

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

MARGARET MANNINO,)	
Appellant,)	
)	
v.)	Vet.App. No. 19-6052
)	
ROBERT L. WILKIE,)	
Secretary of Veterans Affairs,)	
Appellee.)	

**APPELLEE’S RESPONSE TO COURT ORDER
DATED JANUARY 8, 2020**

In its January 8, 2020, Order, the Court directed the Secretary to file a response including the Secretary’s position on Appellant’s eligibility as an accrued-benefits claimant and providing information as to the decision that assigned the effective date for the grant of Special Monthly Compensation (SMC) based on aid and attendance.

With respect to the first issue, the Secretary concedes Appellant’s eligibility as an accrued-benefits claimant. In a rating decision dated December 13, 2019, rating decision, the VA Regional Office (RO) granted Appellant entitlement to Dependency and Indemnity Compensation (DIC). (Exhibit 1). The RO did so based on a review of, *inter alia*, the marriage certificate. *Id.* Because Appellant was found eligible for DIC, the Secretary concedes that she is also an eligible accrued-benefits claimant.

With respect to September 12, 2018, Board decision, the Secretary contends that this decision may not be appealed because it was favorable

to the Veteran and that the appeal as to that decision should be dismissed.
See Mokal v. Derwinski, 1 Vet.App. 12, 15 (1990).

In response to the Court's request for information on a decision subsequent to the Board decision an appeal, the Secretary reports that the RO issued a decision on November 26, 2018, assigning an effective date of August 24, 2017, for entitlement to SMC based on the need for aid and attendance. (Exhibit 2). The Veteran was informed that, if he disagreed with the decision, he must complete a Notice of Disagreement by November 26, 2019. *Id.* Past due benefits of \$10,855.80 were processed that same month. (Exhibit 3). The file contains no indication that a Notice of Disagreement was filed with respect to his decision.

WHEREFORE, Appellee, Robert L. Wilkie, Secretary of Veterans Affairs, responds to the Court's January 8, 2020.

Respectfully submitted,

WILLIAM A. HUDSON, JR.
Acting General Counsel

MARY A. FLYNN
Chief Counsel

/s/ Joan E. Moriarty
JOAN E. MORIARTY
Deputy Chief Counsel

/s/ Mark M. McNabb

MARK M. McNABB

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Washington, D.C. 20420
(202) 632-7109

Attorneys for Appellee Secretary
of Veterans Affairs

CERTIFICATE OF SERVICE

On the 24th day of February 2020 a copy of the foregoing was mailed, postage prepaid, to:

Margaret Mannino
4263 Parkway Lane
Little River, SC 29566

I certify under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

/s/ Mark M. McNabb

MARK M. McNABB

Senior Appellate Attorney

EXHIBIT

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DEPARTMENT OF VETERANS AFFAIRS

In Reply Refer To: 330/22R4/KAF

██████████
MANNINO, Joseph A

MARGARET MANNINO
4263 PARK WAY LN
LITTLE RIVER, SC 29566

Dear Mrs. Mannino:

We are writing to you about your entitlement to Survivors benefits.

What We Decided

The law allows us to pay Dependency and Indemnity Compensation (DIC) in special cases, even though death was not related to service. You are entitled to DIC benefits because the Veteran was totally disabled from a service related condition for the last ten years of his life.

DIC is granted effective May 1, 2019, payable from June 1, 2019.

Dependent's Educational Assistance (Chapter 35)

You are eligible for Dependent's Educational Assistance. For additional information please see *Survivors' and Dependents' Educational Assistance Program -Pamphlet* at http://www.gibill.va.gov/pamphlets/CH35/CH35_Pamphlet.pdf. **A hard-copy of this pamphlet is currently out-of-stock.** To make a claim, just complete the enclosed VA Form 22-5490, *Dependents' Application for VA Education Benefits*, and return it to the address listed in the instructions for this form.

How We Made Our Decision

We have enclosed a copy of our Rating Decision for your review. It provides a detailed explanation about our decision. You can find the evidence we considered in the section titled "*Evidence*." The reasons for our decision can be found in the portion of the rating titled "*Reasons for Decision*" or "*Reasons and Bases*".

██████████
Mannino, Joseph A

We also considered the following evidence when making our decision:

- VA Form 21-22, *Appointment of Veterans Service Organization as Claimant's Representative*
- Marriage Certificate
- All Other Evidence of Record

Favorable Finding(s) applicable to the decision on your claim for benefits are listed below:

Survivor's Pension

Active Duty Service	The Veteran had the minimum active duty requirements in order to qualify for pension.
Wartime Service	The Veteran had wartime service.
Character of Service	The Veteran's character of service meets the requirements to qualify for pension.

DIC

U.S.C. 1318	The Veteran was receiving or was entitled to receive, compensation for service-connected disability, totally disabling, for a continuous period of at least 10 years immediately preceding death; for at least 5 years immediately preceding death since the Veteran's release from active duty; or for a continuous period of not less than one year immediately preceding death, if the Veteran was a former prisoner of war.
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Please refer to the enclosed "Summary of Laws and Regulations Applicable to Your Claim" for the laws used in deciding your claim.

Your Monthly Payments

Your monthly DIC payment is shown below. Please understand that the law (38 U.S.C. 5111) says payments must begin the first day of the month after you've become entitled to the benefit.

<u>Monthly Entitlement Amount</u>	<u>Payment Start Date</u>	<u>Reason For Change</u>
\$3,974.49	May 1, 2019	Veteran's Rate for Month of Death
1,599.13	Jun 1, 2019	Initial DIC Award
1,624.71	Dec 1, 2019	Cost of Living Adjustment


Mannino, Joseph A

Please let us know immediately if you remarry, as it may affect your entitlement to benefits.

How We Figured Your Payments

We're paying you as a surviving spouse with no dependents.

Your payment includes an additional allowance because the Veteran was totally disabled for the eight years preceding his death and you were married to him for those same eight years.

How Can You Receive Aid and Attendance or Housebound Benefits?

VA may pay a higher rate of DIC to a surviving spouse who is blind, a patient in a nursing home, otherwise needs regular aid and attendance, or who is permanently confined to his or her home because of a disability. We have enclosed VA Form 21-2680, *Examination for Housebound Status or Permanent Need for Regular Aid and Attendance*, for your use if you would like to apply.

Veteran's Rate for Month of Death

The rate paid on May 1, 2019, is the rate that the Veteran was due for the month of death.

By issuing you this month of death payment in your name, any check or direct deposit payments previously paid in the name of the deceased Veteran for the month of death should be returned to us. If these payments are not returned, a debt to reclaim them will be established against the Veteran's estate by the Debt Management Center. If you, or the bank, have already returned the VA benefit payment, please disregard this notice.

If you still have any uncashed U.S. Treasury checks made payable to the Veteran, they should be returned to Department of Treasury at the following address:

U.S. Department of Treasury
Fiscal Service
P.O. Box 51316
Philadelphia, PA 19115-6316

Please be aware, only uncashed US Treasury Checks should be returned to the address above. Any personal checks or money orders sent to this address will result in lost or missing checks, or a delay in applying funds to the Veteran's account.


Mannino, Joseph A

If the Veteran received payments by Direct Deposit to a checking or savings account after the date of death, you may request the Veteran's financial institution return the funds to VA using an R15 return code.

If you wish to return funds directly to VA using a personal check or money order, send them to VA's Debt Management Center at the following address:

U.S. Department of Veterans Affairs
Debt Management Center
P.O. Box 11930
St. Paul, MN 55111

Please include the Veteran's name and VA Claim Number found at the top of this letter with the personal check or money order for identification purposes.

If payments issued after the date of death are not returned, you will receive notification from VA's Debt Management Center of the amount you owe VA.

Survivors Pension

You may be entitled to Survivors Pension. However, the maximum rate for Survivors Pension is less than the DIC rate. Therefore, we have awarded you DIC as the greater benefit.

Accrued Denied

Accrued benefits (benefits due and not paid to the Veteran at the time of death) cannot be paid as there are no accrued amounts available.

Burial Benefits

Because you have been awarded DIC, there is entitlement to the service connected burial allowance. To apply, please complete and return the enclosed VA Form 21P-530, *Application for Burial Benefits*. There is no time limit to file a claim to protect your entitlement to the service connected burial allowance.


Mannino, Joseph A

Direct Deposit

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.

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.

Other Benefits to Which You May Be Entitled

CHAMPVA

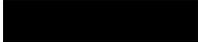
You and your dependent(s) may be entitled to benefits under CHAMPVA. CHAMPVA is a health benefits program in which the Department of Veterans Affairs (VA) shares the cost of certain healthcare services and supplies with eligible beneficiaries. To be eligible for the CHAMPVA program, a dependent must be the surviving spouse or child of a veteran who died as a result of a service connected disability, or who was permanently and totally disabled from a service connected disability at the time of death. The Health Administration Center in Denver, Colorado administers the CHAMPVA program. You should call 1-800-733-8387 if additional information is needed.

We have also attached a VA Form 21-8765, *Service-Connected Death Award Attachment*, which explains certain factors concerning your benefits.

What You Should Do If You Disagree With Our Decision

If you do not agree with this decision, you have one year from the date of this letter to select a review option to preserve your earliest effective benefit date. The review options and their proper applications are as follows, for a(n):

- **Supplemental Claim**, complete **VA Form 20-0995**, *Decision Review Request: Supplemental Claim*
- **Higher-Level Review**, complete **VA Form 20-0996**, *Decision Review Request: Higher-Level Review*
- **Appeal to the Board**, complete **VA Form 10182**, *Decision Review Request: Board Appeal (Notice of Disagreement)*


Mannino, Joseph A

Please see the enclosed VA Form 20-0998, *Your Rights to Seek Further Review of Our Decision*. It explains your options for an additional review. You may obtain any of the required applications by downloading them from www.va.gov/vaforms/ or by contacting us. You can also learn more about the disagreement process at www.va.gov/decision-reviews. If you would like to obtain or access evidence used in making this decision, please contact us as noted below. Some evidence may be obtained by signing in at www.va.gov.

Where to Send Your Written Correspondence

VA now uses a centralized mail system. For all written communications, put your full name and VA file number on the letter. Please send all correspondence to the appropriate location listed on the attached *Where to Send Your Written Correspondence*.

What is eBenefits?

eBenefits provides electronic resources in a self-service environment to Servicemembers, Veterans, and their families. Use of these resources often helps us serve you faster! Through the eBenefits website you can:

- Submit claims for benefits and/or upload documents directly to the VA
- Request to add or change your dependents
- Update your contact and direct deposit information and view payment history
- Request a Veterans Service Officer to represent you
- Track the status of your claim or appeal
- Obtain verification of your military service, civil service preference, or VA benefits
- And much more!

Enrolling in eBenefits is easy. Just visit www.eBenefits.va.gov for more information. If you submit a claim in the future, consider filing through eBenefits. Filing electronically, especially if you participate in our fully developed claim program, may result in a faster decision than if you submit your claim through the mail.

Do You Have Questions Or Need Assistance?

If you have any questions, call us toll-free by dialing 1-877-294-6380. Our TDD number for the hearing impaired is 711. Our TDD number for international callers is 1-800-829-4833. *If you call, please have this letter with you.*

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Mannino, Joseph A

We sent a copy of this letter to the American Legion. You appointed that organization to represent you. We will continue to send copies of all correspondence to that organization.

Sincerely yours,

RO Director
VA Regional Office

Enclosure(s):	Rating Decision	VA Form 21-8765
	VA Form 22-5490	VA Form 21P-530
	VA Form 20-0998	Where to Send Your Written Correspondence
	VA Form 21P-10199	VA Form 21-2680

cc: AL



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

Joseph Mannino

VA File Number
[REDACTED]

**Represented By:
AMERICAN LEGION
Rating Decision
12/13/2019**

INTRODUCTION

The records reflect that Joseph A. Mannino was a veteran of the World War II Era. The veteran served in the Army from January 30, 1943 to October 1, 1944 and from October 2, 1944 to January 10, 1946. We received a request to reopen a previous claim on September 3, 2019. Based on a review of the evidence listed below, we have made the following decision(s) on your claim.

DECISION

1. Entitlement to Dependency and Indemnity Compensation under 38 U.S.C. 1318 is granted.
2. Basic eligibility to Dependents' Educational Assistance is established.

EVIDENCE

- VA Form 21-534EZ, Application for DIC, Death Pension, and/or Accrued Benefits, received September 3, 2019
- Veteran's Death Certificate



REASONS FOR DECISION

1. Entitlement to Dependency and Indemnity Compensation under 38 U.S.C. 1318.

Dependency and Indemnity Compensation (DIC) is payable if a veteran had a service-connected disability(ies) that was either the principal or contributory cause of death. DIC is also payable if a veteran died from a non-service connected injury or disease and was receiving or entitled to receive VA compensation for a service-connected disability rated totally disabling (entitlement to individual unemployability is considered totally disabling for VA purposes): for at least ten years immediately before death; or for at least five years after release from active duty preceding death; or for at least one year before death if the veteran was a former prisoner of war.

We have granted your claim for DIC based on entitlement to individual unemployability for a period in excess of 10 years. Service connection for the cause of death is not placed at issue at this time, because there is no additional compensatory monetary benefit payable. Please inform us if you would like to claim service connection for the cause of death.

2. Eligibility to Dependents' Educational Assistance under 38 U.S.C. Chapter 35.

Eligibility to Dependents' Educational Assistance is derived from a veteran who was discharged under other than dishonorable conditions; and, has a permanent and total service-connected disability; or a permanent and total disability was in existence at the time of death; or the veteran died as a result of a service-connected disability. Also, eligibility exists for a serviceperson who died in service. Finally, eligibility can be derived from a service member who, as a member of the armed forces on active duty, has been listed for more than 90 days as: missing in action; captured in line of duty by a hostile force; or forcibly detained or interned in line of duty by a foreign government or power. (38 USC Ch. 35, 38 CFR 3.807)

Basic eligibility to Dependents' Education Assistance is granted as the evidence shows the veteran at the time of death had a total service-connected disability, permanent in nature. (38 USC Chapter 35, 38 CFR 3.807)

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.



YOUR RIGHTS TO SEEK FURTHER REVIEW OF OUR DECISION

After careful and compassionate consideration of the matter(s) before VA, we have reached a decision. This document outlines your rights to seek further review of our decision on any issue with which you are dissatisfied or disagree. This document does not apply to decisions issued by the Board of Veterans' Appeals (Board), which have a separate rights notice. For **most VA benefits**, you must elect one of the review options discussed below within **one year** of the date on your decision notice letter to preserve your right to receive the maximum possible benefit. **Consult your decision notice letter for specific filing time limits.** If you are a party to a **contested claim**, you must file an appeal to the Board within **60 days** of the date on your decision notice letter in order to seek review. All parties to a contested claim will have received notice of the decision. See the section below regarding filing an appeal to the Board. You may select different review options for each issue decided by VA. The options are as follows:

Review Options	VA Benefit Claim	Parties to a Contested Claim	Insurance Claim	Fiduciary Decision
Supplemental Claim	✓	Not Available	✓	Not Available
Higher-Level Review	✓	Not Available	✓	✓
Appeal to the Board	✓	✓	✓	✓
U.S. District Court Complaint	Not Available	Not Available	✓	Not Available

VA benefits include Compensation, Pension/Survivors Benefits, Education, Loan Guaranty, Vocational Rehabilitation & Employment, Veterans Health Administration, or National Cemetery Administration.

