



National Convention

Benefits Protection Team Seminar

Friday, July 30, 2021

Critical Policy Goal

Protecting Veterans in the Claims and Appeals Processes



 **OPERATION:
KEEP THE
PROMISE**
2021

DAV's Critical Policy Goals

- Ensure Veterans Who Were Exposed to Toxic Substances Receive Full and Timely Benefits, Particularly for Burn Pits, Agent Orange and other Known Exposures
- Enhance Veterans' Survivor Benefits
- Protecting Veterans in the Claims and Appeals Processes
- Ensure Equitable Benefits and Services for Women and Minority Veterans
- Improve Mental Health Services and Suicide Prevention Efforts to Reduce Veterans Suicide
- Building a Veterans Health Care System for the Future

DAV empowers veterans to lead high-quality lives with respect and dignity. It is dedicated to a single purpose: keeping our promise to America's veterans. DAV does this by ensuring that veterans and their families can access the full range of benefits available to them; fighting for the interests of America's injured heroes on Capitol Hill; providing employment resources to veterans and their families and educating the public about the great sacrifices and needs of veterans transitioning back to civilian life. DAV, a non-profit organization with more than 1 million veteran members, was founded in 1920 and chartered by the U.S. Congress in 1932.



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A Century of
Service to Veterans

HOW ?

1. Ensuring correct VA decisions by reestablishing Pre-Decisional Review (48 hour review)
2. Protecting effective dates
3. Protecting benefits from erosion (TDIU)

Ensuring Correct VA Decisions by Reestablishing Pre-Decisional Review (48 Hour VSO Review)



VSO Review



What is a pre-decision review?

Errors found in 48-hour review:

- incorrect evaluations
- incorrect denials
- incorrect effective dates

April 2020, the VBA eliminated the pre-decisional review

VSO Review



On April 19, 2021, VBA launched the pilot ***Claims Accuracy Request (CAR)***.

- NSOs can raise errors to VA within 30 days of the decision
- Expedited process
- Higher Level of Review

VSO Review

S. 458, Veterans Claim Transparency Act of 2021

A bill to require the VA to provide a claimant's representative a 48-hour pre-decisional review period.

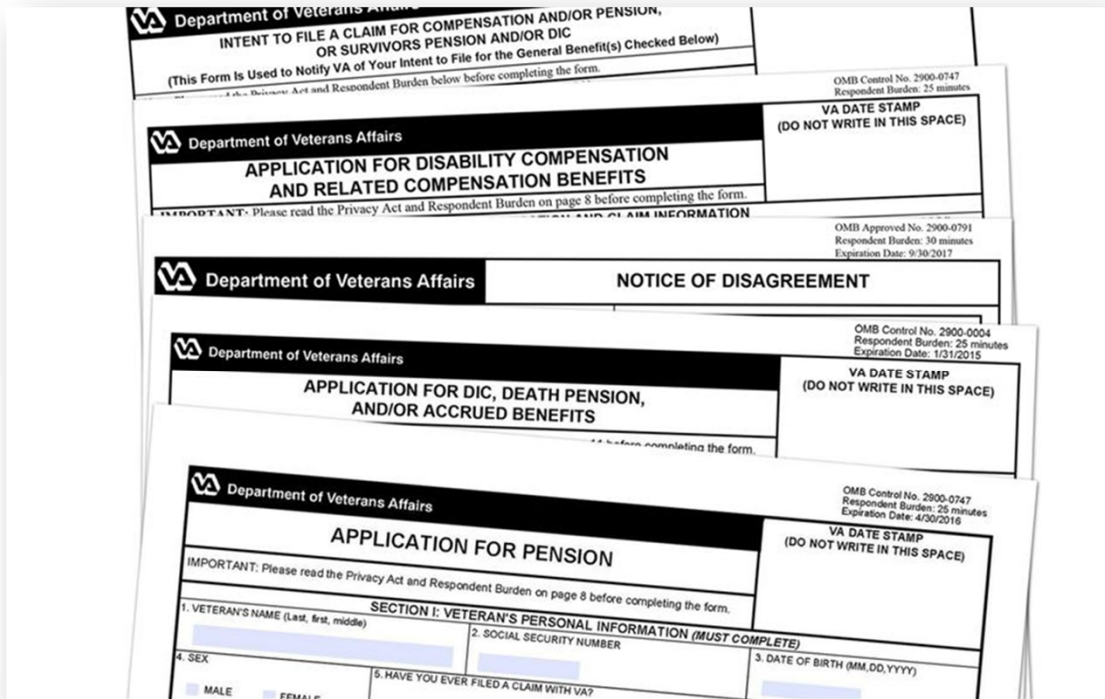


VSO Review

DAV is encouraged by the collaboration with VBA and optimistic that changes to the notification process and the CAR pilot will address our concerns.

