

Service Bulletin

December 2009

DEPARTMENT OF VETERANS AFFAIRS (VA)

<http://www.va.gov>

Copayment Refunds for Combat Veterans

The National Defense Authorization Act of 2008 (NDAA) (Public Law 110-108) extended the period of enhanced enrollment eligibility and cost-free care for conditions potentially related to the theater of combat operations. Major implications of this law are:

- Any combat veteran currently enrolled and new combat Veterans enrollees who were discharged from active duty on or after January 28, 2003, are eligible for enhanced enrollment placement into Priority Group (PG) 6 (unless eligible for higher PG placement), for 5 years post discharge.
- Combat veterans discharged from active duty before January 28, 2003, who did not previously enroll in VA's health care system and apply for enrollment on or after January 28, 2008, are eligible for enhanced enrollment placement into PG 6 (unless eligible for higher PG placement) through January 27, 2011.

As a result of the NDAA, veterans are also eligible for retroactive refunds of copayments they made for medical services and prescriptions associated with treatment related to their combat experience.

VA health facilities are presently conducting reviews to determine applicable copayments which should be refunded to these Veterans. VA anticipates mailing letters to impacted veterans in November 2009 informing them that they are due a refund which will be subsequently issued by the end of December 2009. Veterans are encouraged to contact the VA Health Resources Center with any questions at 1-800-983-0932.

VA to Survey Veteran Households

VA has launched a national survey of veterans, active duty service members, activated National Guard and reserve members, and family members and survivors to learn if they are aware of VA services. In addition to assessing awareness levels, the National Survey of Veterans will collect health care, benefits, employment, and demographic information that VA will use to inform policy decisions and improve benefits. Recognizing a broader client base than just veterans, this is the first time VA has included others, such as veteran family members, in its survey population.

VA is mailing out survey “screeners” to more than 130,000 households to identify potential survey participants. The screener asks if anyone in the household is a member of one of the identified survey groups – veterans, family members and survivors, active duty, Guard or Reserve members. Eligible survey participants then may be requested to participate in a full-length survey.

Participants will be able to select a preferred survey method: through U.S. mail, telephone or a password-protected Internet address. VA expects approximately 10,000 veterans to complete the full-length survey. This is the sixth VA National Survey of Veterans since 1978. The data collection is expected to be finished by the end of February and the final report released by December 2010.

VA Announces Study of Vietnam-Era Women Veterans

VA is launching a comprehensive study of women veterans who served in the military during the Vietnam War to explore the effects of their military service upon their mental and physical health. The study, which began in November 2009 and lasts more than four years, will contact approximately 10,000 women in a mailed survey, telephone interview and a review of their medical records.

As women Vietnam veterans approach their mid-sixties, it is important to understand the impact of wartime deployment on health and mental outcomes nearly 40 years later. The study will assess the prevalence of post-traumatic stress disorder (PTSD) and other mental and physical health conditions for women Vietnam veterans, and explore the relationship between PTSD and other conditions.

VA will study women Vietnam veterans who may have had direct exposure to traumatic events, and for the first time, study those who served in facilities near Vietnam. These women may have had similar, but less direct exposures. Both women veterans who receive their health care from VA and those who receive health care from other providers will be contacted to determine the prevalence of a variety of health conditions.

About 250,000 women veterans served in the military during the Vietnam War and about 7,000 were in or near Vietnam. Those who were in Vietnam, those who served elsewhere

in Southeast Asia and those who served in the United States are potential study participants.

Women veterans are one of the fastest growing segments of the Veteran population. There are approximately 1.8 million women veterans among the nation's total of 23 million living veterans. Women comprise 7.8 percent of the total veteran population and nearly 5.5 percent of all veterans who use VA health care services. VA estimates women veterans will constitute 10.5 percent of the veteran population by 2020 and 9.5 percent of all VA patients.

VA and DoD Announce Disability Evaluation System Pilot Expansion

VA has announced the expansion of a program with the Department of Defense (DoD) to streamline the application process for people retiring or exiting the military due to disabilities.

The Disability Evaluation System (DES) pilot began in November 2007 and is expanding to an additional six military installations, bringing the total number to 27 military facilities where a single physical examination serves as the basis for determining whether military personnel are fit enough to stay on active duty and to determine their eligibility for VA disability compensation. To date over 5,431 servicemembers have participated in the pilot.