You **MAY NOT** concurrently file for review of any single issue using more than one option at a time. The following is an overview of each option to help you select the most appropriate course of action. You can also find detailed information on all of the available review options and apply at www.vets.gov.

Descriptions of Review Options

Supplemental Claim	Higher-Level Review	Appeal to the Board	U. S. District Court
<p>Use this option when you have additional evidence that is NEW AND RELEVANT to support granting the benefit(s) sought or you can identify existing relevant records that you would like VA to obtain. (NEW evidence means information not previously submitted to VA, and RELEVANT evidence means information that tends to prove or disprove a matter at issue.)</p> <p>VA will assist you in gathering new and relevant evidence to support a Supplemental Claim.</p>	<p>Use this option when you have NO additional evidence to submit, or that you would like VA to obtain, in support of a previously decided issue.</p> <p>You <i>may not</i> request a Higher-Level Review of a Higher-Level Review decision or a Board decision.</p> <p>The designated reviewer will conduct a brand new review of the issue(s) based on the evidence that was before VA at the time of the prior decision(s). An informal conference is available to you and/or your representative, if you choose to exercise this option. The purpose of this telephonic contact is to point out specific errors in the case. VA will not consider any new evidence.</p>	<p>Use this option to appeal to the Board for consideration by a Veterans Law Judge. You may appeal to the Board from a Supplemental Claim decision or a Higher-Level Review decision.</p> <p>When appealing to the Board, you may request a hearing with a Veterans Law Judge and/or the opportunity to submit additional evidence. You may also choose for the Board to review your claim without any additional evidence or a hearing, which may result in a faster decision. By selecting one of these options, the Board will place your appeal onto a list for consideration in the order it was received.</p> <p>The Board does not have a duty to assist you in obtaining additional evidence, but may review whether VA properly fulfilled its duty to assist you in the original claim process and may remand your claim on that basis.</p>	<p>(INSURANCE CLAIMS ONLY)</p> <p>You may challenge VA's decision on your insurance application or claim by filing a complaint with a United States district court in the jurisdiction in which you reside within six years from when the right of action first accrues.</p> <p>To find a district court, use the map at: www.uscourts.gov/court_locator.aspx.</p>

How do I request review by VA of my decision?

To select a review option, you must submit the appropriate form to the appropriate office for review.

For a **Supplemental Claim**, consult your decision notice letter for the required forms and ways to submit the request.

For a **Higher-Level Review**, complete **VA Form 20-0996, Decision Review Request: Higher-Level Review** (available at www.va.gov/vaforms/), and consult your decision notice letter for the required ways to submit the request.

To **Appeal to the Board**, complete **VA Form 10182 - Decision Review Request: Board Appeal (Notice of Disagreement)** (available at www.va.gov/vaforms/), and send the form to:

Board of Veterans' Appeals
P.O. Box 27063
Washington, DC 20038
Fax: 844-678-8979

Can someone help me with my request for review?

Yes, VA recognizes and accredits attorneys, claims agents, and Veterans Service Organizations (VSOs) representatives to assist VA claimants with their benefits claims. VSOs and their representatives are not permitted to charge fees or accept gifts for their services. Only VA-accredited attorneys and claims agents may charge you fees for assisting in a claim for VA benefits, and only after VA has issued an initial decision on the claim and the attorney or claims agent has complied with the power-of-attorney and the fee agreement requirements. For more information on the types of representatives available, see www.va.gov/ogc/accreditation.asp.

If you have not already selected a representative, or if you want to change your representative, a searchable database of VA-recognized VSOs and VA-accredited attorneys, claims agents, and VSO representatives is available at www.va.gov/ogc/apps/accreditation/index.asp. Contact your local VA office for assistance with appointing a representative or visit www.ebenefits.va.gov.

What happens if I do not submit my request for review on time?

If you do not request a review option within the required time limit, you may only seek review through the following options:

- File a request for revision of the decision based on a clear and unmistakable error in the decision;
- File a Supplemental Claim along with new and relevant evidence to support your issue(s). Where a Supplemental Claim is filed after the time limit to seek review of a decision, the effective date for any resulting award of benefits generally will be tied to the date that VA receives the Supplemental Claim.

For more information on all the available review options visit: www.va.gov, or www.vets.gov or contact us at 1-800-827-1000.

NOTE: This form supersedes VA Forms 4107, 4107C, 4107VHA, 4107VRE, 4107INS for VA decisions after the publication in the Federal Register of the applicability date on which the *Veterans Appeals Improvement and Modernization Act of 2017* goes into effect.

SERVICE-CONNECTED DEATH AWARD ATTACHMENT

Information concerning Department of Veterans Affairs, Federal, State or local benefits may be obtained from your nearest VA office or any national service organization representative. You may call VA toll-free at 1-800-827-1000 (Hearing Impaired TDD line 1-800-829-4833) or contact VA by Internet at <https://iris.va.gov>.

WHEN IS YOUR VA CHECK DELIVERED?

A check covering the initial amount due under this award will be mailed within 15 days. Thereafter, checks will be delivered at the beginning of each month for the prior month.

HOW CAN YOU RECEIVE ADDITIONAL BENEFITS FOR DEPENDENTS?

The veteran's surviving spouse may be entitled to additional benefits for the veteran's unmarried children if the children are under age 18 or under 23 if attending an approved school, or if, prior to age 18, the child has become permanently incapable of self-support because of mental or physical defect. Children who meet one of these criteria may receive Dependency and Indemnity Compensation (DIC) in their own right. You may contact VA as shown above for information on applying for this benefit.

HOW CAN YOU RECEIVE AID AND ATTENDANCE OR HOUSEBOUND BENEFITS?

VA may pay a higher rate of DIC to a surviving spouse who is blind, a patient in a nursing home, otherwise needs regular aid and attendance, or who is permanently confined to his or her home because of a disability. VA may pay a higher rate of DIC to a surviving parent who is blind, a patient in a nursing home, or otherwise needs regular aid and attendance. You may contact VA as shown above for information on applying for this benefit.

HOW CAN YOU RECEIVE HEALTH AND MEDICAL CARE BENEFITS?

Civilian Health and Medical Program of the Department of Veterans Affairs (CHAMPVA) provides medical care coverage to an unmarried surviving spouse or child of a veteran who died of a service-connected disability, had a permanent and total service-connected disability at the time of death, or who died on active duty, if the spouse or child does not have entitlement to care under the Department of Defense's TRICARE Program. In some cases, a surviving spouse who is remarried may be entitled to CHAMPVA if the marriage occurs on or after age 55 or if the remarriage terminates as a result of death, divorce, or annulment. Application for this benefit may be made to the VA Health Administration Center, CHAMPVA Eligibility, P.O. Box 469028, Denver, CO 80246-9028. For more information on CHAMPVA, please access our website at <http://www.va.gov/hac/> or call the Health Administration Center at 1-800-733-8387.

HOW CAN YOU RECEIVE LOAN GUARANTY BENEFITS?

The unmarried surviving spouse of a veteran who died as a result of a service-connected disability may be eligible for a guaranteed loan made by a private lender. In some cases, a surviving spouse who is remarried may be entitled to this benefit if the marriage began on or after age 57. If eligible, the surviving spouse may use the guaranteed loan to purchase, construct or improve a home; to purchase a manufactured home and/or lot; or to refinance existing mortgages or other liens of record on a dwelling owned and occupied by the surviving spouse as his or her home. Application for this benefit may be made at the nearest VA regional office.

HOW CAN YOU RECEIVE EDUCATIONAL BENEFITS?

The unmarried surviving spouse of a veteran who died as a result of a service-connected disability may be eligible for Dependents' Educational Assistance (DEA). In some cases, a surviving spouse who is remarried may be entitled to this benefit if the marriage began on or after age 57. You may be entitled to education benefits for a period up to 45 months in addition to the DIC you are receiving. Education courses, including on-the-job, apprenticeship or education programs pursued exclusively by correspondence, must be completed within 10 years of the veteran's death, unless the veteran died while on active duty. If the veteran died while on active duty, education courses must be completed within 20 years of the veteran's death. Generally, a child who is age 18 and in school, (or his or her parent or guardian) may elect DEA benefits instead of the DIC payable on the child's behalf. DEA is a higher benefit than DIC, and the child's marital status is not a factor. This educational assistance generally will not be payable beyond the child's 26th birthday, although there are certain circumstances under which eligibility continues to a later date. You may obtain additional information or an application by visiting our website at <http://www.gibill.va.gov>, contacting the VA regional office where your records are located, or calling 1-888-GI BILL-1 (Hearing Impaired TDD line 1-888-442-4551).

ARE YOUR BENEFITS EXEMPT FROM CLAIMS OF CREDITORS?

VA compensation and pension payments are exempt from claims of creditors. With certain exceptions, the payments are not assignable and are not subject to attachment, levy, or seizure except as to claims of the United States.

HOW DO YOU REPORT A CHANGE OF ADDRESS?

Please notify this office immediately of any change of address.

WHAT CONDITIONS AFFECT RIGHT TO PAYMENTS?

1. Payment of benefits will be discontinued if the beneficiary dies. You must notify us of the death of any persons for whom you are receiving benefits, and your survivors must notify us upon your death. You must also notify us of any changes in the marital or dependency status of the surviving spouse, children, or parents. Parents' DIC may also be affected by any change in the amount of income received by the parent(s) or parent and his/her spouse. If a parent dies, payments to the surviving parent will be affected.

Surviving spouse: Generally, payments discontinue if you remarry or enter into a relationship with another person where you hold yourselves out to the public as being married. However, payments may continue provided you remarry on or after age 57. If, before age 57, you remarry or enter into a relationship where you hold yourself out as married, return to VA payments made payable to you as the veteran's surviving spouse with a statement showing the date your marital status changed. Entitlement to DIC, DEA, Loan Guaranty benefits, and CHAMPVA may again be established if a subsequent remarriage is terminated by death, divorce, annulment, or if you cease living with another person whom you held out to the public as your spouse. Discontinuance of benefits due to remarriage will be effective the last day of the month before marriage. Note: The law provides that entitlement to death pension benefits is permanently lost if the surviving spouse marries or enters into a relationship where the individuals hold themselves out to the public as being married.

Child: If a child marries, payment of DIC for a child will be terminated effective the last day of the month before marriage. If the marriage is annulled or declared void, entitlement may be reestablished.

Parents: You are required to report the total amounts and sources of all income for you and your spouse if you are living with your spouse. Some income is not countable. If you report such income, VA will exclude it when computing your income for VA purposes. Benefit rates and income limits change frequently; however, you can find out what the current income limitations and rates of benefits are by contacting VA. You must notify VA promptly of:

- any increase or decrease in your income, or if living with your spouse, the combined rate of your income,
- the date of death of a parent,
- the date of remarriage of a parent,
- the date when parents (or a parent and spouse) became separated, and
- the date when parents (or a parent and spouse) who have separated begin living together.

2. The concurrent payment of Survivor Benefit Plan (SBP) payments by the service department and service-connected death benefits by VA to a surviving spouse is prohibited. If you are currently receiving SBP or begin receiving SBP in the future, you must notify VA immediately. You should also notify the service department that you are receiving VA service-connected death benefits.

3. If your award includes aid and attendance benefits based on nursing home patient status, you must notify us immediately when you are no longer a nursing home patient.

4. Benefits for a surviving spouse, child, or parent will be discontinued effective the 61st day of incarceration in a Federal, State or local penal institution following conviction for a felony. If the surviving spouse is incarcerated, an apportionment of the spouse's DIC benefits may be made to the surviving children. If a child is incarcerated, all or part of the child's DIC benefits may be apportioned to the surviving spouse or other children.

5. Monthly payments of your award may be stopped if you fail to furnish evidence as requested or if you furnish VA, or cause to be furnished, any false or fraudulent evidence.

6. Information submitted, including income information, is subject to verification through computer matching programs with other agencies.

7. The law provides severe penalties which include fine or imprisonment, or both, for the fraudulent acceptance of any payment to which you are not entitled.

Important

Notify us immediately if there is a change in any condition affecting your right to continued payments. Failure to notify us of these changes immediately will result in an overpayment which is subject to recovery.



VA DATE STAMP
 DO NOT WRITE IN THIS SPACE

**EXAMINATION FOR HOUSEBOUND STATUS OR PERMANENT
 NEED FOR REGULAR AID AND ATTENDANCE**

SECTION I: VETERAN'S IDENTIFICATION INFORMATION

NOTE: You can *either* complete the form online or by hand. Please print the information requested in ink, neatly and legibly to help process the form.

1. VETERAN/BENEFICIARY NAME (First, Middle Initial, Last)

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2. SOCIAL SECURITY NUMBER

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3. VA FILE NUMBER (If applicable)

08370600

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4. DATE OF BIRTH (MM/DD/YYYY)

Month	Day	Year										
<table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td style="width:10%; height: 20px;"></td> <td style="width:10%; height: 20px;"></td> </tr> </table>			<table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td style="width:10%; height: 20px;"></td> <td style="width:10%; height: 20px;"></td> </tr> </table>			<table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td style="width:10%; height: 20px;"></td> </tr> </table>						

5. VETERAN'S SERVICE NUMBER (If applicable)

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6. GENDER

MALE FEMALE

7. TELEPHONE NUMBER (Include Area Code)

8. PREFERRED E-MAIL ADDRESS (Optional)

9. PREFERRED MAILING ADDRESS (Number and street or rural route, P. O. Box, City, State, ZIP Code and Country)

No. & Street											
Apt./Unit Number											
State/Province											

SECTION II: CLAIM INFORMATION

10. CLAIMANT'S NAME (First, Middle Initial, Last)

11. CLAIMANT'S SOCIAL SECURITY NUMBER

12. RELATIONSHIP OF CLAIMANT TO VETERAN

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13. BENEFIT YOU ARE APPLYING FOR (Choose One)

- Special Monthly Compensation (SMC)** - Veterans and surviving spouses or parents who are eligible to receive VA compensation due to a service-related disability or death and require aid and attendance of another person to perform personal functions required in everyday living such as bathing, feeding, dressing, attending to the wants of nature, adjusting prosthetic devices, or protecting oneself from the hazards of the daily environment may be eligible for Special Monthly Compensation. A Veteran or a deceased Veteran's surviving spouse may also be eligible for Special Monthly Compensation based on being housebound (substantially confined to the immediate premises because of permanent disability). For a Veteran, the disability causing the need for aid and attendance or housebound status must be related to service. These benefits are paid in addition to monthly compensation. They are not paid without eligibility to compensation.

