

**IN THE UNITED STATES COURT OF APPEALS
FOR VETERANS CLAIMS**

NETTIE CASEY,

Appellant,

v.

No. 18-1051

ROBERT L. WILKIE,
Secretary of Veterans Affairs,

Appellee.

**APPELLANT’S RESPONSE TO SECRETARY’S MARCH 21, 2019,
SUPPLEMENTAL MEMORANDUM OF LAW**

I. The one-time payment of accrued benefits is an “award” as contemplated by 38 U.S.C. § 5112(b)(10) and 38 C.F.R. § 3.500(b)(2).

The Secretary argues that the reasoning in *Dent* “suggests that § 5112(b)(10) and section 3.500(b)(2) do not apply to one-time payments.” Appellant disagrees. The Secretary acknowledges that the Court held that “the reduction of pension payments was subject to the effective date rules in § 5112(b)(9)-(10) because those provisions applied to both the initial award of benefits and “errors affecting *a running award that consists of recurring payments.*” However, the Secretary ignores that the Court also finds that these provisions apply to the initial award of benefits. The initial award of benefits would constitute a one-time lump sum payment. While in some cases, a monthly benefit would then begin, that does not change that the initial award involves the one-time payment of a retroactive benefit.

The Secretary asserts that the “plain meaning” of the terms reduction or discontinuance cannot apply to a one-time payment because a one-time payment cannot diminish in size, but this application is too narrow. A one-time payment can, and has been,

reduced in this case. Recovery of a portion of an overpaid initial award necessarily diminishes the initial payment, as the payments taken to recoup the overpaid portion reduce the amount of the initial award payment. In fact, in these debt situations (and in this case), beneficiaries are asked if they wish to pay the amount back all at once or if they would like to have their future payments reduced. R. 105 (103-06). If the beneficiary is paid \$10,000, and is required to return \$3,000, the \$10,000 payment is diminished.

The Appellant disagrees that the Secretary's assertion that the legislative history indicates that Congress did not intend for section 5112 to apply to one-time payments.

The Secretary submits that "[p]erpetuation of an error is not a concern when there is only a single payment." This is simply not true. The errors in this case included a failure to acknowledge a valid fee agreement, to provide clear notice to Appellant, and to withhold fees as required. This error could easily occur again, both in the present case if the claimant was granted additional benefits, and in other cases handled by the same claims reviewer. Thus, by VA bearing the burden of its mistake here, the claims reviewer involved learns how to appropriately follow VA's own instructions regarding notice and withholding of attorney fees, so that those erroneous actions are not perpetuated in future cases, which is consistent with the legislative history as noted in *Dent*.

The Secretary goes on to discuss the congressional intent discussed in *O'Connell v. Nicholson*, 21 Vet.App. 89 (2007). In that case, the Court found that Congress enacted 38 U.S.C. § 5112(b)(6), so that veterans would have advance notice that their benefits would be diminished, in part, to allow them time to adjust to the "diminished expectation." The Secretary submits that "a recipient of a one-time payment does not expect additional

payments, and thus would not need time to adjust to a reduction or discontinuance.” This is nothing more than misdirection by the Secretary, as a different section of 5112, which does not pertain to sole administrative error, does not change the relevant application of 5112(b)(10) to cases involving one-time payments.

Finally, despite the Secretary’s assertion that sections 5112 and 3.500 would not apply to one-time payments, VA has actually instructed its employees to apply 3.500(b)(2) to one-time payments. Specifically, in the section entitled “Handling Cases Involving Administrative Error”, the M21-1 specifically refers to 38 C.F.R. § 3.500(b)(2). M21-1 III.v.1.I.3.¹ In explaining what actions to take when adjusting an award due to administrative error, the M21-1 instructs that an award will be adjusted based upon the last paid date because “VA may *not* create an overpayment in a beneficiary’s account when adjusting his/her award to correct an administrative error.” M21-1 III.v.1.I.3.k. The M21-1 also provides the following example of an administrative error on the part of VA. M21-1 III.v.1.I.3.e. A Veteran with a 50% rating gives birth to a child on August 12, 2010. On November 10, 2013, she notifies VA of her new dependent, and a VA employee erroneously adds the child to the Veteran’s award effective the date of the child’s birth. Again, the overpayment would be part of the one-time payment. There would be no reduction or discontinuance of future benefit payments, unless an overpayment was created. Furthermore, there would be no risk of perpetuation of the erroneous action in the future monthly benefits of this veteran, as the assignment of the effective date for an award is a one-time action. Thus, the only way that there would be perpetuation of the erroneous action would be as suggested by the Appellant

¹ See Appendix 1.

above – that VA employee making the same mistake in future cases. In addition to the guidance provided in the M21-1, Appellant’s representative recently received a decision involving a one-time payment and a finding of sole administrative error.² In that decision, VA found there had been clear and unmistakable error in the assignment of an effective date in a decision issued a month prior. The decision provides the following: “[t]his was a [sic] administrative error made by the decision maker and therefore, no overpayment will be established.” Just as in this case, there would be no reduction of those future payments (unless an overpayment was created) and there would be no discontinuance of those future payments because the erroneous action resulted in overpayment of the one-time lump sum retroactive benefit. The section of the M21-1 coupled with the recent VA decision demonstrates that the Secretary’s asserted interpretation is inconsistent with how VA actually handles these claims.

Accordingly, Appellant submits that the award of a one-time payment of accrued benefits is contemplated by 38 U.S.C. § 5112(b)(10) and 38 C.F.R. 3.500(b)(2) and that this finding is supported by the holding in *Dent*, the legislative intent expressed when these sections were added, and VA’s own interpretation and application of this provision in both the M21-1MR and in cases of actual claimants.

II. As the one-time payment of accrued benefits is an “award”, the term “erroneous” in 38 U.S.C. § 5112(b)(10) and 38 C.F.R. § 3.500(b)(2) contemplates a situation in which the only error was VA’s failure to withhold attorney’s fees from the payment to the claimant pursuant to a fee agreement.

² See Appendix 2 for a copy of the Regional Office Decision.

The Secretary asks the Court to hold that the term “erroneous” does not contemplate the facts of this case, asserting that the error was in how the payment was distributed and does not constitute an erroneous award. However, the Secretary is too narrowly defining the word “erroneous”. The Court in *Dent* was clear that the term “erroneous” applies to not only awards and payments, but also erroneous actions. In this case, there was an erroneous action when, by sole administrative error, VA failed to withhold the attorney fees and this erroneous action resulted the widow receiving an amount in excess of that which she was entitled to receive. Thus, the term “erroneous” applies to the award in this case.

