form 21-4138 (Statement in Support of Claim) or a letter that states that you disagree with the decision. Be sure to include in your NOD the date of the decision that you disagree with, which issues you disagree with and that you intend to appeal those issues. You have one year from the date of the VA's notice of its decision to file your NOD with the VA regional office. If you miss this deadline, you can only reopen your claim based on new and material evidence or establishing that the VA denial was the product of clear and unmistakable error (which is very difficult to prove).

After the VA receives your NOD, you should receive a letter that acknowledges your NOD. You will be asked whether you wish to have your appeal sent to the Board of Veterans' Appeals (BVA) in Washington, D.C., or whether you wish to have your claim reviewed on a de novo basis. The latter refers to the VA's Decision Review Officer (DRO) program. This is an informal appellate process within the regional office. The DRO has the authority to reverse or modify a VA rating board decision. We recommend that you seek DRO review before you request a BVA appeal. The DRO process is frequently successful and is generally faster than going straight to the BVA. If you do not receive a better decision from the DRO, you can still appeal to the BVA.

Once the DRO has made a decision or has received your request for BVA consideration, the VA will issue a "Statement of the Case" (SOC). This document will explain the VA's decision(s) in detail. You have 60 days from the date of the SOC to file your substantive appeal to the BVA on VA Form 9. (VA forms can be downloaded from the VA's "Compensation" website. You can even apply for benefits online under "Vonapp" (Veterans Online Application)). Your appeal will then be certified and forwarded to the BVA for consideration.

Incarcerated Veterans

The law allows the VA to limit the amount of compensation to veterans who are incarcerated for a felony conviction (i.e., you may receive compensation at the 10% level). The withheld compensation, however, can be "apportioned" to your family. If you cannot obtain a VA examination while in prison, try to obtain a detailed medical report from your facility's doctor/psychiatrist or a private one. Ask the doctor to use the criteria in the VA's rating schedule as a guide.

VA Medical Services

The VA operates a network of Vet Centers throughout the country that provides treatment for veterans suffering from PTSD. Treatment at Vet Centers is often conducted with a group of veterans. Sometimes the VA will pay for treatment by a local mental health professional, if services through the nearest VA are not readily available. To apply for this "fee basis" care, contact your nearest VA medical center.

There are also a few VA medical centers that offer intensive inpatient care. If this is something you need, ask the nearest Vet Center to help arrange for your admission.

Help For Children

The VA generally offers no assistance to children of veterans, unless the veterans have been rated at least 30% service-connected disabled. Such veterans can receive a dependents' allowance. Children of veterans considered permanently 100% disabled are also eligible to education assistance and health care through its CHAMPVA program.

Social Security Benefits

Veterans with PTSD may be able to obtain Social Security benefits, even if the VA refuses them veterans benefits. The Social Security Administration (SSA) offers both disability insurance (SSDI) and supplemental security income (SSI) benefits. Veterans can receive both SSDI and VA disability compensation without an offset. Unlike VA compensation benefits that are measured in degrees of disability, SSA benefits require a total disability that will last at least one year. If you cannot work because of your PTSD, contact the nearest SSA district office (800-772-1213).

Vietnam Veterans of America

Vietnam Veterans of America is a non-profit, congressionally chartered veterans service organization, dedicated to helping Vietnam-era veterans and their families obtain all the benefits and services to which they are entitled. Our service representatives, however, represent veterans from all wars and eras. VVA is located at 8605 Cameron Street, Suite 400, Silver Spring, MD. 20910. Contact us at: (301) 585-4000 (telephone); (301) 585-0519 (fax); veteransbenefits@vva.org (e-mail).

In addition, VVA's PTSD/Substance Abuse Committee is a valuable source of information about PTSD treatment programs for both the individual veteran and his or her family. You can contact the Committee through the www.vva.org website.

Many other veterans service organizations offer a wide range of services. Most states operate a department of veterans affairs and many states have a network of county veterans representatives. To locate accredited representatives, call or visit the nearest VA regional office.

Lawyers

There are limits on when you can pay a lawyer to help you with a VA claim. Generally, you can hire a lawyer only after the BVA has decided your claim. Many lawyers work on a contingency basis that means you do not have to pay them a fee up front. If you do not win benefits, you will not have to pay a fee. Some private lawyers and some legal aid or legal services offices provide representation free of charge at all stages of a VA claim.

There is an organization of attorneys who regularly practice before the Court of Appeals for Veterans Claims (which has jurisdiction over BVA decisions). Its members are available to represent you at the Court. For a list of these attorneys contact: the [National Organization of Veterans' Advocates \(NOVA\)](http://www.vetadvocates.com) at <http://www.vetadvocates.com>

If no private practitioners are willing to represent you at the Court, it might be possible to obtain pro bono representation through the Veterans Pro Bono Consortium. The Court will send you information about this opportunity if you file an appeal there.