- Special Monthly Pension (SMP)** - Veterans and survivors who are eligible for Veteran's Pension and/or Survivors benefits and require the aid and attendance of another person in order to perform personal functions required in everyday living, such as bathing, feeding, dressing, attending to the wants of nature, adjusting prosthetic devices, or protecting him/her from the hazards of his/her daily environment, or are housebound (substantially confined to his/her immediate premises because of permanent disability), may be eligible for Special Monthly Pension (SMP). This benefit is an increased monthly amount paid to a Veteran or survivor who is eligible for Veterans Pension or Survivors benefits.

SECTION III: INFORMATION OF EXAMINATION

14. DATE OF EXAMINATION

15. HOME ADDRESS

16A. IS CLAIMANT HOSPITALIZED?

16B. DATE ADMITTED

16C. NAME AND ADDRESS OF HOSPITAL

YES NO (If "Yes," complete Items 16B and 16C)

				-				-				
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NOTE: EXAMINER PLEASE READ CAREFULLY

The purpose of this examination is to record manifestations and findings pertinent to the question of whether the claimant is housebound (confined to the home or immediate premises) or in need of the regular aid and attendance of another person. The report should be in sufficient detail for the VA decision makers to determine the extent that disease or injury produces physical or mental impairment, that loss of coordination or enfeeblement affects the ability: to dress and undress; to feed him/herself; to attend to the wants of nature; or keep him/herself ordinarily clean and presentable. Findings should be recorded to show whether the claimant is blind or bedridden. Whether the claimant seeks housebound or aid and attendance benefits, the report should reflect how well he/she ambulates, where he/she goes, and what he/she is able to do during a typical day.

17. COMPLETE DIAGNOSIS *(Diagnosis needs to equate to the level of assistance described in questions 25 through 39)*

18A. AGE	18B. WEIGHT		18C. HEIGHT	
	ACTUAL: LBS.	ESTIMATED: LBS.	FEET:	INCHES:

19. NUTRITION	20. GAIT
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21. BLOOD PRESSURE	22. PULSE RATE	23. RESPIRATORY RATE	24. WHAT DISABILITIES RESTRICT THE LISTED ACTIVITIES/FUNCTIONS?
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25. IF THE CLAIMANT IS CONFINED TO BED, INDICATE THE NUMBER OF HOURS IN BED
 From 9 PM to 9 AM: From 9 AM to 9 PM:

26. IS THE CLAIMANT ABLE TO FEED HIM/HERSELF? *(If "No," provide explanation)*

YES NO

27. IS CLAIMANT ABLE TO PREPARE OWN MEALS? *(If "No," provide explanation)*

YES NO

28. DOES THE CLAIMANT NEED ASSISTANCE IN BATHING AND TENDING TO OTHER HYGIENE NEEDS? *(If "Yes," provide explanation)*

YES NO

29A. IS THE CLAIMANT LEGALLY BLIND? <i>(If "Yes," provide explanation)</i>	29B. CORRECTED VISION	
	LEFT EYE	RIGHT EYE
<input type="checkbox"/> YES <input type="checkbox"/> NO		

30. DOES THE CLAIMANT REQUIRE NURSING HOME CARE? *(If "Yes," provide explanation)*

YES NO

31. DOES THE CLAIMANT REQUIRE MEDICATION MANAGEMENT? *(If "Yes," provide explanation)*

YES NO

32. IN YOUR JUDGMENT, DOES THE VETERAN/CLAIMANT HAVE THE MENTAL CAPACITY TO MANAGE HIS OR HER BENEFIT PAYMENTS, OR IS HE OR SHE ABLE TO DIRECT SOMEONE TO DO SO? *(If "No," provide examples and rationale to support your conclusion.)*

YES NO

33. POSTURE AND GENERAL APPEARANCE *(Attach a separate sheet of paper if additional space is needed)*

34. DESCRIBE RESTRICTIONS OF EACH UPPER EXTREMITY WITH PARTICULAR REFERENCE TO GRIP, FINE MOVEMENTS, AND ABILITY TO FEED HIM/HERSELF, TO BUTTON CLOTHING, SHAVE AND ATTEND TO THE NEEDS OF NATURE *(Attach a separate sheet of paper if additional space is needed)*

35. DESCRIBE RESTRICTIONS OF EACH LOWER EXTREMITY WITH PARTICULAR REFERENCE TO THE EXTENT OF LIMITATION OF MOTION, ATROPHY, AND CONTRACTURES OR OTHER INTERFERENCE. IF INDICATED, COMMENT SPECIFICALLY ON WEIGHT BEARING, BALANCE AND PROPULSION OF EACH LOWER EXTREMITY.

36. DESCRIBE RESTRICTION OF THE SPINE, TRUNK AND NECK

37. SET FORTH ALL OTHER PATHOLOGY INCLUDING THE LOSS OF BOWEL OR BLADDER CONTROL OR THE EFFECTS OF ADVANCING AGE, SUCH AS DIZZINESS, LOSS OF MEMORY OR POOR BALANCE, THAT AFFECTS CLAIMANT'S ABILITY TO PERFORM SELF-CARE, AMBULATE OR TRAVEL BEYOND THE PREMISES OF THE HOME, OR, IF HOSPITALIZED, BEYOND THE WARD OR CLINICAL AREA. DESCRIBE WHERE THE CLAIMANT GOES AND WHAT HE OR SHE DOES DURING A TYPICAL DAY.

38. DESCRIBE HOW OFTEN PER DAY OR WEEK AND UNDER WHAT CIRCUMSTANCES THE CLAIMANT IS ABLE TO LEAVE THE HOME OR IMMEDIATE PREMISES

39. ARE AIDS SUCH AS CANES, BRACES, CRUTCHES, OR THE ASSISTANCE OF ANOTHER PERSON REQUIRED FOR LOCOMOTION? *(If so, specify and describe effectiveness in terms of distance that can be traveled, as in Item 32 above)*

YES *(If "YES," give distance) (Check applicable box or specify distance)*
 1 BLOCK
 5 or 6 BLOCKS
 1 MILE
 OTHER *(Specify distance)* _____

NO

40A. PRINTED NAME OF EXAMINING PHYSICIAN	40B. SIGNATURE AND TITLE OF EXAMINING PHYSICIAN	40C. DATE SIGNED
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41A. NAME AND ADDRESS OF MEDICAL FACILITY	41B. TELEPHONE NUMBER OF MEDICAL FACILITY <i>(Include Area Code)</i>
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PRIVACY ACT NOTICE: The VA will not disclose information collected on this form to any source other than what has been authorized under the Privacy Act of 1974 or Title 38, code of Federal Regulations 1.576 for routine uses (i.e., civil or criminal law enforcement, congressional communications, epidemiological or research studies, the collection of money owed to the United States, litigation in which the United States is a party or has an interest, the administration of VA programs and delivery of VA benefits, verification of identity and status, and personnel administration) as identified in the VA system of records. 58VA21/22/28, Compensation, Pension, Education and Vocational Rehabilitation and Employment Records - VA, published in the Federal Register. Your obligation to respond is required to obtain or retain benefits. Giving us your Social Security Number (SSN) account information is mandatory. Applicants are required to provide their SSN under Title 38, U.S.C. 5701(c)(1). The VA will not deny an individual benefits for refusing to provide his or her SSN unless the disclosure is required by a Federal Statute of law in effect prior to January 1, 1975, and still in effect. The requested information is considered relevant and necessary to determine maximum benefits provided under the law. The responses you submit are considered confidential (38 U.S.C. 5701). Information that you furnish may be utilized in computer matching programs with other Federal or state agencies for the purpose of determining your eligibility to receive VA benefits, as well as to collect any amount owed to the United States by virtue of your participation in any benefit program administered by the Department of Veterans Affairs.

RESPONDENT BURDEN: We need this information to determine your eligibility for aid and attendance or housebound benefits. Title 38, United States Code 1521 (d) and (e), 1115(1)(e), 1311(e) and (d), 1315(h), 1122, 1541(d)(e), and 1502 (b) and (c) allows us to ask for this information. We estimate that you will need an average of 30 minutes to review the instructions, find the information, and complete this form. VA cannot conduct or sponsor a collection of information unless a valid OMB control number is displayed. You are not required to respond to a collection of information if this number is not displayed. Valid OMB control numbers can be located on the OMB Internet page at <http://www.reginfo.gov/public/do/PRAMain>. If desired, you can call 1-800-827-1000 to get information on where to send comments or suggestions about this form.

INSTRUCTIONS FOR COMPLETING APPLICATION FOR BURIAL BENEFITS (UNDER 38 U.S.C., CHAPTER 23)

IMPORTANT - READ THESE INSTRUCTIONS CAREFULLY

PRIVACY ACT INFORMATION: The responses you submit are considered confidential (38 U.S.C. 5701). They may be disclosed outside the Department of Veterans Affairs (VA) only if the disclosure is authorized under the Privacy Act, including the routine uses identified in the VA system of records, 58VA21/22/28, Compensation, Pension, Education and Vocational Rehabilitation and Employment Records - VA, published in the Federal Register. The requested information is considered relevant and necessary to determine maximum benefits under the law and is required to obtain benefits. Information submitted is subject to verification through computer matching programs with other agencies.

RESPONDENT BURDEN: We need this information to determine your eligibility to burial benefits. Title 38, United States Code, allows us to ask for this information. We estimate that you will need an average of 15 minutes to review the instructions, find the information, and complete this form. VA cannot conduct or sponsor a collection of information unless a valid OMB control number is displayed. Valid OMB control numbers can be located on the OMB Internet Page at www.reginfo.gov/public/do/PRAMain. If desired, you can call 1-800-827-1000 to get information on where to send comments or suggestions about this form.

1. GENERAL

a. ELIGIBILITY - NON-SERVICE-CONNECTED

- (1) **NON-SERVICE-CONNECTED BURIAL ALLOWANCE** - A one-time payment for a veteran who was receiving VA pension or disability compensation; would have been receiving disability compensation but for the receipt of military retired pay, or had an eligible pending claim at the time of death.
- (2) **SERVICE-CONNECTED BURIAL ALLOWANCE** - A one-time payment for a veteran who was rated totally disabled for a service-connected disability or disabilities; excluding individual unemployability, or who died of a service-connected disability.
- (3) **VA MEDICAL CENTER DEATH BURIAL ALLOWANCE** - A one-time payment for a veteran whose death was not service-connected and who died while hospitalized by VA.

b. **BURIAL ALLOWANCE** - A one-time benefit payment payable toward the expenses of the funeral and burial of the veteran's remains. Burial includes all legal methods of disposing of the veteran's remains including, but not limited to, cremation, burial at sea, and medical school donation.

c. **PLOT OR INTERMENT ALLOWANCE** - A one-time benefit payment payable toward:

- (1) Expenses incurred for the plot or interment if burial was not in a national cemetery or other cemetery under the jurisdiction of the United States; OR
- (2) Expenses payable to a State (or political subdivision of a State) if the veteran died from non-service-connected causes and was buried in a State-owned cemetery or section used solely for the remains of persons eligible for burial in a national cemetery.

"Plot" means the final disposition site of the remains, whether it is a grave, mausoleum vault, columbarium niche, or similar place. "Interment" means the burial of casketed remains in the ground or the placement of cremated remains into a columbarium niche.

d. **TRANSPORTATION EXPENSES** - The cost of transporting the body to the place of burial may be paid in addition to the burial allowance when:

- (1) The veteran died of a service-connected disability or had a compensable service-connected disability and burial is in a national cemetery; OR
- (2) The veteran died while in a hospital, domiciliary or nursing home to which he/she had been properly admitted under authority of VA; OR
- (3) The veteran died en route while traveling under prior authorization of VA for the purpose of examination, treatment; OR
- (4) The veteran's remains are unclaimed and burial is in a national cemetery.

2. WHO SHOULD FILE A CLAIM - VA may grant a claim that any eligible person files. Upon death of the veteran, VA will pay the first living person to file a claim of those listed below:

- (1) The veteran's surviving spouse; OR
- (2) The survivor of a legal union* between the deceased veteran and the survivor; OR
- (3) The veteran's children, regardless of age; OR
- (4) The veteran's parents or the surviving parent; OR
- (5) The executor or administrator of the deceased veteran's estate, or person acting for the deceased veteran's estate.

*For purposes of this application, legal union means a formal relationship between the veteran and the survivor that existed on the date of the veteran's death, was recognized under the law of the State in which the couple formalized the relationship, and was evidenced by the State's issuance of documentation memorializing the relationship.

If the veterans remains are unclaimed, VA will pay the person or entity that provided burial services for the remains of an unclaimed veteran.

3. TIME LIMIT FOR FILING A CLAIM - A claim for non-service-connected burial allowance must be filed with VA within 2 years after the date of the veteran's permanent burial or cremation. If a veteran's discharge was corrected after death to "Under Conditions Other Than Dishonorable," the claim must be filed within 2 years after the date of correction. There is no time limit for the service-connected burial allowance, plot or interment allowance, VA hospitalization death burial allowance, or reimbursement of transportation expenses.

4. COMPLETING CLAIM BY A FIRM OR STATE AGENCY - The claim must be executed in the full name of the firm or State agency, and show the official position or connection of the individual who signs on its behalf.

5. PROOF OF DEATH TO ACCOMPANY CLAIM - Death in a government institution does not need to be proven. In other cases, the claimant must forward a copy of the public record of death. If proof has previously been furnished VA, it need not be submitted again.

6. STATEMENT OF ACCOUNT MUST ACCOMPANY TRANSPORTATION CLAIMS - If transported by common carrier, a receipt must accompany the claim. All receipts for transportation charges should show the name of the veteran, the name of the person who paid, and the amount of the charges. The itemized statement of account should show the charges made for transportation. Failure to itemize charges may result in delay or payment of a lesser amount.

7. SERVICE RECORD - The original or certified copy of the veteran's service separation document (DD214 or equivalent) which contains information as to the length, time, and character of service will permit prompt processing.

8. TOLL-FREE TELEPHONE ASSISTANCE - You can call us toll-free within the U.S. by dialing 1-800-827-1000. If you are located in the local dialing area of a VA regional office, you can also call us by checking your local telephone directory. For the hearing impaired, our TDD number is 711.

9. WHERE DO I MAIL MY COMPLETED APPLICATION? - You should mail your application to the VA regional office located in your state. You can obtain the mailing address for VA regional offices by accessing the VA Internet web site at www.va.gov/directory. The address is also located in the government pages of your telephone book under "United States Government, Veterans."