Appellant submits that the legal conclusion in this case is whether sections 5112(b)(10) and 3.500(b)(2) are applicable. However, in order to make that legal conclusion, factual findings as to fault must first be made. A determination as to fault is a factual finding that the Court is not permitted to make. If the Court agrees that sections 5112 and 3.500 apply in this case, the Court should remand this issue so that the Board may provide adequate reasons or bases regarding its determination of fault. However, should the Court find that this determination as to error is a legal conclusion, then Appellant submits that the Court should find that VA was solely at fault and wishes to direct the Court to the July 2013 decision. R. at 158-61.

On its face, the July 2013 notification letter did not inform Appellant that she would receive \$91,066.00, minus 20% withholding for attorney fees. Instead, the letter stated that the widow would “receive a payment covering the initial amount due under this award, minus any withholdings, in approximately 15 days.” R. at 158 (158-61). Then it stated that “[y]ou are owed \$91,066.00 which represents benefits owed the veteran at death but unpaid.” *Id.*

Not only is the organization of the letter problematic, but VA also failed to clearly state the amount that she would actually be paid. Furthermore, because payment is made directly to the Appellant with no receipt or confirmation provided to the attorney, the representative did not know that was overpaid.

III. The Board conceded that the VA’s failure to withhold attorney fees from the one-time payment was an “erroneous distribution”, and this is a favorable factual finding that cannot be disturbed by the Court.

Appellant agrees with the Secretary to the extent that he has conceded that the Board’s finding that the one-time payment was an “erroneous distribution” was a favorable finding of fact that cannot be disturbed. However, Appellant continues to submit that the Board failed to provide adequate reasons or bases for its determination that the Appellant and her attorney knew, or should have known, that the 20% had not been withheld. In particular, the Board said that, “[c]onspicuously absent from this letter is any notice of any amount of attorney fees being withheld from the award, an item that would have been specifically included in the letter had any such withholding taken place. *See* Manual M21-1 III.v.2.B.1.b (indicating that award letters include notation of any withholding amount and the reason for such withholding).” R. at 11 (2-12). The Board’s response indicates that, pursuant to the M21-1, an award letter will include both a notation of any withholding amount and the reason for such withholding. However, Appellant’s representative received decisions issued within the same timeframe as the July 2013 decision which did not include either the withheld amount or a statement regarding the reason for such withholding³. Importantly, even though these

³ *See* Appendix 3 for three separate decisions issued between 2012 and 2013. All three notification letters indicated a benefit was granted, and that the beneficiary would receive a

decisions did not provide the information outlined by the Board and in the M21-1, VA still properly withheld attorney fees. In light of the fact that VA has historically issued notices of awards that did not specify the amounts withheld or the reasons for the withholding, and yet still has withheld the fees and paid the representative, it is unclear how Appellant's representative knew, or should have known, that withholding did not occur in this case. This case highlights the fact that VA is not consistent in how it handles the notice provided to claimants regarding withholdings and the amounts they should expect to be paid. Because of this, the Board cannot rely upon the M21-1 to say that Appellant and her attorney should have known that withholding did not take place in this case. *See Hudick v. Wilkie*, 2018 U.S. App. LEXIS 33799 (2018)⁴; *see also Overton v. Wilkie*, 30 Vet.App. 257 (2018) (the Board cannot simply cite to an M21-1 provision without further analysis, as a citation to a manual provision to support a conclusion is inconsistent with its mandated obligation to provide an adequate statement of reasons or bases for its conclusion).

If the Court agrees with the Secretary that a determination about which party erred is a question of law, then the Court should find that the erroneous payment in this case was the result of sole administrative error as the Appellant and her attorney did not know withholding had not occurred due to deficient notice.

IV. 38 U.S.C. § 5112 and 38 C.F.R. § 3.500 apply to “reductions” in recurring payments that serve to recoup an unrelated erroneous payment.

payment; however, none of the letters specified the amounts to be withheld or indicated the reasons for such withholdings.

⁴ Appellant notes that *Hudick v. Wilkie* is non-precedential and is not binding on this Court; however, Appellant believes that the discussion in that case is relevant to consideration of the issues presented in this case.

Appellant continues to assert that there is nothing in 5112(b)(10) or 3.500(b)(2) which limits their application to reductions in related benefits. If the provisions were applied as the Secretary suggests, then they would only apply to instances in which a beneficiary receives an incorrect award of a recurring, related benefit. Conversely, this would mean that a beneficiary who received an erroneous lump sum award would never have the protection of § 5112(b)(10) or § 3.500(b)(2). Instead, the beneficiary would be restricted to presenting a waiver argument. Said another way, applying these provisions the way the Secretary suggests would leave a group of beneficiaries unprotected, as claimants who received an erroneous lump sum award, which was solely the result of VA error, would still have to demonstrate they satisfied the criteria for waiver in order to avoid recoupment. There is nothing in the plain language of the statute or the legislative history which indicates that Congress intended to discriminate against a group of widows, dependent children, and parents solely because they were not entitled to receive recurring monthly benefits. In fact, cases in which there are erroneous, recurring monthly payments potentially involve an even greater amount of benefits than would be implicated by a single, lump sum payment.

Furthermore, the Secretary's argument that sections 5112 and 3.500 do not apply in this situation because 38 U.S.C. § 5413 is applicable to the recovery of an overpayment is flawed. Section 5413 applies to recovery of the debt. No debt is created if there was sole administrative error. Thus, these two sections can still be read in harmony. As noted above, while there are provisions under section 5314 that allow for the waiver of the debt, that process involves a balancing of faults and consideration of the fault of the debtor, in addition to other factors. It does not stand to reason that Congress would create a statute to specifically

address the handling of overpayments which are the result of sole administrative error, but intend to have another statute (which does not involve sole administrative error) control simply because a one-time payment is involved.

V. The provisions governing the effective date of a reduction would require that no debt or overpayment be created in this case.

Appellant agrees with the Secretary to the extent that the effective date of the reduction of the “erroneous award” would be the date of the one-time payment, if the erroneous payment was based solely on administrative error, and the date of the initial award if VA was not solely at fault. However, Appellant disagrees that applying section 5112(b)(10) and 3.500(b)(2) would “lead to unintended results.”

The Secretary provides a scenario in which an accounting error results in a \$90,000 overpayment and asserts that if sections 5112 and 3.500 are found to apply to one-time payments, VA would be unable to recover large sums of money paid out due to minor accounting errors, placing a burden on the taxpayers. The Secretary fails to note that in order for the beneficiary to have no knowledge of the accounting error, VA’s notice would also have to have been insufficient. If the notice provided that she was owed \$10,000, and she received \$100,000, then she would know that she received an amount in excess of that to which she was entitled. Only in a scenario (such as this case) where VA did not provide clear notice *and* made an overpayment would VA be unable recoup the overpaid one-time lump sum benefit.