The new locations will be Fort Benning, Ga.; Fort Bragg, N.C.; Fort Hood, Texas; Fort Lewis, Wash.; Fort Riley, Kan.; and Portsmouth Naval Medical Center, Va. The estimated completion date for the new expansion is scheduled for March 31, 2010.

Veterans More Likely to Avoid Foreclosure with VA-Backed Loan

<http://www.homeloans.va.gov>

Despite problems in the nation's housing market, mortgage loans backed by the VA had a lower foreclosure rate than any other type of home loan in the industry, as of the end of the last fiscal year. Currently, about 1.3 million active home loans were obtained using VA's Home Loan Guaranty Program. The program makes home ownership more affordable for veterans, active-duty members, and some surviving spouses by protecting lenders from loss if the borrower fails to repay the loan.

More than 90 percent of VA-guaranteed loans are made without a down payment. Despite this, VA has the lowest serious delinquency rate in the industry, according to the Mortgage Bankers Association. Furthermore, VA's percentage of loans in foreclosure is the lowest of all measured loan types—lower even than prime loans, which require high credit scores and a 20 percent down payment by the borrower. To obtain more information about the Home Loan Guaranty Program call VA at 1-877-827-3702.

**VA Extends “Agent Orange” Presumption to Parkinson’s Disease,
B Cell Leukemias, and Ischemic Heart Disease**

Relying on an independent study by the Institute of Medicine, Secretary of Veterans Affairs Eric K. Shinseki decided to establish a service-connection for Vietnam veterans with three specific illnesses based on the latest evidence of an association with the herbicides referred to Agent Orange. The illnesses affected by the recent decision are B cell leukemias, such as hairy cell leukemia; Parkinson’s Disease; and ischemic heart disease.

Used in Vietnam to defoliate trees and remove concealment for the enemy, Agent Orange left a legacy of suffering and disability that continues to the present. Between January 1965 and April 1970, an estimated 2.6 million military personnel who served in Vietnam were potentially exposed to sprayed Agent Orange.

In practical terms, veterans who served in Vietnam during the war and who have a “presumed” illness don’t have to prove an association between their illnesses and their military service. This “presumption” simplifies and speeds up the application process for benefits.

DEPARTMENT OF DEFENSE (DoD)

<http://www.defense.gov/>

DoD Task Force On Sexual Assault Submits Findings, Recommendations

<http://www.dtic.mil/dtfsams/reports.html>

The DoD Task Force on Sexual Assault in the Military Services recently submitted its congressionally-mandated report to the secretary of defense. The report finds DoD has made progress in improving the response to victims’ needs, but calls for DoD to do more to fully address the spectrum of sexual assault prevention and response.

The task force made a number of recommendations involving DoD’s Sexual Assault Prevention and Response Office, including: temporarily elevating oversight of this office to the jurisdiction of the deputy secretary of defense until the program meets established institutional goals; changing the budgeting process to overcome inconsistent funding among the military services; strengthening the policy and oversight functions of the office; calling for collaboration with the military services and national experts in sexual assault prevention to develop a comprehensive prevention strategy and a plan to routinely evaluate it; and more rigorous oversight of military service training programs.

The task force found DoD has made demonstrable progress in providing assistance to victims of sexual assault by offering restricted reporting, which permits a victim to obtain immediate care and counseling without engaging law enforcement and command authority. The task force did recommend, however, that Congress should, as a permanent

measure, enact a comprehensive military justice privilege for communications between a victim advocate and a victim of sexual assault. The task force based its assessment on data collected over a 15-month period at 60 sites around the world. Task Force members spoke to more than 3,500 people, interviewing active duty and reserve component victims of sexual assault and other military personnel.

U.S. COURT OF APPEALS FOR VETERANS CLAIMS **PRECEDENT DECISIONS**

<http://www.vetapp.gov/>

Tatum v. Shinseki, 23 Vet.App. 152 (2009)

<http://www.vetapp.uscourts.gov/documents/Tatum-2728.pdf>

The veteran appealed a decision of the Board of Veterans' Appeals ("Board") that denied a rating in excess of 10 percent for her service-connected hypothyroidism. The Board denied the veteran a 30-percent rating because it found that a 30-percent rating was permitted only if all three symptoms were present. On appeal to the Court, the veteran argued that the Board erred in concluding that all three symptoms were necessary for the award of a 30-percent rating and that such a conclusion eviscerated the meaning of 38 C.F.R. § 4.7 (2009), which states: "Where there is a question as to which of two evaluations shall be applied, the higher evaluation will be assigned if the disability picture more nearly approximates the criteria required for that rating." The Court decided that the law supported the veteran's argument: the Board erred when it concluded all three symptoms are required for the award of a 30-percent rating under DC 7903.