PART III - CLAIM FOR BURIAL ALLOWANCE

<p>13A. TYPE OF BURIAL ALLOWANCE REQUESTED <i>(Check one)</i></p> <p><input type="checkbox"/> NON-SERVICE-CONNECTED DEATH</p> <p><input type="checkbox"/> SERVICE-CONNECTED DEATH</p> <p><input type="checkbox"/> VA MEDICAL CENTER DEATH <i>(See instructions for definition.)</i> <i>(If VA Medical Center Death is checked, provide actual burial cost.)</i> \$</p>	<p>13B. WHERE DID THE VETERAN'S DEATH OCCUR? <i>(Check one)</i></p> <p><input type="checkbox"/> VA MEDICAL CENTER <input type="checkbox"/> NURSING HOME UNDER VA CONTRACT</p> <p><input type="checkbox"/> STATE VETERANS HOME <input type="checkbox"/> OTHER <i>(Specify)</i></p>
<p>14. IF YOU ARE THE DECEASED VETERAN'S SPOUSE, DID YOU PREVIOUSLY RECEIVE A VA BURIAL ALLOWANCE?</p> <p><input type="checkbox"/> YES <input type="checkbox"/> NO</p>	
<p>15A. DID YOU INCUR EXPENSES FOR THE VETERAN'S BURIAL?</p> <p><input type="checkbox"/> YES <input type="checkbox"/> NO</p>	
<p>15B. ARE YOU SEEKING BURIAL BENEFITS FOR THE UNCLAIMED REMAINS OF A VETERAN?</p> <p><input type="checkbox"/> YES <input type="checkbox"/> NO</p>	

PART IV - CLAIM FOR PLOT OR INTERMENT ALLOWANCE

<p>16. PLACE OF BURIAL OR LOCATION OF DECEASED VETERAN'S REMAINS <i>(Specify)</i></p>	
<p>17A. DID YOU INCUR EXPENSES FOR THE VETERAN'S PLOT OR INTERMENT?</p> <p><input type="checkbox"/> YES <input type="checkbox"/> NO</p>	<p>17B. WAS VETERAN BURIED IN A NATIONAL CEMETERY, OR ONE OWNED BY THE FEDERAL GOVERNMENT?</p> <p><input type="checkbox"/> YES <input type="checkbox"/> NO</p>
<p>17C. WAS THE VETERAN BURIED IN A STATE VETERANS CEMETERY?</p> <p><input type="checkbox"/> YES <input type="checkbox"/> NO</p>	
<p>18A. DID A FEDERAL/STATE GOVERNMENT OR THE VETERAN'S EMPLOYER CONTRIBUTE TO THE BURIAL?</p> <p><input type="checkbox"/> YES <input type="checkbox"/> NO <i>(If "Yes," complete Item 18B)</i></p>	<p>18B. AMOUNT OF GOVERNMENT OR EMPLOYER CONTRIBUTION</p> <p>\$</p>

PART V - CLAIM FOR TRANSPORTATION REIMBURSEMENT

<p>19. EXPENSES INCURRED FOR THE TRANSPORTATION OF THE VETERAN'S REMAINS FROM THE PLACE OF DEATH TO THE FINAL RESTING PLACE <i>(Attach itemized receipts)</i></p> <p>\$</p>
--

PART VI - CERTIFICATION AND SIGNATURE

I CERTIFY THAT the foregoing statements made in connection with this application on account of the named veteran are true and correct to the best of my knowledge and belief.

<p>20A. SIGNATURE OF CLAIMANT <i>(Sign in ink)</i> <i>(If signed using an "X", complete Items 22A thru 23B)</i> <i>(If signing for firm, corporation, or State agency, complete Items 20B thru 21)</i></p>	<p>20B. OFFICIAL POSITION OF PERSON SIGNING ON BEHALF OF FIRM, CORPORATION OR STATE AGENCY <i>(Please sign in ink.)</i></p>
<p>21. FULL NAME AND ADDRESS OF THE FIRM, CORPORATION, OR STATE AGENCY FILING AS CLAIMANT</p>	

WITNESS TO SIGNATURE IF MADE BY "X"

NOTE - If claimant signed above using an "X", signature must be witnessed by two persons to whom the person making the statement is personally known, and the signatures and addresses of such witnesses must be shown below.

<p>22A. SIGNATURE OF WITNESS <i>(Sign in ink.)</i></p>	<p>22B. ADDRESS OF WITNESS</p>
<p>23A. SIGNATURE OF WITNESS <i>(Sign in ink.)</i></p>	<p>23B. ADDRESS OF WITNESS</p>

PENALTY - The law provides severe penalties which include fine or imprisonment, or both, for the willful submission of any statement or evidence of a material fact knowing it to be false.

DEPARTMENT OF VETERANS AFFAIRS HEADSTONES AND MARKERS

The Department of Veterans Affairs will furnish, upon request, a Government headstone or marker at the expense of the United States for the unmarked graves of certain individuals eligible for burial in a national cemetery, but not buried there. These individuals may include any veterans with an other than dishonorable discharge who dies after service or any servicemember who dies on active duty. Certain other individuals may also be eligible for the headstone or marker. Headstones or markers for all individuals in a national or post cemetery are furnished automatically without request from the family.
 For additional information on burial benefits go to the web site, www.cem.va.gov/bbene_burial.asp. To obtain VA Form 40-1330, Application for Standard Government Headstone or Marker go to www.va.gov/vaforms or contact your local VA regional office. The address of that office can be found at to www.va.gov/directory.

SECTION I - SPOUSE/SURVIVING SPOUSE (Continued)

20. SPOUSE/SURVIVING SPOUSE SELECT THE BENEFIT THAT YOU ARE APPLYING FOR BELOW:

IMPORTANT ▶

PLEASE CAREFULLY READ THE INFORMATION AND INSTRUCTIONS ON PAGE 5, ITEM 20 BEFORE SELECTING BOX "A" OR "B" BELOW REGARDING THE BENEFIT YOU ARE APPLYING FOR. THE INFORMATION AND INSTRUCTIONS ON PAGE 5 ALSO PROVIDE LINKS TO VA WEBSITES WHERE YOU WILL BE ABLE TO COMPARE "DEA" AND "FRY" BENEFITS. YOU WILL ALSO FIND OTHER ELIGIBILITY RELATED INFORMATION THERE.

A. AS A SPOUSE OR SURVIVING SPOUSE BASED ON 100% PERMANENT AND TOTAL DISABILITY, SERVICE CONNECTED OR LINE OF DUTY DEATH, I AM APPLYING FOR CHAPTER 35 - DEA BENEFITS.

B. AS A SURVIVING SPOUSE BASED ON LINE OF DUTY DEATH AFTER SEPTEMBER 10, 2001, I AM APPLYING FOR CHAPTER 33 - FRY SCHOLARSHIP BENEFITS.

NOTE - BY CHECKING THIS BOX I ACKNOWLEDGE THAT I UNDERSTAND THIS ELECTION IS **IRREVOCABLE** AND MAY NOT BE CHANGED.

NOTE - BY CHECKING THIS BOX I ACKNOWLEDGE THAT I UNDERSTAND THIS ELECTION IS **IRREVOCABLE** AND MAY NOT BE CHANGED.

SECTION II - CHILD/STEPCHILD/ADOPTED CHILD

21. CHILD/STEPCHILD/ADOPTED CHILD SELECT THE BENEFIT THAT YOU ARE APPLYING FOR BELOW:

IMPORTANT ▶

PLEASE CAREFULLY READ THE INFORMATION AND INSTRUCTIONS ON PAGE 6, ITEM 21 BEFORE SELECTING BOX "A" OR "B" BELOW REGARDING THE BENEFIT YOU ARE APPLYING FOR. THE INFORMATION AND INSTRUCTIONS ON PAGE 6 ALSO PROVIDE LINKS TO VA WEBSITES WHERE YOU WILL BE ABLE TO COMPARE "DEA" AND "FRY" BENEFITS. YOU WILL ALSO FIND OTHER ELIGIBILITY RELATED INFORMATION THERE.

A. I AM APPLYING FOR CHAPTER 35 - DEA BENEFITS.

B. I AM APPLYING FOR CHAPTER 33 - FRY SCHOLARSHIP BENEFITS.

NOTE - BY CHECKING THIS BOX I ACKNOWLEDGE THAT I UNDERSTAND THIS ELECTION IS **IRREVOCABLE** AND MAY NOT BE CHANGED.

NOTE - BY CHECKING THIS BOX I ACKNOWLEDGE THAT I UNDERSTAND THIS ELECTION IS **IRREVOCABLE** AND MAY NOT BE CHANGED.

Important - If your parent died in the line of duty prior to August 1, 2011, you may apply for **both** DEA and Fry Scholarship benefits. If you are eligible for both Chapter 35 (DEA) and Chapter 33 (Fry Scholarship) benefits and you would like to use the Chapter 35 benefit first, check the box below.

Important - If your parent died in the line of duty prior to August 1, 2011, you may apply for **both** DEA and Fry Scholarship benefits. If you are eligible for both Chapter 35 (DEA) and Chapter 33 (Fry Scholarship) benefits and you would like to use the Chapter 33 benefit first, check the box below.

CHAPTER 35 - DEA

CHAPTER 33 - FRY SCHOLARSHIP

IMPORTANT: If you are over the age of 18 once you receive either the DEA or FRY SCHOLARSHIP benefits, you will no longer receive payments of Dependency and Indemnity Compensation (DIC) or Pension and you may no longer be claimed as a dependent in a Compensation claim. If you are under the age of 18, on your 18th birthday you will lose eligibility for DIC or Pension payments and you will no longer be claimed as a dependent in a Compensation claim.

CAREFULLY READ THE INFORMATION AND INSTRUCTIONS ON PAGE 6, ITEM 22 BEFORE COMPLETING THE ELECTION BOX BELOW. YOU ARE STRONGLY ENCOURAGED TO DISCUSS YOUR ELECTION WITH A VA COUNSELOR.

22. I CERTIFY THAT I UNDERSTAND THE EFFECTS THAT THIS ELECTION TO RECEIVE DEA OR FRY SCHOLARSHIP BENEFITS WILL HAVE ON MY ELIGIBILITY TO RECEIVE **DIC OR PENSION** BENEFITS (*Please read Information and Instructions Page 6 for additional information*)

YES NO

PART IV - BENEFIT AND TYPE OF EDUCATION OR TRAINING INFORMATION

23A. DATE YOU WILL BEGIN SCHOOL OR TRAINING (*MM/DD/YYYY*)

23B. TYPE OF EDUCATION OR TRAINING (*Check ONE box*)

- COLLEGE OR OTHER SCHOOL
- FARM COOPERATIVE
- LICENSING OR CERTIFICATION TEST
- APPRENTICESHIP OR OTHER ON-THE-JOB TRAINING
- NATIONAL ADMISSION EXAMS OR NATIONAL EXAMS FOR CREDIT
- CORRESPONDENCE COURSE
- FLIGHT TRAINING (*Fry Scholarship only*)

23C. **[DEA ONLY]** DO YOU HAVE A MENTAL OR PHYSICAL DISABILITY FOR WHICH YOU ARE SEEKING SPECIAL RESTORATIVE TRAINING? (*See Information and Instructions, Page 6, for details regarding restorative training*)

23D. **[DEA ONLY]** DO YOU HAVE A MENTAL OR PHYSICAL DISABILITY FOR WHICH YOU ARE SEEKING SPECIAL VOCATIONAL TRAINING? (*See Information and Instructions, Page 6, for details regarding special vocational training*)

YES

YES

NO

NO

24. NAME AND ADDRESS OF SCHOOL OR TRAINING FACILITY (Number and street or rural route, city or P.O., State and ZIP Code)

25. SPECIFY YOUR EDUCATION OR CAREER OBJECTIVE, IF KNOWN (e.g., Bachelor of Arts in Accounting, Welding Certificate, Police Officer)

26. WOULD YOU LIKE TO RECEIVE VOCATIONAL AND EDUCATIONAL COUNSELING? (See Information and Instructions, Item 26 for more information regarding vocational and educational counseling)

YES NO

PART V - APPLICATION HISTORY

27. PRIOR TO THIS APPLICATION, HAVE YOU EVER APPLIED FOR OR RECEIVED ANY OF THE FOLLOWING VA BENEFITS? (Check all appropriate boxes)

A. DISABILITY COMPENSATION OR PENSION

B. DEPENDENTS' INDEMNITY COMPENSATION (DIC)

C. VOCATIONAL REHABILITATION BENEFITS (Chapter 31)

D. VETERANS EDUCATION ASSISTANCE BASED ON YOUR OWN SERVICE (Specify benefit(s): _____)

E. VETERANS EDUCATION ASSISTANCE BASED ON SOMEONE ELSE'S SERVICE
 SPECIFY BENEFIT(S) BY CHECKING APPLICABLE BOX BELOW AND COMPLETE ITEMS 28 AND 29

TRANSFERRED ENTITLEMENT

CHAPTER 35 - SURVIVORS' AND DEPENDENTS' EDUCATIONAL ASSISTANCE PROGRAM (DEA)

CHAPTER 33 - POST-9/11 GI BILL MARINE GUNNERY SERGEANT DAVID FRY SCHOLARSHIP

F. NONE

G. OTHER (Specify benefit(s): _____)

IMPORTANT: Complete Items 28 and 29 *only* if you checked the box for Item 27E above.

28. NAME OF INDIVIDUAL ON WHOSE ACCOUNT YOU PREVIOUSLY CLAIMED BENEFITS (First, Middle, Last)

29. SOCIAL SECURITY NUMBER OF INDIVIDUAL ON WHOSE ACCOUNT YOU PREVIOUSLY CLAIMED BENEFITS

PART VI - APPLICANT'S MILITARY SERVICE INFORMATION
 (NOTE: Chapter 35 benefits are not payable while an eligible person is on active duty)

30. HAVE YOU EVER SERVED ON ACTIVE DUTY IN THE ARMED FORCES? (If "No," skip to Part VII)

YES NO

31. INFORMATION ABOUT YOUR PERIOD(S) OF ACTIVE DUTY (If you need additional space use Item 37, Remarks)

A. DATE ENTERED ACTIVE DUTY	B. DATE SEPARATED FROM ACTIVE DUTY	C. BRANCH OF SERVICE OR RESERVE OR GUARD COMPONENT	D. CHARACTER OF DISCHARGE

PART VII - EDUCATION, TRAINING AND EMPLOYMENT

SECTION I - EDUCATION & TRAINING

32. CHECK THE APPROPRIATE BOX AND ENTER THE DATE IN ITEM 33

GRADUATED FROM HIGH SCHOOL DISCONTINUED HIGH SCHOOL NEVER ATTENDED HIGH SCHOOL

EXPECT TO GRADUATE FROM HIGH SCHOOL AWARDED GED

33. DATE

34A. TYPE OF SCHOOL	34B. NAME AND LOCATION OF SCHOOL (City and State)	34C. DATES OF TRAINING		34D. NUMBER OF SEMESTER, QUARTER, OR CLOCK HOURS COMPLETED	34E. DEGREE, DIPLOMA OR CERTIFICATE RECEIVED	34F. MAJOR FIELD OR COURSE OF STUDY
		FROM	TO			
HIGH SCHOOL						
COLLEGE						
VOCATIONAL OR TRADE						
OTHER (Specify)						

(Please retain these Information and Instructions Pages for future reference)

**INFORMATION AND INSTRUCTIONS FOR COMPLETING THE
DEPENDENTS' APPLICATION FOR VA EDUCATION BENEFITS
(VA FORM 22-5490)**

Do **not** use this form to apply for Veterans' education assistance based on your own service (chapters 30, 32, 33, 1606, or 1607) or vocational rehabilitation benefits (chapter 31). To apply for veterans' education assistance based on your own service, use VA Form 22-1990. To apply for vocational rehabilitation benefits, use VA Form 28-1900. VA forms are available at www.va.gov/vaforms.