There is no added burden to VA by applying these sections to one-time payments. As noted above, in this case and the scenario described by the Secretary, VA had to make at least

two errors in the processing of the widows' claims in order for the widows to be unaware that they had received an incorrect amount of compensation. The notice in this case did not adequately inform Appellant of the amount of compensation that was due to her. The Board even noted that the M21-1 instructs that award letters must include "notation of any withholding amount and the reason for such withholding." R. at 11 (2-12). Had sufficient notice been provided to Appellant, she would have been aware that the amount she received was in excess of the amount to which she was entitled and sections 5112 and 3.500 would not apply. But Appellant did not receive sufficient notice, and VA erroneously paid her an amount in excess of her entitlement.

Accordingly, § 5112 and § 3.500 are applicable here because there was both an erroneous payment which was solely due to VA error, and the Appellant had no knowledge she was overpaid because the notice paid to her was deficient. Appellant is only asking for a reasonable application of the statute which would not result in absurd outcomes. A claimant with no knowledge of the error should not bear the burden for VA's mistakes. What the Secretary attempts to do is to pass along the burden of ensuring that claims and payments are processed correctly to the beneficiary and penalize the beneficiary if they are unable to identify the error despite the lack of sufficient notice. If VA is concerned about not being able to recoup overpayments that arise as a result of sole administrative error, then it should ensure adequate training and protocols are in place to attempt to limit those errors.

Respectfully submitted,

NETTIE CASEY

/s/ Daniel G. Krasnegor

DANIEL G. KRASNEGOR
Lead Counsel
Goodman Allen Donnelly PLLC
123 E. Main Street, 7th Floor
Charlottesville, Virginia 22902
(434) 817-2188
dkrasnegor@goodmanallen.com

/s/ Erin E. Ralston
ERIN E. RALSTON
Co-counsel
Goodman Allen Donnelly PLLC
4501 Highwoods Parkway, Ste. 210
Glen Allen, VA 23060
Telephone: (804) 565-5968
eralston@goodmanallen.com

/s/ Krystle D. Waldron
KRYSTLE D. WALDRON
Co-counsel
Goodman Allen Donnelly PLLC
4501 Highwoods Parkway, Ste. 210
Glen Allen, VA 23060
Telephone: (804) 565-5969
kwaldron@goodmanallen.com

APPENDIX 1

III.v.1.I.2.h.**Example:****Duplicate****Payment That****Should Be****Treated as an****Administrative****Error****Situation:**

- On May 1, 2012, VA begins paying disability compensation to a Veteran for her SC PTSD, based on a disability rating of 30 percent.
- On August 12, 2014, a CA establishes a new claim under a new PID, based on the Veteran's submission of a claim for service connection (SC) for coronary artery disease.
- On October 1, 2014, VA grants SC for coronary artery disease and assigns a disability rating of 30 percent. (The Veteran now begins receiving two benefit payments, one under each PID).
- While updating the Veteran's address on August 1, 2016, a VSR discovers the Veteran is receiving two benefit payments from VA each month.

Actions:

- Send the Veteran notice of VA's proposal to consolidate the two awards into one.
- Unless the Veteran submits evidence within 65 days that shows the proposed action should *not* be taken,
 - consolidate the two awards into one, and
 - notify the Veteran of the action taken.

Notes:

- The duplicate payments referenced in this example ***should be*** treated as an administrative error.
- The Veteran is ***not*** responsible for repaying any overpayment resulting from consolidation of the two awards.

3. Handling Cases Involving Administrative Error

Introduction

This topic contains special instructions for handling cases involving administrative error, including

- definition of an administrative error
- determining whether to attribute the erroneous payment of benefits to administrative error
- payment of erroneous benefits due to a system malfunction or programming error
- payment of erroneous benefits due to claims-processing delays
- example of an administrative error on the part of VA
- requirement for an administrative decision and notice of proposed adverse action
- approval of administrative decisions involving administrative error
- requesting Compensation or P&F Service's approval of administrative decisions
- actions to take if a beneficiary provides new evidence or requests a hearing
- substituting a hearing decision for a new administrative decision,
and
- actions to take if a beneficiary does not respond to the notice of proposed adverse action.

Change Date

October 24, 2018

III.v.1.I.3.a.

Definition:

Administrative

Error

An **administrative error** occurs when VA pays benefits to a beneficiary in an amount that exceeds his/her entitlement due to actions VA took that usually, but not always, stem from misapplication of the law.

Administrative errors include errors in judgment on the part of VA employees.

III.v.1.I.3.b.
Determining
Whether to
Attribute the
Erroneous
Payment of
Benefits to
Administrative
Error

Before attributing the erroneous payment of benefits to administrative error, it is necessary to rule out the existence of the conditions described in the table below. When taking this action, consider all the available evidence of record, such as

- correspondence VA sent to the beneficiary, including
 - cost-of-living adjustment letters
 - decision notices, and
 - development letters, and
- statements the beneficiary and others made to VA.

Condition	Description
The beneficiary is at fault for the error.	VA erroneously paid benefits because the beneficiary <ul style="list-style-type: none"> • knowingly took a wrongful action (an act of commission), or • failed to take an action or held something back from VA (an act of omission).
The beneficiary had knowledge of the error.	The beneficiary knew or should have known (based on, for example, VA correspondence of the type referenced in the opening paragraph of this block) that he/she was not entitled to the benefits VA erroneously paid.
The beneficiary acted with fraudulent intent.	The beneficiary attempted to wrongfully deceive VA (through an act of commission or omission) with the intent of achieving financial or personal gain.

References: If careful consideration of the evidence of record results in a finding that the beneficiary

- is at fault for the error or had knowledge of the error, adjust the beneficiary's award according to the instructions in **M21-1, Part III, Subpart v, 1.I.4**, or
- acted with fraudulent intent, follow the instructions in **M21-1, Part III, Subpart vi, 5.A.2**
(/system/templates/selfservice/va_ssnew/help/customer/locale/en-US/portal/55440000001018/content/554400000014296/M21-1,-Part-III,-Subpart-vi,-Chapter-5,-Section-A---Fraud).

III.v.1.1.3.c.**Payment of
Erroneous
Benefits Due to
a System
Malfunction or
Programming
Error**

The erroneous payment of benefits because of a system malfunction or programming error is **not** considered an administrative error under **38 CFR 3.500(b)(2)** (http://www.ecfr.gov/cgi-bin/text-idx?SID=739acb1a641592f98bdc1e89d1f2e6a5&node=se38.1.3_1500&rgn=div8) and should not be treated as such.

Exceptions: The following system-related errors **are** considered administrative errors under **38 CFR 3.500(b)(2)** (http://www.ecfr.gov/cgi-bin/text-idx?SID=739acb1a641592f98bdc1e89d1f2e6a5&node=se38.1.3_1500&rgn=div8). They require the preparation of an administrative decision and adjustment of the beneficiary's award according to the instructions in this topic.