If successful, we will request this be codified into law.

If not successful, we will push for enactment of the *Veterans Claim Transparency Act*.



Protecting Effective Dates (Standardized VA Forms)

VA Forms

Currently, if a veteran submits a claim or appeal on the wrong form, it may take VA months to review and advise the veteran that the claim will not be accepted because it was submitted on the wrong form.



VA Forms

say
what!



Additionally, VA does not consistently advise the veteran which form should have been used and does not provide the correct form to the claimant to file.

VA Forms

When the veteran eventually files the correct form, he or she may have lost months of entitlement.

VA does not accept a claim submitted on the wrong form as a claim submission or as a placeholder.

VA Forms

This issue was complicated by the implementation of the Appeals Modernization Act (AMA).

VA will not accept a claims for previously denied issues on any form except VAF 20-0995 Supplemental Claim, which, again, can lead to a significant delay or loss of an earlier effective date.

VA Forms



Additionally, if a veteran submits an appeal directly to the Board of Veterans' Appeals on the wrong form, it could be months before it's discovered, and the veteran could lose an earlier effective date or even incur expiration of the appeal period.

VA Forms

VA's current processes are placing an unnecessary burden on too many veterans, which was not the intent of Congress when the AMA was enacted into law.



VA Forms



On May 12th, DAV testified before the Senate Veterans Affairs Committee and the issue of VA forms was directly addressed.

VA Forms

Subsequent to the hearing, the Acting Under Secretary for the Veterans Benefits Administration resolved to correct the forms and effective date issues.



Protecting Benefits From Erosion



Total Disability Based on Individual Unemployability



Approximately 350,000 veterans are in receipt of TDIU

TDIU was established by the VA Secretary's regulatory authority and is **NOT** codified by statute.

Total Disability Based on Individual Unemployability

For years, there have been proposals to take TDIU from certain veterans:

- placing restrictions, such as age, or
- eliminating TDIU



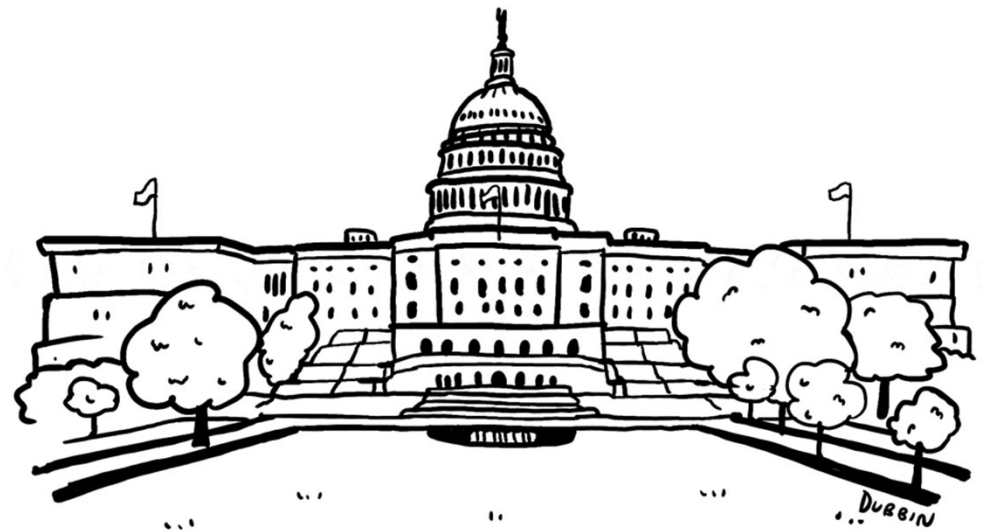
Total Disability Based on Individual Unemployability

The Congressional Budget Office (CBO) made recommendations in 2013, 2014, 2016, and 2018 to limit and restrict TDIU.

The December 2020 Congressional Budget Office (CBO) report included a proposal to “End VA’s Individual Unemployability Payments to Disabled Veterans at the Full Retirement Age for Social Security”

Total Disability Based on Individual Unemployability

Because of PAYGO rules, Congress is required to offset the cost of new veterans legislation by cutting existing programs, like TDIU.



DAV's Goal



To protect TDIU, we need to have it codified into law. That way, VA will not be able to just make a regulation change to restrict TDIU; it would take an act of Congress.

DAV's Goal

Congress must pass the
**Protecting Benefits for Disabled
Veterans Act** and protect TDIU.

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Thank You!

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