INTERNET VERSION AVAILABLE - You may complete and submit this application on-line at www.benefits.va.gov/gibill. Click on "GI Bill: Apply for Benefits."

NOTE: The numbers on these Information and Instructions pages match the item numbers on this application. Items not mentioned are self-explanatory.

ITEM 8. The Department of Treasury requires all Federal benefit payments be made by electronic funds transfer (EFT), also called direct deposit. Please attach a voided personal check or deposit slip or provide the information requested below to enroll in direct deposit. If you do not have a bank account, you must receive your payment through Direct Express Debit MasterCard. To request a Direct Express Debit MasterCard, you must apply at www.usdirectexpress.com or by telephone at 1-800-333-1795. If you elect not to enroll, you must contact representatives handling waiver requests for the Department of Treasury at 1-888-224-2950. They will address any questions or concerns you may have and encourage your participation in EFT.

ITEM 16. You will not be eligible to receive benefits for any period for which you or the qualifying individual on whose account you are claiming benefits has an outstanding felony warrant. Any benefits paid to you for such period will result in an overpayment and be subject to collection.

ITEM 17. If you are certifying that you are married for the purpose of VA benefits, your marriage must be recognized by the place where you and/or your spouse resided at the time of marriage or where you and/or your spouse resided when you filed your claim (or a later date when you became eligible for benefits) (38 U.S.C. § 103(3)). Additional guidance on when VA recognizes marriages is available at <http://www.va.gov/opa/marriage/>.

ITEM 20. IMPORTANT - PLEASE READ THE INFORMATION BELOW BEFORE MAKING YOUR SELECTION IN ITEM 20A OR 20B REGARDING THE BENEFIT YOU ARE APPLYING FOR.

- To qualify for the Post-9/11 GI Bill Marine Gunnery Sergeant John David Fry Scholarship, you must be the surviving spouse of an individual who died in the line of duty while serving on active duty as a member of the Armed Forces after September 10, 2001.
- To qualify for Survivor's and Dependents' Educational Assistance (DEA) you must be either:
 - (1) The spouse of a veteran who is permanently and totally disabled as a result of a service-connected disability, **OR**
 - (2) The spouse of an individual on active duty who has been listed as missing in action, captured in the line of duty by hostile force, forcibly detained or interned in the line of duty by hostile force, or forcibly detained or interned in the line of duty by a foreign government or power for more than 90 days, **OR**
 - (3) The surviving spouse **or** child of a veteran who died of a service-connected disability or who dies while a service-connected disability was rated permanent and total in nature, **OR**
 - (4) The surviving spouse of an individual on active duty for which the evidence shows that the individual is hospitalized for receiving outpatient medical care services or treatment; has a total disability permanent in nature incurred or aggravated in the line of duty in the active military, naval, or air service; and the service person is likely to be discharged or released from such service for such disability.

NOTE: If you are eligible for both Chapter 35 Survivors' and Dependents' Educational Assistance Program (DEA) and Chapter 33 Post-9/11 GI Bill Marine Gunnery Sergeant John David Fry Scholarship (Fry Scholarship) benefits, you must relinquish/give up entitlement to one or the other benefit for which you are eligible, even if entitlement arises from separate events. In other words, you must forfeit eligibility to the other benefit even if your eligibility is due to:

- A separate Period of Service (POS) other than the one for which the death of the spouse is associated; **OR**
- A separate POS other than the one for which your spouse has a total disability permanent in nature resulting from a service-connected disability; **OR**
- A separate POS based on any other criteria as listed in 38 U.S.C. § 3501(a)(1); **OR**
- Death of other individual identified in Item 10 of this application.

IMPORTANT: You cannot retain eligibility for both programs simultaneously. Therefore, by checking either box "A" or box "B" in Item 20, you agree and understand that you are making an **irrevocable** election to receive the selected benefit and your election may not be changed.

IMPORTANT: Eligibility for (DEA) will be terminated in the event that VA determines that the individual on whose account benefits are claimed is no longer totally disabled or VA is notified that the individual is no longer listed as captured, missing in action, or forcibly detained.

Note: Before making your election selection, you can compare the differences between (DEA) and (FRY), and the benefits each provide in order to help you make the best choice that suits your needs. This benefit comparison information can be found on the VA website at: https://www.benefits.va.gov/gibill/docs/factsheets/fry_scholarship.pdf. You can also find additional information about each program by visiting the GI Bill website at: <https://benefits.va.gov/gibill/> and using the comparison tool.

INFORMATION AND INSTRUCTIONS (Continued)

ITEM 21. IMPORTANT - PLEASE READ THE INFORMATION BELOW BEFORE MAKING YOUR SELECTION IN ITEM 21A OR 21B REGARDING THE BENEFIT YOU ARE APPLYING FOR.

- To qualify for the Post-9/11 GI Bill Marine Gunnery Sergeant John David Fry Scholarship, you must be the dependent child of an individual who died in the line of duty while serving on active duty as a member of the Armed Forces after September 10, 2001.
- To qualify for Survivor's and Dependents' Educational Assistance (DEA) you must be either:
 - (1) The child of a veteran who is permanently and totally disabled as a result of a service-connected disability; **OR**
 - (2) The child of an individual on active duty who has been listed as missing in action, captured in the line of duty by hostile force, forcibly detained or interned in the line of duty by hostile force, or forcibly detained or interned in the line of duty by a foreign government or power for more than 90 days, **OR**
 - (3) The child of a veteran who died of a service-connected disability or who dies while a service-connected disability was rated permanent and total in nature, **OR**
 - (4) The child of an individual on active duty for which the evidence shows that the individual is hospitalized for receiving outpatient medical care services or treatment; has a total disability permanent in nature incurred or aggravated in the line of duty in the active military, naval, or air service; and the service person is likely to be discharged or released from such service for such disability.

PARENT'S DEATH PRIOR TO AUGUST 1, 2011 -

- The election you choose in Item 21 **does not** eliminate your eligibility for the alternate education benefit (either Survivor's and Dependents' Educational Assistance (DEA) and the Chapter 33 Post-9/11 GI Bill Marine Gunnery Sergeant John David Fry Scholarship (Fry Scholarship)) based on the same event (i.e., your parent's line of duty death that occurred prior to August 1, 2011).

PARENT'S DEATH ON OR AFTER AUGUST 1, 2011 -

- The election you choose in Item 21 **does** eliminate your eligibility for the alternate education benefit (either Survivors' and Dependents' Educational Assistance Program (DEA) and the Chapter 33 Post-9/11 GI Bill Marine Sergeant John David Fry Scholarship (Fry Scholarship)), based on the same event (i.e., your parent's line of duty death that occurred on or after August 1, 2011). Therefore, you must relinquish/give up eligibility entitlement to the benefit that you are **not** applying for **but only with regard to the entitlement arising from the same event** (i.e., your parent's line of duty death that occurred on or after August 1, 2011). By checking either box "A" or box "B" in Item 21, you agree and understand that you are making an **irrevocable** election to receive the selected benefit and your election may not be changed.

IMPORTANT: Unlike spouses, children may be able to retain eligibility for both programs simultaneously if they qualify under different events and individuals (i.e., a separate parent's line of duty death that occurred on or after August 1, 2011).

IMPORTANT: Eligibility for (DEA) will be terminated in the event that VA determines that the individual on whose account benefits are claimed is no longer totally disabled or VA is notified that the individual is no longer listed as captured, missing in action, or forcibly detained.

NOTE: Before making your election selection, you can compare the differences between (DEA) and (FRY), and the benefits each provide in order to help you make the best choice that suits your needs. This benefit comparison information can be found on the VA website at: https://www.benefits.va.gov/gibill/docs/factsheets/fry_scholarship.pdf. You can also find additional information about each program by visiting the GI Bill website at <https://benefits.va.gov/gibill/> and using the comparison tool.

ITEM 22. Your election to receive Survivors' and Dependents' Education Assistance (DEA) or Chapter 33 Post-9/11 GI Bill Marine Gunnery Sergeant John David Fry Scholarship (Fry Scholarship) in lieu of payments of compensation, pension, and Dependents' Indemnity Compensation (DIC) is final and cannot be changed. This means that if you are 18 years old, payments of compensation, pension, and Dependents' Indemnity Compensation (DIC) will be terminated upon issuance of a DEA or Fry Scholarship benefit payment. If you are under the age of 18, these benefits will be terminated on your 18th birthday. If you are planning to pursue a program of education for more than 36 months, you should consider deferring receipt of DEA or Fry Scholarship benefits. We strongly recommend that you discuss your education or training plans with a VA counselor before making a decision.

ITEM 23B. Types of education or training programs are self-explanatory, except for the following:

"Licensing or Certification Test" - A "licensing test" is a test offered by a state, local, or federal agency that is required by law to practice an occupation. A "certification test" is a test designed to provide affirmation of an individual's qualifications in a specific occupation.

"National Admission Exams or National Exams for Credit" - You may be reimbursed for the cost of approved tests for admission to or credit at institutions of higher learning.

"Correspondence Course" - You may receive benefits for correspondence training. Payments for correspondence courses are made quarterly after VA receives a certification showing the number of lessons completed. For more information on correspondence courses, you can go to the VA website at: https://www.benefits.va.gov/gibill/correspondence_training.asp.

"Flight Training" - You must already have a private pilot's license. If you are taking an Airline Transport Pilot course, you must have a valid first-class medical certificate on the date that you enter training. For all other flight courses, you must have a valid second-class medical certificate on the date that you enter training.

ITEMS 23C AND 23D - Any individual eligible under the Survivors' and Dependents' Educational Assistance program may receive Special Restorative Training or Specialized Vocational Training if a VA counselor determines that a specialized program is needed to overcome the effects of a physical or mental handicap. To be eligible for receipt of specialized training, the disability must prevent you from pursuing an educational program. Examples of Special Restorative Training include speech and voice correction, language retraining, lip reading, and Braille reading and writing. Specialized Vocational Training consists of specialized courses leading to a suitable vocational objective.

ITEM 26 - VA VOCATIONAL AND EDUCATIONAL COUNSELING HELP AVAILABLE: VA offers a wide range of services to assist you in planning your educational and/or career goals. Services include educational and vocational guidance and testing to develop a greater understanding of your skills, talents and interests. For more information on VA counseling, call VA toll-free at 1-888-GIBILL-1 (1-888-442-4551) or if you use the Telecommunications Device for the Deaf (TDD), the Federal Relay number is 711.

HOW TO FILE YOUR CLAIM

You may complete and submit your application online at www.benefits.va.gov/gibill or be sure to do the following:

(A) If you have selected a school or training establishment:

Step 1: Mail the completed application to the VA Regional Processing Office for the region of that school's physical address. See page 8 for addresses of the VA Regional Processing Offices.

Step 2: Tell the veterans certifying official at your school or training establishment that you have applied for VA education benefits. Ask him or her to submit your enrollment information using VA Form 22-1999, Enrollment Certification, or its electronic version.

Step 3: Wait for VA to process your application and notify you of its decision concerning your eligibility for education benefits.

(B) If you have not selected a school or training establishment:

Step 1: Mail the completed application to the VA Regional Processing Office for the region of your home address. Check page 8 for addresses of the VA Regional Processing Offices.

Step 2: Wait for VA to process your application and notify you of its decision concerning your eligibility for education benefits.

REQUEST TO OPT-OUT OF INFORMATION SHARING WITH EDUCATIONAL INSTITUTIONS

The Harry W. Colmery Veterans Educational Assistance Act of 2017 (Public Law 115-48), also known as the "Forever GI Bill," requires the Department of Veterans Affairs (VA) to make available to educational institutions information about the amount of educational assistance to which a veteran or other individual is entitled. However, you may elect to "opt-out" of these disclosures and have VA withhold this information instead.

ADDITIONAL HELP COMPLETING APPLICATION

If you need additional help completing this application or you want information about the work-study program, call VA toll-free at 1-888-GIBILL-1 (1-888-442-4551). If you use the Telecommunications Device for the Deaf (TDD), the Federal Relay number is 711. You can also get more information about education assistance from our education Internet site at www.benefits.va.gov/gibill.

CONTACT VA FROM OVERSEAS

Students and School Certifying Officials calling from outside the United States can contact VA by phone at: 001-918-781-5678 during business hours, 7 a.m. - 6 p.m. CST, Monday - Friday. This is not a toll-free number but the caller will be routed to the next available customer service representative. Non-overseas customers should call the toll-free number shown in "Additional Help Completing Application".

Eastern Region: VA Regional Office P. O. Box 4616 Buffalo, NY 14240-4616			
SERVES THE FOLLOWING STATES			
CT	DE	DC	MA
MD	ME	NC	NH
NJ	NY	PA	RI
VA	VT	US Virgin Islands	Foreign Schools
APO/FPO AA			

Western Region: VA Regional Office P. O. Box 8888 Muskogee, OK 74402-8888			
SERVES THE FOLLOWING STATES			
AK	AL	AR	AZ
CA	FL	GA	HI
ID	LA	MS	NM
NV	OK	OR	PR
SC	TX	UT	WA
Guam	Philippines	APO/FPO AP	

Central Region: VA Regional Office P. O. Box 32432 St. Louis, MO 63132-0832			
SERVES THE FOLLOWING STATES			
CO	IA	IL	IN
KS	KY	MI	MN
MO	MT	NE	ND
OH	SD	TN	WV
WI	WY		

PRIVACY ACT INFORMATION: VA will not disclose information collected on this form to any source other than what has been authorized under the Privacy Act of 1974 or Title 38, Code of Federal Regulations 1.576 for routine uses (i.e., awards of benefits) as identified in the VA system of records, 58VA21/22/28, Compensation, Pension, Education and Vocational Rehabilitation and Employment Records - VA, published in the Federal Register. Your obligation to respond is required to obtain education benefits. Giving us your SSN account information is voluntary. Refusal to provide your SSN by itself will not result in the denial of benefits. VA will not deny an individual benefits for refusing to provide his or her SSN unless the disclosure of the SSN is required by a Federal Statute of law in effect prior to January 1, 1975, and still in effect. The requested information is considered relevant and necessary to determine the maximum benefits allowable under the law. While you do not have to respond, VA cannot process your claim for benefits unless the information is furnished as required by existing law (38 U.S.C. 3513). The responses you submit are considered confidential (38 U.S.C. 5701). Information submitted is subject to verification through computer matching programs with other agencies.