- The *automated* processing of a legislative increase in benefits results in the payment of a higher rate of *pension* than the rate to which a beneficiary is entitled.
- The Rules-Based Processing System generates an incorrect rate of payment.

III.v.1.1.3.d.**Payment of
Erroneous
Benefits Due to
Claims-
Processing
Delays**

The payment of benefits in an amount exceeding a beneficiary's entitlement that is due to claims-processing delays is **not** considered administrative error.

Example:

- A Veteran notifies VA that he divorced his spouse three months ago.
- Almost one year passes before VA adjusts the Veteran's award to remove the spouse.

Result: The payment of additional benefits for the spouse beyond the date the Veteran notified VA of the divorce is not considered administrative error. The Veteran remains responsible for repaying the overpayment that resulted from the delay in adjusting his award.

III.v.1.I.3.e.**Example of an
Administrative
Error on the Part
of VA****Situation:**

- On May 1, 2008, VA assigns a 50-percent disability rating to a Veteran for her SC disabilities.
- On August 12, 2010, the Veteran gives birth to a child.
- The Veteran doesn't notify VA of her new dependent until November 10, 2013.
- A VA employee erroneously adds the child to the Veteran's award effective the date of the child's birth.

Result: This is considered an administrative error because VA should have added the child to the Veteran's award effective November 10, 2013, as more than one year had passed since the birth of the child when the Veteran reported the birth to VA.

Reference: For more information on determining the proper effective date for awarding additional compensation for dependents, see **M21-1, Part III, Subpart iii, 5.L.2 (/system/templates/selfservice/va_ssnew/help/customer/locale/en-US/portal/55440000001018/content/554400000032212/M21-1,-Part-III,-Subpart-iii,-Chapter-5,-Section-L---Adjusting-Awards-for-Dependents)**.

III.v.1.I.3.f.**Requirement for an Administrative Decision and Notice of Proposed Adverse Action**

If an erroneous payment is believed to be due to an administrative error, and VA is paying benefits in an amount that exceeds entitlement, then

- prepare an administrative decision according to the instructions in **M21-1, Part III, Subpart v, 1.A**
(/system/templates/selfservice/va_ssnew/help/customer/locale/en-US/portal/55440000001018/content/554400000014216/M21-1,-Part-III,-Subpart-v,-Chapter-1,-Section-A---General-Information) that proposes to reduce or discontinue benefits under **38 CFR 3.500(b)(2)**
(http://www.ecfr.gov/cgi-bin/text-idx?SID=739acb1a641592f98bdc1e89d1f2e6a5&node=se38.1.3_1500&rgn=div8)
- send the beneficiary notice of the proposed adverse action according to instructions in **M21-1, Part I, 2.B**
(/system/templates/selfservice/va_ssnew/help/customer/locale/en-US/portal/55440000001018/content/554400000014072/M21-1,-Part-I,-Chapter-2,-Section-B---Notice-of-Proposed-Adverse-Action), and
- do not take action to reduce or discontinue benefits until 65 days after the date of the notice of proposed adverse action, unless action is required under the instructions for duplicate payments found in **M21-1, Part III, Subpart v, 1.I.2.**

Important:

- Upon discovery of an administrative error, establish EP 960, using the date VA discovered the error as the date of claim. Leave the EP 960 running until final action is taken to correct the error.
- If an administrative decision has not been approved by officials listed in **M21-1, Part III, Subpart v, 1.I.3.g**, include appropriate language in the notice of proposed adverse action, including language stating that the adjustment **may** result in an overpayment of benefits and language about minimizing any overpayments.

III.v.1.I.3.g.**Approval of Administrative Decisions Involving Administrative Error**

Use the table below to determine who must approve administrative decisions involving an administrative error that resulted in the erroneous payment of benefits to a beneficiary.

If the total amount of benefits erroneously paid to the beneficiary is ...	Then the decision must be approved by ...
less than \$2,000	a Coach.
between \$2,000 and \$24,999	a Veterans Service Center Manager (VSCM), Pension Management Center Manager (PMCM), or designee no lower than a Coach.

If the total amount of benefits erroneously paid to the beneficiary is ...	Then the decision must be approved by ...
\$25,000 or more	<p>Compensation Service's Program Review Staff or P&F Service's Quality, Training, and Site Visits Staff.</p> <p>Important: Do <i>not</i> refer an administrative decision to Compensation Service or P&F Service until <i>after</i> a VSCM, PMCM, or designee no lower than a Coach has approved and signed it.</p> <p>Reference: For information about obtaining approval from Compensation Service's Program Review Staff or P&F Service's Quality, Training, and Site Visits Staff, see M21-1, Part III, Subpart v, 1.I.3.h.</p>

Notes:

- Calculate the total amount of benefits VA erroneously paid to a beneficiary by multiplying the amount of benefits VA erroneously paid each month by the number of months VA had erroneously paid benefits as of the end of the 60-day period VA gave the beneficiary to respond to the notice of proposed adverse action.
- **For compensation adjudication cases only:** Before referring a case to Compensation Service for approval of an administrative decision involving an erroneous payment of \$25,000 or more, verify the amount of the overpayment using the **Administrative Error Paid/Due Calculator Over \$25K** (https://vbaw.vba.va.gov/bl/21/star/star_home.htm), and upload the calculator results to the Veterans Benefits Management System (VBMS).
- **For pension and Parents DIC cases only:** Ensure documentation of calculations made to determine the rate of benefits (such as calculations of medical expenses, net worth, and waived overpayments) are included in the eFolder.

Reference: For information on including documentation of pension and Parents DIC award calculations in the eFolder, see **M21-1, Part III, Subpart v, 2.A.2.c**

(/system/templates/selfservice/va_ssnew/help/customer/locale/en-US/portal/55440000001018/content/554400000014229/M21-1,-Part-III,-Subpart-v,-Chapter-2,-Section-A---Decision-Authorization).

III.v.1.I.3.h.