The Court rejected the Secretary's argument that all three symptoms were required, and 38 C.F.R. § 4.7 was therefore inapplicable, and explained that *Camacho v. Nicholson*, 21 Vet.App. 360 (2007) did not render the expansive holding the Secretary contended it did. The Court distinguished *Camacho* which involved the successive rating criteria of 38 C.F.R. § 4.119, DC 7913, pertaining to diabetes mellitus. Simply stated, the evaluation for each higher disability rating in *Camacho* included the criteria of each lower disability rating, such that if a component was not met at any one level, a veteran could only be rated at the level that did not require the missing component.

The Court's decision affirms the primary purpose of 38 C.F.R. § 4.7 by explaining that it is not limited to those diagnostic codes in which the rating criteria are conjunctive. In other words, if a veteran's disability picture presents a question as to which of two evaluations shall be applied under a particular diagnostic code, then § 4.7 requires the higher disability rating to be awarded when "the disability picture more nearly approximates the criteria required for that rating."

U.S. DEPARTMENT OF EDUCATION AND
FEDERAL STUDENT AID
<http://federalstudentaid.ed.gov/>

Discharge of Title IV Student Loans due to VA Total and Permanent Disability
<http://ifap.ed.gov/disabilitydischarge/va.html>

If a borrower is unable to work and earn money because of an injury or illness that is expected to continue indefinitely or result in death, the borrower may apply for a total and permanent disability (TPD) discharge of Federal Family Education Loans (FFEL), Perkins Loans, William D. Ford Federal Direct Loans (Direct Loans), or Teacher Education Assistance for College and Higher Education (TEACH) Grant service obligations.

In August 2008, the Higher Education Opportunity Act (HEOA) made changes to the Higher Education Act that establishes a separate process for determining whether certain veterans are totally and permanently disabled. Veteran borrowers will be considered totally and permanently disabled for purposes of this discharge if the veteran provides documentation from the VA showing that the veteran has been determined to be unemployable due to a service-connected condition.

There are two types of disability ratings granted by the VA that qualify a veteran for a discharge of his or her Title IV student loans and/or TEACH Grant service obligation based on the statutory standard:

- A determination that the veteran has a service-connected disability or disabilities that are 100% disabling; or
- A determination that the veteran is totally disabled based on an Individual Unemployability determination.

A veteran applying for TPD must provide a VA Rating Decision or a letter from VA confirming that the veteran has received one of the qualifying ratings. Veterans providing this documentation are not required to have a physician complete Section 4 of the application form or provide any additional documentation related to the disabling condition. Veterans qualifying for discharge under this process will receive immediate discharge and will not be subject to the three-year conditional discharge period. The veteran's loan holder(s) will refund any payments received after the effective date of the grant of disability.

For more information visit the federal student aid web site listed above, or call the Department of Education Customer Care Center at 1-800-433-7327.

U.S. SMALL BUSINESS ADMINISTRATION

www.sba.gov

SBA, Six Universities to Offer Business Training For Iraq/Afghanistan Disabled Vets

www.sba.gov/patriotexpress

The U.S. Small Business Administration announced in November a three-year agreement to expand and deliver entrepreneurship training for service-disabled veterans of the wars in Iraq and Afghanistan. The agreement with SBA's Office of Veterans Business Development will support the expansion of the year-long Entrepreneurship Bootcamp for Veterans with Disabilities (EBV). The expansion of this management training and mentorship program will increase the availability of small business programs for veterans, service-disabled veterans, reserve-component members, and their dependents or survivors.

The universities participating in the program are Syracuse University's Whitman School of Management, the University of Connecticut School of Business, Mays Business School at Texas A&M, UCLA Anderson School of Management, Florida State University's College of Business, and the Krannert School of Management at Purdue University. SBA's grant and other assistance will significantly expand the reach and impact of the EBV initiative and help increase economic opportunities for veterans with disabilities.

Additionally, SBA launched a new online contracting tutorial on sba.gov, as part of its ongoing efforts to expand services to veterans and service-disabled veterans. Veterans and military spouses who own small businesses can utilize this free online course to learn how to identify and take advantage of federal contracting opportunities.



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