RESPONDENT BURDEN: We need this information to determine your eligibility for education benefits (38 U.S.C. 3513). Title 38 U.S.C. allows us to ask for this information. We estimate that you will need an average of 45 minutes to review the instructions, find the information, and complete this form. VA cannot conduct or sponsor a collection of information unless a valid OMB control number is displayed. You are not required to respond to a collection of information if this number is not displayed. Valid OMB control numbers can be located on the OMB Internet Page at <http://www.reginfo.gov/public/do/PRAMain>. If desired, you can call 1-888-GI-BILL-1 (1-888-442-4551) to get information on where to send comments or suggestions about this form.

WHERE TO SEND YOUR WRITTEN CORRESPONDENCE

The time it takes your response to reach VA affects how long it takes us to process your claim. We recommend responding electronically whenever possible to minimize the time we spend waiting for mail. Only claimants or representatives can upload responses electronically right now. If you are not a claimant or representative, we recommend faxing so VA can receive your responses immediately.

The **fastest** way to respond to VA is to upload your correspondence electronically through VA.gov.

Visit <https://www.va.gov>. Under **Disability** click “Upload Evidence to support your claim”.

If you cannot upload your correspondence, fax or mail it to the applicable address below. These addresses serve **all United States and foreign locations**.

To determine where to send your correspondence, identify your benefit type (Compensation, Veterans Pension, or Survivor Benefits); then, locate the applicable fax number or mailing address.

Compensation Claims	Veterans Pension and Survivor Benefit Claims
Fax Toll Free: 844-531-7818 Or mail to: Department of Veterans Affairs Evidence Intake Center P.O. Box 4444 Janesville, WI, 53547-4444	Fax Toll Free: 844-655-1604 Or mail to: Department of Veterans Affairs Pension Intake Center P.O. Box 5365 Janesville, WI 53547-5365



You can also send a text message to 838255 to receive confidential support 24 hours a day, 7 days a week, 365 days a year. For more information, visit www.veteranscrisisline.net

Additional Benefits Information

The table below lists:

- additional benefits to which you may be entitled, and
- the form for applying for each benefit.

Benefit	Form
Report Change in Household Income	<i>VA Form 21P-516-01, Improved Pension Eligibility Verification Report (Veteran)</i> <i>VA Form 21P-517-01, Improved Pension Verification Report (Veteran with Children)</i> <i>VA Form 21P-518-01, Improved Pension Verification Report (Surviving Spouse)</i> <i>VA Form 21P-519s-01 Improved Pension Verification Report (Surviving Spouse with Children)</i> <i>VA Form 21P-519c-01 Improved Pension Verification Report (Child or Children)</i>
Increased Pension Based On Unreimbursed Medical Expenses	<i>VA Form 21P-8416, Medical Expense Report</i>
Special Monthly Pension	<i>VA Form 21-2680, Examination for Housebound Status or Permanent Need for Regular Aid and Attendance</i>
Resident of Nursing Home or Assisted Living Facility	<i>VA Form 21-0779, Request for Nursing Home Information in Connection with Claim for Aid and Attendance</i>
Additional Benefits For a Spouse/ Children and/or Change in Dependent Status	<i>VA Form 21-686c, Declaration of Status of Dependents</i>
School Age Dependent	<i>VA Form 21-674, Request for Approval of School Attendance</i>
Burial Benefits	<i>VA Form 21P-530, Application for Burial Benefits</i>
Report Last Expenses or Monthly Living Expenses	<i>VA Form 21P-8049, Request for Details of Expenses</i>
Accrued Benefits	<i>VA Form 21P-601, Application for Accrued Amounts Due a Deceased Beneficiary</i>
Dependents' Educational Assistance (DEA)	<i>VA Form 22-5490, Dependents' Application for VA Education Benefits</i>
Vocational Rehabilitation	<i>VA Form 28-1900, Disabled Veterans Application for Vocational Rehabilitation, and VA Form 28-8890, Important Information About Rehabilitation Benefits.</i>
Health Care for Service Connected disabilities	<i>VA Form 10-10EZ, Application for Health Benefits</i>
Automobile or Adaptive Equipment	<i>VA Form 21-4502, Application for Automobile or Other Conveyance and Adaptive Equipment</i>
Special adaptive housing	<i>VA Form 26-4555, Application in Acquiring Specially Adapted Housing or Special Home Adaptation Grant</i>
Veterans' Group Life Insurance (VGLI)	<i>VA Form 29-4364, Application for Service-Disabled Veterans Insurance</i>

If you would like forms mailed to you or if you need additional assistance please call the National Call Center at 1-877-294-6380. Information regarding VBA benefits and resources can be found <http://www.benefits.va.gov/benefits>. For your convenience, the above forms are also available on the Department of Veterans Affairs forms website <https://www.va.gov/vaforms>.



SURVIVORS PENSION

UNITED STATES CODE (U.S.C.)	38 CFR §	TITLE
38 U.S.C. §§ 501, 103, 105, 512, 5110, 101	3.1	Definitions
38 U.S.C. § 101	3.2	Periods of war
38 U.S.C. §§ 1541, 1543	3.3	Pension
38 U.S.C. §§ 5110, 501, 5101	3.4	General
38 U.S.C. § 501	3.5	Spouse and surviving spouse
38 U.S.C. §§ 101, 106	3.6	Duty periods
38 U.S.C. §§ 5303, 1152, 1504, 106	3.7	Individuals and groups considered to have performed active military, naval, or air service
38 U.S.C. §§ 5303, 501	3.12	Character of discharge
38 U.S.C. § 501	3.12a	Minimum active-duty service requirement
38 U.S.C. § 501	3.16	Service pension
38 U.S.C. §§ 5310, 5111	3.20	Surviving spouse's benefit for month of veteran's death
38 U.S.C. §§ 1541, 501	3.23	Improved pension rates - Veterans and surviving spouses
38 U.S.C. § § 103(a)	3.52	Marriages deemed valid
38 U.S.C. § 501	3.53	Continuous Cohabitation
38 U.S.C. §§ 1532, 1534, 1536, 1541, 103(b)	3.54	Marriage dates
38 U.S.C. §§ 101, 104, 501, 1541	3.57	Child
38 U.S.C. § 1521(h)(2)	3.60	Definition of "living with"
38 U.S.C. §§ 5112, 5110	3.66	Dependency, income and estate
38 U.S.C. §§ 501(a), 501, 1506, 5104	3.103	Procedural due process and other rights
38 U.S.C. § 501	3.109	Time limit
38 U.S.C. §§ 501, 5101	3.152	Claims for death benefits
38 U.S.C. § 501	3.155	How to file a claim
38 U.S.C. § 501	3.155	How to file a claim
38 U.S.C. §§ 5103 and 5103A	3.159	Department of Veterans Affairs assistance in developing claims
38 U.S.C. § 501	3.160	Status of claims
38 U.S.C. § 501	3.205	Marriage
38 U.S.C. §§ 501, 1315, 1503, 1506	3.211	Death
38 U.S.C. §§ 501, 501(a)	3.271	Computation of income
38 U.S.C. §§ 501, 1503	3.272	Exclusions from income

UNITED STATES CODE (U.S.C.)	38 CFR §	TITLE
38 U.S.C. § 501	3.272	Exclusions from income
38 U.S.C. § 501	3.273	Rate computation
38 U.S.C. §§ 1543, 5110, 5112	3.274	Net worth and VA pension
38 U.S.C. § 1543	3.275	How VA determines the asset amount for pension net worth determinations
38 U.S.C. §§ 1543, 1506	3.276	Asset transfers and penalty periods
38 U.S.C. §§ 501, 1315, 1503, 1506	3.278	Deductible medical expenses
38 U.S.C. §§ 1502(b), 1541	3.351	Special monthly dependency and indemnity compensation, death compensation, pension and spouse's compensation ratings
38 U.S.C. §§ 1501, 512, 1541	3.356	Conditions which determine permanent incapacity for self-support
38 U.S.C. §§ 501, 5110	3.402	Surviving spouse
38 U.S.C. § 5503	3.551	Reduction because of hospitalization
38 U.S.C. §§ 501(a), 5313, 5313B	3.666	Incarcerated beneficiaries and fugitive felons - pension

DEPENDENCY AND INDEMNITY COMPENSATION

UNITED STATES CODE (U.S.C.)	38 CFR §	TITLE
38 U.S.C. §§ 501, 103, 105, 512, 5110, 101	3.1	Definitions
38 U.S.C. § 1310	3.5	Dependency and indemnity compensation
38 U.S.C. §§ 101, 106	3.6	Duty periods
38 U.S.C. §§ 5303, 1152, 1504, 106	3.7	Individuals and groups considered to have performed active military, naval, or air space
38 U.S.C. §§ 501, 1311, 1314, 1321	3.10	Dependency and indemnity compensation rate for a surviving spouse
38 U.S.C. §§ 5303, 501	3.12	Character of discharge
38 U.S.C. § 501	3.12a	Minimum active-duty service requirement
38 U.S.C. §§ 5301, 5111	3.20	Surviving spouse's benefit for month of veteran's death
38 U.S.C. §§ 1318, 501	3.22	DIC benefits for survivors of certain veterans rated totally disabled at time of death
38 U.S.C. § 501	3.50	Spouse and surviving spouse
38 U.S.C. § 103(a)	3.52	Marriages deemed valid
38 U.S.C. § 501	3.53	Continuous cohabitation
38 U.S.C. §§ 1532, 1534, 1536, 1541, 103(b)	3.54	Marriage dates
38 U.S.C. §§ 1532, 1534, 1536, 1541, 103(b)	3.55	Reinstatement of benefits eligibility based upon terminated marital relationships
38 U.S.C. §§ 101, 104, 1536, 501, 1541	3.57	Child
38 U.S.C. § 1521(h)(2)	3.60	Definition of "living with"
38 U.S.C. §§ 501(a), 501, 1506, 5104	3.103	Procedural due process and other rights

DEPENDENCY AND INDEMNITY COMPENSATION (Continued)

UNITED STATES CODE (U.S.C.)	38 CFR §	TITLE
38 U.S.C. § 501	3.109	Time limit
38 U.S.C. §§ 501, 5101	3.152	Claims for death benefits
38 U.S.C. § 501	3.155	How to file a claim
38 U.S.C. §§ 5103, 5103A	3.159	Department of Veterans Affairs assistance in developing claims
38 U.S.C. § 501	3.160	Status of claims
38 U.S.C. § 501	3.205	Marriage
38 U.S.C. § 501	3.211	Death
38 U.S.C. § 501	3.309	Diseases subject to presumptive service connection
38 U.S.C. §§ 1502(b), 1541	3.351	Special monthly dependency and indemnity compensation, death compensation, pension and spouse's compensation ratings
38 U.S.C. § 1151	3.361	Benefits under 38 U.S.C. 1151(a) for additional disability or death due to hospital care, medical or surgical treatment, examination, training and rehabilitation services, or compensated work therapy program
38 U.S.C. §§ 5110, 501, 5101	3.400	General
38 U.S.C. §§ 501, 5110	3.402	Surviving spouse
38 U.S.C. §§ 501(a), 5313, 5313B	3.665	Incarcerated beneficiaries and fugitive felons - compensation
38 U.S.C. § Chapter 35	3.807	Dependents' educational assistance; certification

ACCRUED BENEFITS

UNITED STATES CODE (U.S.C.)	38 CFR §	TITLE
38 U.S.C. § 103(c)	3.1(j)	Definitions
38 U.S.C. § 501	3.50	Spouse and surviving spouse
38 U.S.C. § 103(a)	3.52	Marriages deemed valid
38 U.S.C. § 501	3.53	Continuous cohabitation
38 U.S.C. §§ 1532, 1534, 1536, 1541, 103(b)	3.54	Marriage dates
38 U.S.C. §§ 101, 104, 501, 1521, 1541	3.57	Child
38 U.S.C. §§ 1521(h)(2)	3.60	Definition of "living with"
38 U.S.C. §§ 501, 5101	3.152	Claims for death benefits
38 U.S.C. §§ 5103, 5103A	3.159	Department of Veterans Affairs assistance in developing claims
38 U.S.C. § 501	3.160	Status of claims
38 U.S.C. § 501	3.211	Death
38 U.S.C. § 5121	3.1000	Entitlement under 38 U.S.C. § 5121 to benefits due and unpaid upon death of a beneficiary
38 U.S.C. §§ 5121, 5121A	3.1010	Substitution under 38 U.S.C. § 5121A following death of a claimant

EXHIBIT

2



November 26, 2018

JOSEPH MANNINO
4263 PARK WAY LN
LITTLE RIVER SC 29566

The Board of Veterans' Appeals decided your appeal on September 12, 2018.

Dear Mr. Mannino,

This letter will guide you through the information you should know and steps you may take now that VA has made a decision about your benefits.

Your Benefit Information:

- Entitlement to special monthly compensation based on aid and attendance criteria being met is granted from August 24, 2017.

See **Rating Decision** to find out why we made this decision.

Your monthly entitlement amount is shown below:

Monthly Entitlement Amount	Payment Start Date	Reason
\$3,017.60	Jan 1, 2014	Cost of Living Adjustment
\$3,068.90	Dec 1, 2014	Cost of Living Adjustment
\$3,078.11	Dec 1, 2016	Cost of Living Adjustment
\$3,790.43	Sep 1, 2017	Special Monthly Compensation Adjustment
\$3,866.24	Dec 1, 2017	Cost of Living Adjustment
\$3,974.49	Dec 1, 2018	Cost of Living Adjustment

We are currently paying you as a Veteran with one dependent. *Let us*

We have included with this letter:

1. Explanation of Payment
2. Additional Benefits
3. Rating Decision
4. Where to Send Written Correspondence
5. VA Form 4107
6. VA Form 21-0958

Contact information:

Web: www.vets.gov
Phone: 1-800-827-1000
TDD: 711
To send questions online: visit <https://iris.custhelp.com/>

Social Media:

Twitter: @VAVetBenefits
Facebook: www.facebook.com/VeteransBenefits

Your representative:

You appointed AMERICAN LEGION as your accredited representative. They have also received a copy of this letter.

They can help you with any questions you have about your claim.

If you or someone you know is in crisis, call the *Veterans Crisis Line* at 1-800-273-8255 and press 1.

know right away if there is any change in the status of your dependents.

If payments are due, you should receive your first payment, if not already in receipt of payments, within 7-10 days of this notice.

See **Explanation of Payment** for more details about your payment.

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

If this account is no longer open,

please notify us immediately.

Please Take Action: Accept, Appeal, and/or Ask for Help about Other Choices

If you disagree with our decision:

This decision notice explains why we made this decision about your benefits. If you disagree with the decision and would like to appeal it, you must complete and return a *Notice of Disagreement*, VA Form 21-0958, by November 26, 2019, one year from the date of this notice.

The enclosed VA Form 4107 explains your right to appeal our decision.

Your accredited representative can help you decide your next step.

Your appointed accredited representative, AMERICAN LEGION, can help you with any questions you have about your claim.

You can visit <https://www.vets.gov/disability-benefits/claims-appeal/> to learn more about how the appeals process works.