Requesting Compensation or P&F Service's Approval of Administrative Decisions

Follow the instructions in the table below if approval of an administrative decision by Compensation or P&F Service is necessary according to the instructions in **M21-1, Part III, Subpart v, 1.I.3.g.**

Step	Action						
1	Extend the suspense date of the EP that was established in connection with the administrative decision to a date that is 60 days in the future.						
2	Is the beneficiary's claims folder completely electronic? <ul style="list-style-type: none"> • If <i>yes</i>, proceed to Step 5. • If <i>no</i>, proceed to the next step. 						
3	Attach a paper flash to the front of the paper claims folder that briefly describes the reason for transferring the folder to Compensation or P&F Service.						
4	Proceed to Step 6 after following the instructions in the table below. <table border="1"> <tr> <th>If the administrative decision was prepared in a ...</th><th>Then ...</th></tr> <tr> <td>Veterans Service Center</td><td>temporarily transfer the paper claims folder to Department of Veterans Affairs Quality Assurance Attn: Program Review Staff (214B) 3322 West End Ave, Ste 730 Nashville, TN 37203</td></tr> <tr> <td>pension management center</td><td>temporarily transfer the paper claims folder to Pension and Fiduciary Service (21PF) Attn: Quality, Training, and Site Visits Staff 810 Vermont Ave, NW Washington, DC 20420</td></tr> </table>	If the administrative decision was prepared in a ...	Then ...	Veterans Service Center	temporarily transfer the paper claims folder to Department of Veterans Affairs Quality Assurance Attn: Program Review Staff (214B) 3322 West End Ave, Ste 730 Nashville, TN 37203	pension management center	temporarily transfer the paper claims folder to Pension and Fiduciary Service (21PF) Attn: Quality, Training, and Site Visits Staff 810 Vermont Ave, NW Washington, DC 20420
If the administrative decision was prepared in a ...	Then ...						
Veterans Service Center	temporarily transfer the paper claims folder to Department of Veterans Affairs Quality Assurance Attn: Program Review Staff (214B) 3322 West End Ave, Ste 730 Nashville, TN 37203						
pension management center	temporarily transfer the paper claims folder to Pension and Fiduciary Service (21PF) Attn: Quality, Training, and Site Visits Staff 810 Vermont Ave, NW Washington, DC 20420						

Step	Action
5	<p>Notify the appropriate staff by e-mail that an administrative decision requiring approval is available in the beneficiary's electronic claims folder.</p> <ul style="list-style-type: none"> For claims requiring review by Compensation Service's Program Review Staff, e-mail <u>VAVBAWAS/CO/214B (mailto:214B.VBACO@va.gov)</u>. For claims requiring review by P&F Service's Quality, Training, and Site Visits Staff, e-mail <u>VAVBAWAS/CO/PENSION TRNG & QUALITY (mailto:PENSIONTRNGQUAL.VBACO@va.gov)</u>.
6	<p>Did Compensation Service's Program Review Staff or P&F Service's Quality, Training, and Site Visits Staff approve the administrative decision?</p> <ul style="list-style-type: none"> If <i>yes</i>, take final action to correct the error. If <i>no</i>, take the corrective action(s) prescribed by <ul style="list-style-type: none"> Compensation Service's Program Review Staff, or P&F Service's Quality, Training, and Site Visits Staff.

III.v.1.I.3.i.**Actions to Take****If a Beneficiary****Provides New****Evidence or****Requests a****Hearing**

If a beneficiary submits new evidence within 65 days of the date of the notice of proposed adverse action, or requests a hearing within 30 days of the same date, continue benefits at the same rate until a final decision is made.

Exception: Do not continue duplicate payments as described in **M21-1, Part III, Subpart v, 1.I.2.a.**

Important: If a beneficiary submits new evidence, preparation of a new administrative decision that considers the new evidence is required.

III.v.1.I.3.j.**Substituting a
Hearing Decision
for a New****Administrative
Decision**

If a beneficiary requests a hearing in connection with a proposal to reduce or discontinue his/her award to correct an administrative error, the employee that conducts the hearing will prepare a decision that satisfies the requirement in **M21-1, Part III, Subpart v, 1.I.3.j** for a new administrative decision.

Use the table below to determine whether approval of the hearing decision by a member of management is required.

If the administrative decision that preceded the hearing decision was approved by ...	Then ...
a Coach	approval of the hearing decision by a member of management is not necessary.
a VSCM, PMCM, or designee no lower than a Coach	the VSCM, PMCM, or a designee no lower than a Coach must approve the hearing decision.
<ul style="list-style-type: none"> • Compensation Service's Program Review Staff, or • P&F Service's Quality, Training, and Site Visits Staff 	the VSCM or PMCM must approve the hearing decision.

III.v.1.I.3.k.

Follow the instructions in the table below when

Actions to**Take When****Adjusting an****Award Due to****Administrative****Error**

- VA is at fault for an erroneous payment of benefits, and
- a beneficiary fails to provide evidence within established time limits showing VA should not take the action proposed in the notice of proposed action referenced in
 - **M21-1, Part III, Subpart v, 1.I.2.a**, or
 - **M21-1, Part III, Subpart v, 1.I.3.f**.

Step	Action
1	<p>Adjust the beneficiary's award effective the date in the LAST PAID DATE field on the AWARD INFORMATION tab in Share.</p> <p>Rationale: VA may not create an overpayment in a beneficiary's account when adjusting his/her award to correct an administrative error.</p>

Step	Action								
2	<p>Enter the following as an annotation in VBMS after generating the adjusted award:</p> <ul style="list-style-type: none"> • brief description of the error • date the error occurred • name and title of the individual who made the error • the amount of erroneous benefits, and • the regulation under which the adjustment was made (38 CFR 3.500(b)(2) (http://www.ecfr.gov/cgi-bin/text-idx?SID=739acb1a641592f98bdc1e89d1f2e6a5&node=se38.1.3_1500&rgn=div8)). 								
3	<p>Prepare a memorandum for the claims folder or upload the memorandum into VBMS that states</p> <ul style="list-style-type: none"> • the beneficiary submitted no new evidence, and • the proposed decision is final. <p>Important: Preparation of a second, final administrative decision is unnecessary.</p>								
4	<p>Follow the instructions in the table below.</p> <table border="1"> <thead> <tr> <th>If the administrative decision that preceded the final decision was approved by ...</th><th>Then...</th></tr> </thead> <tbody> <tr> <td>a Coach</td><td>ensure a Coach signs the memorandum.</td></tr> <tr> <td>a VSCM, PMCM, or designee no lower than a Coach</td><td>ensure the VSCM, PMCM, or a designee no lower than a Coach signs the memorandum.</td></tr> <tr> <td> <ul style="list-style-type: none"> • Compensation Service's Program Review Staff, or • P&F Service's Quality, Training, and Site Visits Staff </td><td>ensure the VSCM or PMCM signs the memorandum.</td></tr> </tbody> </table>	If the administrative decision that preceded the final decision was approved by ...	Then...	a Coach	ensure a Coach signs the memorandum.	a VSCM, PMCM, or designee no lower than a Coach	ensure the VSCM, PMCM, or a designee no lower than a Coach signs the memorandum.	<ul style="list-style-type: none"> • Compensation Service's Program Review Staff, or • P&F Service's Quality, Training, and Site Visits Staff 	ensure the VSCM or PMCM signs the memorandum.
If the administrative decision that preceded the final decision was approved by ...	Then...								
a Coach	ensure a Coach signs the memorandum.								
a VSCM, PMCM, or designee no lower than a Coach	ensure the VSCM, PMCM, or a designee no lower than a Coach signs the memorandum.								
<ul style="list-style-type: none"> • Compensation Service's Program Review Staff, or • P&F Service's Quality, Training, and Site Visits Staff 	ensure the VSCM or PMCM signs the memorandum.								
5	<p>File a copy of the memorandum and corresponding administrative decision in the VSCM or PMCM's office for a period of one year from the date of the final decision. After one year, dispose of the documents.</p>								

Note: In lieu of storing a paper copy of the memorandum and administrative decision in the VSCM or PMCM's office, regional offices may maintain an electronic log on which they record the associated claim number, the date of decision, and any other pertinent information about the memorandum and administrative decision.

APPENDIX 2



**DEPARTMENT OF VETERANS AFFAIRS
Veterans Benefits Administration
Regional Office**

[REDACTED]
VA File Number
[REDACTED]

**Represented By:
DANIEL G KRASNEGOR
Rating Decision
02/06/2019**

INTRODUCTION

The records reflect that you are a veteran of the Vietnam Era. You served in the Army from November 16, 1966, to November 27, 1968. A special review of your file was mandated on January 30, 2019. Based on the review and the evidence listed below, we have made the following decision(s).

DECISION

1. A clear and unmistakable error is found in the effective date assigned for the evaluation of painful scar, right lateral aspect of the abdomen evaluated as 10 percent effective January 31, 2003. The new effective date is now established effective July 29, 2004.
2. A clear and unmistakable error is found in the effective date assigned for the grant of service connection for painful scar, right lower quadrant of the abdomen and a new effective date of July 29, 2004 for the 10 percent evaluation is established.

EVIDENCE

2 of 3

- Our Rating Decision dated December 28, 2018 and all evidence contained therein.

REASONS FOR DECISION

1. Whether the effective date assigned for painful scar, right lateral aspect of the abdomen was clearly and unmistakably erroneous.

Clear and unmistakable errors are errors that are undebatable, so that it can be said that reasonable minds could only conclude that the previous decision was fatally flawed at the time it was made. A determination that there was a clear and unmistakable error must be based on the record and the law that existed at the time of the prior decision. Once a determination is made that there was a clear and unmistakable error in a prior decision that would change the outcome, then that decision must be revised to conform to what the decision should have been. In this case, the disability evaluation is reduced because the previous decision was a clear and unmistakable error.

An evaluation of 10 percent is granted for scarring which is tender and painful on objective demonstration.

A clear and unmistakable error was made in the Rating Decision dated December 28, 2018, which granted service connection for this disability effective January 31, 2003. It is noted that the correct effective date is now established effective July 29, 2004, the date your reopened claim was received. This was an administrative error made by this decision maker and therefore, no overpayment will be established.

2. Whether the effective date assigned for the service connected painful scar, right lower quadrant of the abdomen was clearly and unmistakably erroneous.

Clear and unmistakable errors are errors that are undebatable, so that it can be said that reasonable minds could only conclude that the previous decision was fatally flawed at the time it was made. A determination that there was a clear and unmistakable error must be based on the record and the law that existed at the time of the prior decision. Once a determination is made that there was a clear and unmistakable error in a prior decision that would change the outcome, then that decision must be revised to conform to what the decision should have been. In this case, the disability evaluation is reduced because the previous decision was a clear and unmistakable error.

An evaluation of 10 percent is granted for scarring which is tender and painful on objective demonstration.

A clear and unmistakable error was made in the Rating Decision dated December 28, 2018, which granted service connection for this disability effective January 31, 2003. It is noted that the correct effective date is now established effective July 29, 2004, the date your reopened claim was received. This was an administrative error made by this decision maker and therefore, no overpayment will be established.

[REDACTED]
[REDACTED]
3 of 3

REFERENCES:

Title 38 of the Code of Federal Regulations, Pensions, Bonuses and Veterans' Relief contains the regulations of the Department of Veterans Affairs which govern entitlement to all veteran benefits. For additional information regarding applicable laws and regulations, please consult your local library, or visit us at our website, www.va.gov.

APPENDIX 3

NLF/MR



DEPARTMENT OF VETERANS AFFAIRS

St. Petersburg Regional Office

P.O. BOX 1437

St. Petersburg FL 33731

OCT 25 2012

In Reply Refer To:

[REDACTED]

[REDACTED]

[REDACTED]

We received your Notice of Disagreement on September 19, 2011. It is the determination of the Decision Review Officer that the evidence does support a change in the previous determination. We made a decision on your claim based on a de novo review of the evidence contained in the claims record.

This letter tells you about your entitlement amount and payment start date and what we decided. It includes a copy of our rating decision that gives the evidence used and reasons for our decision. We have also included information about additional benefits, what to do if you disagree with our decision, and who to contact if you have questions or need assistance.

Your Award Amount and Payment Start Date

Your monthly entitlement amount is shown below:


Monthly Entitlement Amount	Payment Start Date	Reason For Change
\$243.00	Feb 1, 2011	Grant of increase in overall evaluation of service connected disabilities
251.00	Dec 1, 2011	Cost of Living Adjustment


You Can Expect Payment

Your payment begins the first day of the month following your effective date. You will receive a payment covering the initial amount due under this award, minus any withholdings, in approximately 15 days. Payment will then be made at the beginning of each month for the prior month. For example, benefits due for May are paid on or about June 1.



2





Your payment will be directed to the financial institution and account number that you specified. To confirm when your payment was deposited, please contact that financial institution.

*If this account is no longer open,
please notify us immediately.*

What We Decided

We determined that the following condition was related to your military service, so service connection has been granted:

Medical Description	Percent (%) Assigned	Effective Date
Chondromalacia, meniscus tear, and arthritis, left knee associated with patellofemoral syndrome, right knee	10%	Jan 11, 2011

We have enclosed a copy of your Rating Decision for your review. It provides a detailed explanation of our decision, the evidence considered, and the reasons for our decision. Your Rating Decision and this letter constitute our decision based on your claim received on September 19, 2011. It represents all claims we understood to be specifically made, implied, or inferred in that claim.

We enclosed a VA Form 21-8764, "Disability Compensation Award Attachment-Important Information," which explains certain factors concerning your benefits.

Are You Entitled to Additional Benefits?

You may be eligible for government life insurance if you

- were released from active duty after April 25, 1951,
- are in good health (except for any service connected conditions), and
- apply within two years of this notification of your disability rating.

[REDACTED]

If you are totally disabled, you may be eligible to have your government life insurance premiums waived. The Insurance is called Service-Disabled Veterans Insurance (S-DVI), and you should receive a package within two weeks. This package will contain information about the insurance and an application. If you do not receive an S-DVI package, please contact the Insurance Center to request additional information. Call the Insurance toll free number, 1-800-669-8477, or visit the Insurance web site, <http://www.insurance.va.gov>, for further information about Service-Disabled Veterans Insurance.