If you agree with our decision:

There is no need to do anything other than ensure that if your banking and contact information changes, that you promptly notify us so there is no disruption to your benefit.

Thank you for your service,

File Number: [REDACTED]
MANNINO, JOSEPH

Regional Office Director

cc: AMERICAN LEGION

Explanation of Payment

Your monthly entitlement amount includes payment for the following dependent(s):

Payment Start Date	Award Dependent(s)
Jan 1, 2014	MARGARET
Dec 1, 2014	MARGARET
Dec 1, 2016	MARGARET
Sep 1, 2017	MARGARET
Dec 1, 2017	MARGARET
Dec 1, 2018	MARGARET

Let us know right away if there is any change in the status of your dependent(s).

Please Take Action: What Things Affect Your Right to Payment?

Please notify VA *immediately* if there is a change in any condition affecting your right to continued payments. If you don't notify us of these changes immediately, you may have to return any overpayments. Those changes include:

Evidence received shows a change is warranted.
<p>Military Pay or Worker's Compensation: Your payments may be affected by the following, which you must bring to our attention:</p> <ul style="list-style-type: none">• Reentrance into active military or naval service.• Receipt of armed forces service retirement pay, unless your retirement pay has already been reduced because of award of disability compensation.• Receipt of benefits from the Office of Federal Employees Compensation.• Receipt of active duty or drill pay as a reservist or member of the National Guard.
<p>Dependents: If you have a disability rating of 30 percent or more, you must advise VA of any change with your spouse or children.</p>
<p>Hospitalization: If your award includes Aid and Attendance benefits, we may reduce this additional allowance if you are admitted to a hospital, nursing home, or domiciliary care at VA expense.</p>
<p>Incarceration: Benefits will be reduced if you are incarcerated in a federal, state, or local penal institution for more than 60 days for conviction of a felony.</p>
<p>Lack of Cooperation: We may stop monthly payments if you:</p>

Evidence received shows a change is warranted.

- fail to submit evidence we requested,
- fail to attend a VA examination when requested, or
- Submit false or fraudulent evidence to VA, or cause false or fraudulent evidence to be submitted to VA.

Fraud/Lying to Government: The law provides severe penalties, which include fines, imprisonment, or both, for the fraudulent acceptance of any payment to which you are not entitled. We may verify information you submit through computer-matching programs with other agencies.

Additional Benefits

Medical Care and Treatment:

- Mental Health Counseling: For more information, please visit www.myhealth.va.gov/mhv-portal-web/.
- Blind Rehabilitation: For more information, please visit www.va.gov/blindrehab/.
- Change in Compensation Benefits: For more information, please call 1-877-222-VETS or visit www.va.gov/healtheligibility.
- Clothing Allowance: For more information, please call 1-800-827-1000 or visit www.vets.gov/disability-benefits/conditions/special-claims/clothing/.
- VA Medical Care: Present a copy of this notification letter to the Patient Registration/Eligibility Section at your nearest VA Medical Center www.vets.gov/facility-locator/.
- Dental Benefits: For more information, please contact your nearest VA Medical Center or outpatient clinic www.vets.gov/facility-locator/.

Home Adaptations/Loans, Automobile Benefits, and Life Insurance:

- Loans: For more information, please visit www.benefits.va.gov/homeloans/.
- Government life insurance premiums: For more information, please call 1-800-669-8477 or visit www.benefits.va.gov/insurance.

Payment for Travel:

- Payment for Travel: You may be eligible for reimbursement for beneficial travel mileage

File Number: [REDACTED]
MANNINO, JOSEPH

for previous VA medical appointments because of your newly granted service-connected conditions. You must make a request for such reimbursement **within 30 days of this letter** by contacting the Enrollment office at your Medical Center and providing a copy of this letter.

State Benefits:

- State Benefits: For more information, please visit www.va.gov/statedva.htm.



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

Joseph Mannino

VA File Number
[REDACTED]

**Represented By:
AMERICAN LEGION
Decision Review Officer Decision
11/20/2018**

INTRODUCTION

The records reflect that you are a veteran of the World War II Era. You served in the Army from January 30, 1943, to October 1, 1944 and from October 2, 1944, to January 10, 1946. The Board of Veterans Appeals made their decision on your appeal on September 12, 2018. We have implemented their decision based on the evidence listed below.

DECISION

Entitlement to special monthly compensation based on aid and attendance criteria being met is granted from August 24, 2017.

EVIDENCE

- Board of Veterans Appeals Decision, dated September 12, 2018
- VAMC (Charleston Veterans Affairs Medical Center) treatment records, August 24, 2017



REASONS FOR DECISION

Entitlement to special monthly compensation based on aid and attendance.

The Board of Veterans' Appeals (BVA) granted entitlement to Aid and Attendance benefits in its decision dated September 12, 2018. This rating decision serves to implement BVA's decision.

Entitlement to special monthly compensation is warranted in this case because criteria regarding aid and attendance have been met. BVA noted that at the time of your August 24, 2017 examination at the Charleston VA Medical Center indicated that you had reached a level of disability where you require the aid of another person to carry out your activities of daily living due in part to your service-connected disabilities. BVA determined that your level of total disability based on being unemployable qualifies you for this benefit. In reviewing your records, we are assigning an effective date of August 24, 2017 for your grant of Aid and Attendance benefits.

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.

Where to Send Your Written Correspondence

In order to properly determine where to send your written correspondence, please first identify your benefit type (Compensation, Veterans Pension, or Survivor Benefits); then, locate the corresponding address based on your location of residence.

For correspondence relating to all **Compensation** claims:

Location of Residence	Address
<p>All United States and Foreign Locations</p> <p>*Note: For foreign Veterans Pension and Survivor Benefits please refer to the below addresses.</p>	<p style="text-align: center;">Department Of Veterans Affairs Evidence Intake Center P.O. Box 4444 Janesville, WI, 53547-4444</p> <p style="text-align: center;">Or fax your information to: Toll Free: 844-531-7818 Local: 248-524-4260</p>

For correspondence relating to all **Veterans Pension** and **Survivor Benefit** claims:

Location of Residence	Address																											
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Maine	Pennsylvania	District of Columbia																										
Maryland	Rhode Island	Puerto Rico																										
Massachusetts		Canada																										
<p>Countries outside of North, Central or South America</p>																												

After careful and compassionate consideration, a decision has been reached on your claim. If we were not able to grant some or all of the VA benefits you asked for, this form will explain what you can do if you disagree with our decision. If you do not agree with our decision, you may:

- Start an appeal by submitting a Notice of Disagreement.
- Give us evidence we do not already have that may lead us to change our decision.

This form will tell you how to appeal and how to send us more evidence. You can do either one or both of these things.

HOW CAN I APPEAL THE DECISION?

How do I start my appeal? To begin your appeal, you **must** submit VA Form 21-0958, "Notice of Disagreement," if that form was provided to you in connection with our decision. If we denied more than one claim for a benefit (for example, if you claimed compensation for three disabilities and we denied two of them), please tell us in Part IV of VA Form 21-0958 each of the claims you are appealing. A filed VA Form 21-0958 is considered your Notice of Disagreement. If you did not receive VA Form 21-0958 in connection with our decision, then write us a letter telling us you disagree with our decision or enter your disagreement on VA Form 21-0958 in questions 11 or 12A. If you did not receive VA Form 21-0958 in connection with our decision, then either your statement or VA Form 21-0958 is considered your Notice of Disagreement. **Send your Notice of Disagreement to the address included on our decision notice letter.**

How long do I have to start my appeal? You have one year to start an appeal of our decision. Your Notice of Disagreement must be postmarked (or received by us) within one year from the date of **our** letter denying you the benefit. In most cases, you cannot appeal a decision after this one-year period has ended.

What happens if I do not start my appeal on time? If you do not start your appeal on time, our decision will become final. Once our decision is final, you cannot get the VA benefit we denied unless you either:

- Show that we were clearly wrong to deny the benefit **or**
- Send us new evidence that relates to the reason we denied your claim.

What happens after VA receives my Notice of Disagreement? We will either grant your claim or send you a Statement of the Case. A Statement of the Case describes the facts, laws, regulations, and reasons that we used to make our decision. We will also send you a VA Form 9, "Appeal to Board of Veterans' Appeals," with the Statement of the Case. If you want to continue your appeal to the Board of Veterans' Appeals (Board) after receiving a Statement of the Case, you must complete and return the VA Form 9 within one year from the date of our letter denying you the benefit **or** within 60 days from the date that we mailed the Statement of the Case to you, **whichever is later**. If you decide to complete an appeal by filing a VA Form 9, you have the option to request a Board hearing. Hearings often increase wait time for a Board decision. It is not necessary for you to have a hearing for the Board to decide your appeal. It is your choice.

Where can I find out more about the VA appeals process?

- You can find a "plain language" pamphlet called "How Do I Appeal," on the Internet at: http://www.bva.va.gov/How_Do_I_Appeal.asp.
- You can find the formal rules for the VA appeals process in title 38, Code of Federal Regulations, Part 20. You can find the complete Code of Federal Regulations on the Internet at: <http://www.ecfr.gov>. A printed copy of the Code of Federal Regulations may be available at your local law library.

YOUR RIGHT TO REPRESENTATION

Can I get someone to help me with my appeal? Yes. You can have a Veterans Service Organization representative, an attorney-at-law, or an "agent" help you with your appeal. You are not required to have someone represent you. It is your choice.

- Representatives who work for accredited Veterans Service Organizations know how to prepare and present claims and will represent you. You can find a listing of these organizations on the Internet at: <http://www.va.gov/vso>.

- A private attorney or an "agent" can also represent you. VA only recognizes attorneys who are licensed to practice in the United States or in one of its territories or possessions. Your local bar association may be able to refer you to an attorney with experience in veterans' law. An agent is a person who is not a lawyer, but who VA recognizes as being knowledgeable about veterans' law. Contact us if you would like to know if there is a VA accredited agent in your area.

Do I have to pay someone to help me with my appeal? It depends on who helps you. The following explains the differences.

- Veterans Service Organizations will represent you for free.
- Attorneys or agents can charge you for helping you under some circumstances. Paying their fees for helping you with your appeal is your responsibility. If you do hire an attorney or agent to represent you, a copy of any fee agreement must be sent to VA. The fee agreement must clearly specify if VA is to pay the attorney or agent directly out of past-due benefits. *See* 38 C.F.R. § 14.636(g)(2). If the fee agreement provides for the direct payment of fees out of past-due benefits, a copy of the direct-pay fee agreement must be filed with us at the address included on our decision notice letter within 30 days of its execution. A copy of any fee agreement that is not a direct-pay fee agreement must be filed with the Office of the General Counsel within 30 days of its execution by mailing the copy to the following address: Office of the General Counsel (022D), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420. *See* 38 C.F.R. § 14.636(g)(3).

GIVING VA ADDITIONAL EVIDENCE

You can send us more evidence to support a claim whether or not you choose to appeal.

NOTE: Please direct all new evidence to the address included on our decision notice letter. You should not send evidence directly to the Board at this time. You should only send evidence to the Board if you decide to complete an appeal and, then, you should only send evidence to the Board after you receive written notice from the Board that they received your appeal.

If you have more evidence to support a claim, it is in your best interest to give us that evidence as soon as you can. We will consider your evidence and let you know whether it changes our decision. Please keep in mind that we can only consider new evidence that: (1) we have not already seen and (2) relates to your claim. You may give us this evidence either in writing or at a personal hearing with your local VA office.

In writing. To support your claim, you may send documents and written statements to us at the address included on our decision notice letter. Tell us in a letter how these documents and statements should change our earlier decision.

At a personal hearing. You may request a hearing with an employee at your local VA office at any time, whether or not you choose to appeal. We do not require you to have a local hearing. It is your choice. At this hearing, you may speak, bring witnesses to speak on your behalf, and hand us written evidence. If you want a local hearing, send us a letter asking for a local hearing. Use the address included on our decision notice letter. We will then:

- Arrange a time and place for the hearing
- Provide a room for the hearing
- Assign someone to hear your evidence
- Make a written record of the hearing

WHAT HAPPENS AFTER I GIVE VA EVIDENCE?

We will review any new evidence, including the record of the local hearing, if you choose to have one, together with the evidence we already have. We will then decide if we can grant your claim. If we cannot grant your claim and you complete an appeal, we will send the new evidence and the record of any local hearing to the Board.



INFORMATION AND INSTRUCTIONS FOR COMPLETING NOTICE OF DISAGREEMENT (NOD)

IMPORTANT: Please read the information below carefully to help you complete this form quickly and accurately. Some parts of the form also contain notes or specific instructions for completing that part.

The use of this form is *mandatory* to initiate an appeal from the decision on disability compensation claims you received. This form has several key components, which, when filled out completely and accurately, will decrease the amount of time it takes to process your NOD.

FREQUENTLY ASKED QUESTIONS

How do I use this standard Notice of Disagreement (NOD) form?

You *must* use this form if you wish to indicate that you disagree with a decision you received regarding your claim for disability compensation. Examples of these decisions may include entitlement to service connection, percentage of evaluation assigned, and effective date among other things. This form is the only way that you can initiate an appeal from a decision on your claim for disability compensation.

Should I fill out this form?

You *must* fill out this form if you disagree with a decision issued by the VA regional office (RO) about your disability compensation claim. This includes an initial decision, a decision for an increased rating, or any other decision with which you disagree. Only those issues that you list on this NOD will be considered on appeal. For those issues you do not list on this NOD, you will still have one year from the date of the decision notification letter to file an appeal for those issues.

Where can I get help?

You can ask the Department of Veterans Affairs (VA) to help you fill out the form by contacting us at 1-800-827-1000. Before you contact us, please make sure you gather the necessary information and materials, and complete as much of the form as you can.

You can also contact your representative, if applicable, for assistance with completing this form. If you do not already have a representative, you can find a list of approved Veterans Service Organizations at www.va.gov/vso. You can be represented by a Veterans Service Organization representative, an attorney-at-law, or "agent". Contact your local RO for assistance with appointing a representative or visit www.ebenefits.va.gov.

What should I do when I have finished my NOD?

You should provide your signature in Item 13A and the date signed in Item 13B. Be sure to sign every form you fill out before you send it to us. If you don't sign the form, VA will return it for you to sign, and it will take longer to process.

Attach any materials that support and explain your NOD.

Mail your NOD to the address included on the VA decision notice letter or take your NOD to your local RO.

Do I need to keep a copy of this NOD form?

It is important that you keep a copy of all completed forms and materials you give to VA.

What constitutes a complete NOD form?

Generally, VA will consider your NOD "complete" if the following information is provided on the form:

(1) Part I - Information to identify the claimant such as name, Social Security Number, or VA claim number.

Please note that it would assist VA if you provide all the personal information in Part I. However, if you provide certain information specific to the claimant such as the claimant's last name and Social Security Number or VA file number, VA will be able to identify the claimant in our system and would not necessarily consider this NOD incomplete if other information in Part I, such as the claimant's address and telephone number, is excluded.