You may be eligible for medical care by the VA health care system for any service connected disability. You may apply for medical care or treatment at the nearest medical facility. If you apply in person, present a copy of this letter to the Patient Registration/Eligibility Section. If you apply by writing a letter, include your VA file number and a copy of this letter.

REDUCE OR ELIMINATE
YOUR MEDICAL CO-PAYMENTS

If you receive care at a VA medical facility, **please call our Health Benefits Call Center at 1-877-222-VETS (8387) or notify your local VA medical center** of this change in your compensation benefits. This rating decision may reduce or eliminate your co-payments for your VA-provided medical care. You may also be eligible for a refund based on this rating decision. Information regarding VA health care eligibility and co-payments is available at our website www.va.gov/healtheligibility.

You should contact your State office of veteran's affairs for information on any tax, license, or fee-related benefits for which you may be eligible as a veteran (or surviving dependent of a veteran). State offices of veteran's affairs are available at <http://www.va.gov/statedva.htm>.

[REDACTED]

You may be able to receive vocational rehabilitation employment services. The enclosed VA Form 28-8890, "Important Information About Vocational Rehabilitation Benefits," explains this benefit completely. To apply for this benefit, complete and return the enclosed VA Form 28-1900, "Disabled Veterans Application for Vocational Rehabilitation."

What You Should Do If You Disagree With Our Decision

If you do not agree with our decision, you should write and tell us why at the address below. You have *one year from the date of this letter to appeal the decision*. The enclosed VA Form 4107, "Your Rights to Appeal Our Decision," explains your right to appeal.

Department of Veterans Affairs
Regional Office
PO Box 458
St. Petersburg, FL 33744

If You Have Questions or Need Assistance

If you have any questions, you may contact us by telephone, e-mail, or letter.

If you	Here is what to do.
Telephone	Call us at 1-800-827-1000. If you use a Telecommunications Device for the Deaf (TDD), the number is 711.
Use the Internet	Send electronic inquiries through the Internet at https://iris.va.gov .
Write	Put your full name and VA file number on the letter. Please send all correspondence to the address at the top of this letter.

In all cases, be sure to refer to your VA file number .

If you are looking for general information about benefits and eligibility, you should visit our website at <https://www.va.gov>, or search the Frequently Asked Questions (FAQs) at <https://iris.va.gov>.

5

[REDACTED]
[REDACTED]

We sent a copy of this letter to your representative, Daniel G Krasnegor, Esquire, whom you can also contact if you have questions or need assistance.

Sincerely yours,

S. L. Smith

S. L. Smith
Veterans Service Center Manager

Contact us on the Internet at: <https://iris.va.gov>

Enclosure(s): Rating Decision
VA Form 21-8764
VA Form 28-1900
VA Form 28-8890
VA Form 4107

cc: Daniel G. Krasnegor, Esquire

DEPARTMENT OF VETERANS AFFAIRS

Winston-Salem Regional Office
 251 North Main Street
 Winston-Salem NC 27155

Atty
 CLH

JUN 15 2013

In Reply Refer To: [REDACTED]
 [REDACTED]
 [REDACTED]

Dear [REDACTED]

We made a decision on your claim for dependency received on September 27, 2012.

This letter tells you what we decided, how we made our decision and the evidence used to decide your claim. We have also included information about what to do if you disagree with our decision, and who to contact if you have questions or need assistance.

Your Award Amount and Payment Start Date

Your monthly entitlement amount is shown below:

Monthly Entitlement Amount	Payment Start Date	Reason For Change
\$2,924.00	Jan 1, 2012	Compensation Rating Adjustment, Spouse Added to Award
2,973.00	Dec 1, 2012	Cost of Living Adjustment
442.00	Feb 1, 2013	Compensation Rating Adjustment

We are paying you as a veteran with 1 dependent. Your payment includes an additional amount for your spouse, [REDACTED]. *Let us know right away if there is any change in the status of your dependents.*

You Can Expect Payment

Your payment begins the first day of the month following your effective date. You will receive a payment covering the initial amount due under this award, minus any withholdings. Thereafter, payment will be made at the beginning of each month for the prior month. For example, benefits due for May are paid on or about June 1.

420

2

[REDACTED]
[REDACTED]

Your payment will be directed to the financial institution and account number that you specified. To confirm when your payment was deposited, please contact that financial institution.

*If this account is no longer open,
please notify us immediately.*

What We Decided

We have added [REDACTED] effective December 12, 2011, the date of your qualifying disability rating. We added your dependent because you provided evidence of relationship and dependency.

Evidence Used to Decide Your Claim

In making our decision, we used the following evidence:

- VA Form 21-686c, Declaration of Status of Dependents

We enclosed a VA Form 21-8764, "Disability Compensation Award Attachment-Important Information," which explains certain factors concerning your benefits.

What You Should Do If You Disagree With Our Decision

If you do not agree with our decision, please complete the enclosed Notice of Disagreement (VA Form 21-0958). You have *one year from the date of this letter to appeal the decision*. The enclosed *VA Form 4107, "Your Rights to Appeal Our Decision,"* explains your right to appeal.

What Is eBenefits?

eBenefits provides electronic resources in a self-service environment to service members, Veterans, and their families. Through the eBenefits website you can:

- Track the status of your claim or appeal
- View your payment history
- Obtain verification of your military service, civil service preference, or VA benefits
- Receive a copy of your military discharge documents, and
- Manage your VA life insurance policy

3

Enrolling in eBenefits is easy. Just visit www.eBenefits.va.gov for more information on this joint Department of Defense and VA service.

If You Have Questions or Need Assistance

If you have any questions, you may contact us by telephone, e-mail, or letter.

If you	Here is what to do.
Telephone	Call us at 1-800-827-1000. If you use a Telecommunications Device for the Deaf (TDD), the Federal number is 711.
Use the Internet	Send electronic inquiries through the Internet at https://iris.va.gov .
Write	Put your full name and VA file number on the letter. Please send all correspondence to the address at the top of this letter.

In all cases, be sure to refer to your VA file number [REDACTED].

If you are looking for general information about benefits and eligibility, you should visit our website at <https://www.va.gov>, or search the Frequently Asked Questions (FAQs) at <https://iris.va.gov>.

We sent a copy of this letter to your representative, Daniel G. Krasnegor, whom you can also contact if you have questions or need assistance.

Sincerely yours,

E. J. McQuade

E. J. McQuade
Veterans Service Center Manager

CONTACT US ON-LINE AT <https://iris.va.gov>

Enclosure(s): VA Form 21-8764
VA Form 4107
VA Form 21-0958

cc: Daniel G. Krasnegor

NLF/AAD

DEPARTMENT OF VETERANS AFFAIRS
VA Regional Office
 Patrick V. McNamara Federal Building
 477 Michigan Ave.
 Detroit MI 48226-2591

JUN 25 2013

In Reply Refer To:

Dear [REDACTED]

We made a decision on your Notice of Disagreement for an increase in your service connected compensation received on March 22, 2005.