(2) Part IV - Information to identify the specific nature of the disagreement.

Please list the issues or conditions for which you seek appellate review in Item 11 of Part IV. At a minimum, please indicate the specific issue of disagreement in Item 11A such as "right knee disability" or "Post Traumatic Stress Disorder (PTSD)" and indicate the area of disagreement in Item 11B by checking the appropriate box. If you disagree with an evaluation of a disability, you may tell us what percentage evaluation you seek in Item 11C; however, you are not required to indicate the percentage of evaluation sought in Item 11C in order to complete this form.

(3) Part V - Claimant's signature.

Please be sure to sign the NOD, certifying that the statements on the form are true and correct to the best of the claimant's knowledge and belief.

IMPORTANT: If you do not provide the above information on this NOD, VA will consider your form incomplete and will request clarification from you. You must respond to this request for clarification either **60** days from the date of VA's request for clarification or **one year** from the date of mailing of the notice of decision of the RO, whichever is later. If you do not provide VA with a completed form within that time frame, the decision will become final, and you will have to file a new claim.

SPECIFIC INSTRUCTIONS FOR THE NOD

Part I - Personal Information

Please provide all personal contact information.

Part II - Telephone Contact

Why is VA asking to contact me by telephone?

The purpose of the optional telephone contact is to help process your NOD faster by requesting clarification of any ambiguous information on the form. If you indicate you wish to be contacted by telephone, VA may make up to two attempts to call you at the telephone number provided during the time slot you select. It is important to make sure you select a time period you will be available to speak with a RO representative by telephone.

Part III - Election of Decision Review Officer (DRO) Review or Traditional Appellate Review

How does the DRO Review Process work?

A DRO is a senior technical expert who did not participate in the decision being reviewed who is responsible for holding post-decisional hearings, if requested, and processing appeals. The DRO will conduct a new and complete review of your claim, without deference to the original decision. The DRO will determine if there is additional evidence necessary to resolve the appeal, may ask you to participate in an informal conference, and/or may pursue additional evidence. The DRO may issue a new decision that changes the original decision by the RO.

How does the Traditional Appellate Review Process work?

A VA staff member will examine your file and any new evidence that you submit with or after your NOD. The reviewer may change the original decision based on new evidence or upon a finding of clear and unmistakable error in that decision.

How do I complete this section?

If you wish to elect the DRO Review Process, please check the "Decision Review Officer (DRO) Review Process" box in Item 9. If you wish to continue in the Traditional Appellate Review Process, please check the "Traditional Appellate Review Process" box in Item 9. Please note that failure to complete this section will not render the form incomplete.

Part IV - Specific Issues of Disagreement

What date do I enter in the Notification/Decision Letter Date?

You should enter the date stamped on the notification or decision letter you received that you disagree with in Item 10. Please do not enter today's date in this field. If you need help identifying the date of the notification or decision you disagree with, contact us at 1-800-827-1000.

How do I complete this section?

The purpose of this section is for you to individually identify each area of disagreement that you have with the VA decision notification letter. Please list **only** the issues or disabilities with which you disagree. Only those issues that you list on this NOD will be considered on appeal. For those issues you do not list on this NOD, you will still have **one** year from the date of the decision notification letter to file an appeal for those issues.

In the Specific Issue of Disagreement column in Item 11A, please individually identify in separate boxes each of the issues with which you disagree. For example, "left knee condition," "hearing loss," etc.

In the "Area of Disagreement" column, Item 11B, please check the area with which you disagree. For example, if you disagree with the effective date that VA assigned for a particular benefit, check the "Effective Date of Award" option. If VA granted a benefit, but you disagree with the evaluation that we assigned, check the "Evaluation of Disability" option. If you were claiming service connection for an injury or disability that you believe to be the result of your military service, and VA denied that claim, please check the "Service Connection" option. If you are disagreeing with our decision for reasons other than listed in the "Area of Disagreement" column, please check "Other" and specify your reason.

If you disagree with a disability evaluation that we have assigned and believe that the evidence justifies a specific evaluation, please list the percentage that you believe the evidence to warrant in the "Percentage of Evaluation Sought If Known" column, Item 11C, within Part IV of the form. To assist, please refer to our decision notification letter where we indicate what the evidence must show for the evaluation we assigned as well as the next higher evaluation. Please note that this information is not required and that, even if you limit your appeal by indicating a specific percentage evaluation sought in Item 11C, evaluation levels above the percentage evaluation sought will be considered in cases where the evidence supports a higher evaluation.

There is extra space provided for you in Item 12A, to explain why you feel VA incorrectly decided your claim, and to list any disagreements not covered by the form. Please utilize this space to briefly and clearly explain why you disagree with our decision.

Part V - Certification and Signature

Sign and date the NOD, certifying that the statements on the form are true to the best of your knowledge and belief.

Privacy Act Notice: VA will not disclose information collected on this form to any source other than what has been authorized under the Privacy Act of 1974 or Title 38, Code of Federal Regulations 1.576 for routine uses (i.e., civil or criminal law enforcement, congressional communications, epidemiological or research studies, the collection of money owed to the United States, litigation in which the United States is a party or has an interest, the administration of VA programs and delivery of VA benefits, verification of identity and status, and personnel administration) as identified in the VA system of records, 58/VA21/22/28, Compensation, Pension, Education and Vocational Rehabilitation and Employment Records - VA, published in the Federal Register. Your obligation to respond is required to obtain or retain benefits. VA uses your SSN to identify your claim file. Providing your SSN will help ensure that your records are properly associated with your claim file. Giving us your SSN account information is voluntary. Refusal to provide your SSN by itself will not result in the denial of benefits. VA will not deny an individual benefits for refusing to provide his or her SSN unless the disclosure of the SSN is required by a Federal Statute of law in effect prior to January 1, 1975, and still in effect. The requested information is considered relevant and necessary to determine maximum benefits under the law. The responses you submit are considered confidential (38 U.S.C. 5701). Information submitted is subject to verification through computer matching programs with other agencies.

Respondent Burden: We need this information to determine entitlement to benefits (38 U.S.C. 501). Title 38, United States Code, allows us to ask for this information. We estimate that you will need an average of 30 minutes to review the instructions, find the information, and complete the form. VA cannot conduct or sponsor a collection of information unless a valid OMB control number is displayed. You are not required to respond to a collection of information if this number is not displayed. Valid OMB control numbers can be located on the OMB Internet Page at www.reginfo.gov/public/do/PRAMain. If desired, you can call 1-800-827-1000 to get information on where to send comments or suggestions about this form.



Department of Veterans Affairs

NOTICE OF DISAGREEMENT

A CLAIMANT OR HIS OR HER DULY APPOINTED REPRESENTATIVE MAY FILE NOTICE EXPRESSING THEIR DISSATISFACTION OR DISAGREEMENT WITH AN ADJUDICATIVE DETERMINATION BY THE VA REGIONAL OFFICE. A DESIRE TO CONTEST THE RESULT WILL CONSTITUTE A NOTICE OF DISAGREEMENT (NOD.) WHILE SPECIAL WORDING IS NOT REQUIRED, THE NOD MUST BE IN TERMS WHICH CAN BE REASONABLY CONSTRUED AS DISAGREEMENT WITH THAT DETERMINATION AND A DESIRE FOR APPELLATE REVIEW. (AUTHORITY: 38 U.S.C. 7105)

TO FILE A VALID NOD, THERE IS A TIME LIMIT OF **ONE** YEAR FROM THE DATE VA MAILED THE NOTIFICATION OF THE DECISION TO THE CLAIMANT. FOR CONTESTED CLAIMS INCLUDING CLAIMS OF APPORTIONMENT, THIS TIME LIMIT IS **60** DAYS FROM THE DATE VA MAILED THE NOTIFICATION OF THE DECISION TO THE CLAIMANT.

(DO NOT WRITE IN THIS SPACE)
(VA DATE STAMP)

NOTE: You can *either* complete the form online or by hand. Please print information using blue or black ink, neatly, and legibly to help process the form.

PART I - PERSONAL INFORMATION

1. VETERAN'S NAME (First, middle initial, last)

Grid for entering the veteran's name.

2. VETERAN'S SOCIAL SECURITY NUMBER

Grid for entering the veteran's social security number.

3. VA FILE NUMBER

Grid for entering the VA file number, including C/CSS.

CLAIMANT'S PERSONAL INFORMATION

4. CLAIMANT'S NAME (First, middle initial, last)

Grid for entering the claimant's name.

5. CURRENT MAILING ADDRESS (Number and street or rural route, P.O. Box, City, State, ZIP Code and Country)

Grid for entering the mailing address number and street.

Grids for entering apartment/unit number and city.

Grids for entering state/province, country, and ZIP code/postal code.

6. PREFERRED TELEPHONE NUMBER (Include Area Code)

Grid for entering the preferred telephone number.

7. PREFERRED E-MAIL ADDRESS

PART II - TELEPHONE CONTACT

8. WOULD YOU LIKE TO RECEIVE A TELEPHONE CALL OR E-MAIL FROM A REPRESENTATIVE AT YOUR LOCAL REGIONAL OFFICE REGARDING YOUR NOD?

YES NO

(If you answered "Yes," VA will make up to two attempts to call you between 8:00 a.m. and 4:30 p.m. local time at the telephone number and time period you select below. Please select up to two time periods you are available to receive a phone call.)

8:00 a.m. - 10:00 a.m. 10:00 a.m. - 12:30 p.m. 12:30 p.m. - 2:00 p.m. 2:00 p.m. - 4:30 p.m.

Phone number I can be reached at the above checked time: _____

PART III - APPEAL PROCESS ELECTION

9. SELECT ONE OF THE APPEALS PROCESSING METHODS BELOW (See Specific Instructions, Page 2, Part III for additional information)

Decision Review Officer (DRO) Review Process

Traditional Appellate Review Process

- -

PART IV - SPECIFIC ISSUES OF DISAGREEMENT

10. NOTIFICATION/DECISION LETTER DATE

11. PLEASE LIST EACH SPECIFIC ISSUE OF DISAGREEMENT AND NOTE THE AREA OF DISAGREEMENT. IF YOU DISAGREE ON THE EVALUATION OF A DISABILITY, SPECIFY PERCENTAGE EVALUATION SOUGHT, IF KNOWN. PLEASE LIST ONLY ONE DISABILITY IN EACH BOX. YOU MAY ATTACH ADDITIONAL SHEETS IF NECESSARY.

A. Specific Issue of Disagreement	B. Area of Disagreement	C. Percentage (%) Evaluation Sought (If known)
	<input type="checkbox"/> Service Connection <input type="checkbox"/> Effective Date of Award <input type="checkbox"/> Evaluation of Disability <input type="checkbox"/> Other (Please specify below) _____	
	<input type="checkbox"/> Service Connection <input type="checkbox"/> Effective Date of Award <input type="checkbox"/> Evaluation of Disability <input type="checkbox"/> Other (Please specify below) _____	
	<input type="checkbox"/> Service Connection <input type="checkbox"/> Effective Date of Award <input type="checkbox"/> Evaluation of Disability <input type="checkbox"/> Other (Please specify below) _____	
	<input type="checkbox"/> Service Connection <input type="checkbox"/> Effective Date of Award <input type="checkbox"/> Evaluation of Disability <input type="checkbox"/> Other (Please specify below) _____	
	<input type="checkbox"/> Service Connection <input type="checkbox"/> Effective Date of Award <input type="checkbox"/> Evaluation of Disability <input type="checkbox"/> Other (Please specify below) _____	

12A. IN THE SPACE BELOW, OR ON A SEPARATE PAGE, PLEASE EXPLAIN WHY YOU FEEL WE INCORRECTLY DECIDED YOUR CLAIM, AND LIST ANY DISAGREEMENT(S) NOT COVERED ABOVE:

12B. DID YOU ATTACH ADDITIONAL PAGES TO THIS NOD?

YES NO (If so, how many?)

PART V - CERTIFICATION AND SIGNATURE

I CERTIFY THAT THE STATEMENTS ON THIS FORM ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF.

13A. SIGNATURE

13B. DATE SIGNED

PENALTY: THE LAW PROVIDES SEVERE PENALTIES WHICH INCLUDE A FINE, IMPRISONMENT, OR BOTH, FOR THE WILLFUL SUBMISSION OF ANY STATEMENT OR EVIDENCE OF A MATERIAL FACT, KNOWING IT TO BE FALSE.

EXHIBIT

3

Claim Information

Date of Claim	Type of Claim	End Product	POA	Claimant	Claim Jurisdiction
09/12/2018	BVA Grant (070)	070	AMERICAN LEGION	Joseph Mannino	National Work Queue (499)

Miscellaneous Data

Net Effect of Award as of Generation	C-File Cross Reference Number	Employable	Competent Status	Fiduciary Status	PGF Loc
\$10,855.80		N	Competent	Pay Direct	

Verified Service

Name	Branch	Duty	EOD	RAD	Char Disch
Joseph Mannino	Army	Active Duty	01/30/1943	10/01/1944	Honorable
Joseph Mannino	Army	Active Duty	10/02/1944	01/10/1946	Honorable

Primary Beneficiary Information

Mailing Address

JOSEPH MANNINO
 4263 Park Way Ln
 Little River SC
 USA
 29566-7899

Payment Address

TD BANK NA
 ROUTING: [REDACTED]
 Checking: [REDACTED]

Date of Birth: 04/16/1922

Gender: Male

SSN: [REDACTED]

Net Effect: \$10,855.80

Compensation/Pension Live Award

Eff Date	Reason	Gross	MAPR	Total W/H	Allot W/H	Net	Dis Lvl	S	M	H	S	P
									C	C	C	
01/01/2014	Cost of Living Adjustment	3,017.60				3,017.60	080-IU	Y				
12/01/2014	Cost of Living Adjustment	3,068.90				3,068.90	080-IU	Y				
12/01/2016	Cost of Living Adjustment	3,078.11				3,078.11	080-IU	Y				
09/01/2017	Special Monthly Compensation Adjustment	3,790.43				3,790.43	080-03-IU	Y				

VBMS COMPENSATION AND PENSION AWARD

Eff Date	Reason	Gross	MAPR	Total W/H	Allot W/H	Net	Dis Lvl	S	M	H	S	P
								C	C	C		
12/01/2017	Cost of Living Adjustment	3,866.24				3,866.24	080-03-IU	Y				
12/01/2018	Cost of Living Adjustment	3,974.49				3,974.49	080-03-IU	Y				

Dependents

Name	DOB	SSN	Status	Award Effective Date	Decision Type
Margaret Mannino	12/20/1946	[REDACTED]	Spouse	12/01/2007	Dependency Established

Review Messages

1. This Award was System-Generated From 12/01/2007. If Converted Award Lines Existed Before That Date, They Were Protected From Change

Remarks

Per RD dtd 11/20/2018

Generated By - 93075294 You Vanrachack 15228874 11/21/2018 10:01 AM	Authorized By RICKY CODDINGTON 11/23/2018 8:26 AM
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