This letter tells you about your entitlement amount and payment start date and what we decided. It includes a copy of our rating decision that gives the evidence used and reasons for our decision. We have also included information about additional benefits, what to do if you disagree with our decision, and who to contact if you have questions or need assistance.

Your Award Amount and Payment Start Date

Your monthly entitlement amount is shown below:

Monthly Entitlement Amount	Payment Start Date	Reason For Change
1,397.00	Oct 1, 2012	Compensation Rating Adjustment
1,420.00	Dec 1, 2012	Cost of Living Adjustment
1,366.00	Feb 2, 2017	Minor Child Adjustment [REDACTED] removed due to 18 th birthday)
1,293.00	Mar 22, 2026	Minor Child Adjustment [REDACTED] removed due to 18 th birthday)

We are paying you as a veteran with 2 dependent(s). Your payment includes an additional amount for your children [REDACTED]. *Let us know right away if there is any change in the status of your dependents.*

2

You Can Expect Payment

Your payment begins the first day of the month following your effective date. You will receive a payment covering the initial amount due under this award, minus any withholdings. Thereafter, payment will be made at the beginning of each month for the prior month. For example, benefits due for May are paid on or about June 1.

We noticed that you did not provide us with your banking information to allow your federal benefits to be sent directly to your bank. The Department of Treasury has mandated that all recurring federal benefits be administered through either Electronic Funds Transfer (EFT) or Direct Express® Debit MasterCard®. If you do not provide your banking information to have your benefits electronically transferred to your bank, the Treasury Department will contact you directly to determine your preferred payment method.

- To have your federal benefits electronically transferred to your designated financial institution (e.g. bank) call VA at 1-800-827-1000 with your banking information or go online to www.ebenefits.va.gov.
- To have your federal benefits issued through Direct Express® Debit MasterCard® issued by Comerica Bank call 1-888-213-1625 to enroll in the program.

What We Decided

We determined that the following service connected condition(s) has/have worsened, so we granted an increase in your assigned percentage:

Medical Description	Old Percent (%) Assigned	New Percent (%) Assigned	Effective Date
SP left hemilaminectomy with history of degenerative disc disease and bilateral hip pain	40%	60%	Sep 28, 2012

Your overall or combined rating is 70%. We do not add the individual percentages of each condition to determine your combined rating. We use a combined rating table that considers the effect from the most serious to the least serious conditions.

3

[REDACTED]
[REDACTED]

We have enclosed a copy of your Rating Decision for your review. It provides a detailed explanation of our decision, the evidence considered, and the reasons for our decision. Your Rating Decision and this letter constitute our decision based on your Notice of Disagreement received on March 22, 2005. It represents all claims we understood to be specifically made, implied, or inferred in that claim.

We enclosed a VA Form 21-8764, "Disability Compensation Award Attachment-Important Information," which explains certain factors concerning your benefits.

Are You Entitled to Additional Benefits?

You may be eligible for medical care by the VA health care system for any service connected disability. You may apply for medical care or treatment at the nearest medical facility. If you apply in person, present a copy of this letter to the Patient Registration/Eligibility Section. If you apply by writing a letter, include your VA file number and a copy of this letter.

**REDUCE OR ELIMINATE
YOUR MEDICAL CO-PAYMENTS**

If you receive care at a VA medical facility, **please call our Health Benefits Call Center at 1-877-222-VETS (8387) or notify your local VA medical center** of this change in your compensation benefits. This rating decision may reduce or eliminate your co-payments for your VA-provided medical care. You may also be eligible for a refund based on this rating decision. Information regarding VA health care eligibility and co-payments is available at our website **www.va.gov/healtheligibility**.

You should contact your State office of veteran's affairs for information on any tax, license, or fee-related benefits for which you may be eligible as a veteran (or surviving dependent of a veteran). State offices of veteran's affairs are available at <http://www.va.gov/statedva.htm>.

You may be able to receive vocational rehabilitation employment services. The enclosed VA Form 28-8890, "Important Information About Vocational Rehabilitation Benefits," explains this benefit completely. To apply for this benefit, complete and return the enclosed VA Form 28-1900, "Disabled Veterans Application for Vocational Rehabilitation."

4

[REDACTED]
[REDACTED]

Your combined evaluation is 30 percent or more disabling; therefore, you may be eligible for additional benefits based on dependency. If you wish to submit a claim for dependents, please complete and return the attached VA Form 21-686c, *Declaration of Status of Dependents*. Please fill out every blank on the form. We may be able to pay you retroactive benefits for your dependents if you submit the VA Form 21-686c, *Declaration of Status of Dependents* or report dependents within a year from the date of this letter.

What You Should Do If You Disagree With Our Decision

If you do not agree with our decision, please complete the enclosed Notice of Disagreement (VA Form 21-0958). You have *one year from the date of this letter to appeal the decision*. The enclosed VA Form 4107, *"Your Rights to Appeal Our Decision,"* explains your right to appeal.

What Is eBenefits?

eBenefits provides electronic resources in a self-service environment to service members, Veterans, and their families. Through the eBenefits website you can:

- Track the status of your claim or appeal
- View your payment history
- Obtain verification of your military service, civil service preference, or VA benefits
- Receive a copy of your military discharge documents, and
- Manage your VA life insurance policy

Enrolling in eBenefits is easy. Just visit www.eBenefits.va.gov for more information on this joint Department of Defense and VA service.

If You Have Questions or Need Assistance

If you have any questions, you may contact us by telephone, e-mail, or letter.

If you	Here is what to do.
Telephone	Call us at 1-800-827-1000. If you use a Telecommunications Device for the Deaf (TDD), the Federal number is 711.
Use the Internet	Send electronic inquiries through the Internet at https://iris.va.gov .
Write	Put your full name and VA file number on the letter. Please

5

[REDACTED]
[REDACTED]

	send all correspondence to the address at the top of this letter.
--	---

In all cases, be sure to refer to your VA file number [REDACTED].

If you are looking for general information about benefits and eligibility, you should visit our website at <https://www.va.gov>, or search the Frequently Asked Questions (FAQs) at <https://iris.va.gov>.

We sent a copy of this letter to your representative, Daniel G Krasnegor, Attorney at Law, (877)VET-1010, whom you can also contact if you have questions or need assistance.

Sincerely,



Keith Sekuterski
Veterans Service Center Manager

Enclosure(s): Rating Decision
VA Form 21-8764
VA Form 28-1900
VA Form 28-8890
VA Form 21-686c
VA Form 4107
VA Form 21-0598

cc: Daniel G. Krasnegor
Attorney at Law