

How Do I Appeal?

*“to care for him who shall have borne
the battle, and for his widow, and his
orphan”*

-Abraham Lincoln

Board of Veterans' Appeals



Understanding the Appeal Process “How Do I Appeal?”

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GETTING STARTED

Frequently Asked Questions About Appeals



What is an appeal?

An appeal is a request for the Board of Veterans' Appeals to review a local VA office decision on your claim.

Why would I appeal?

You appeal because you are not satisfied with the decision by the local VA office.

The two most common reasons people appeal are:

- The VA denied you benefits for a disability you believe began in service; or
- You believe that your disability is more severe than the VA rated it.

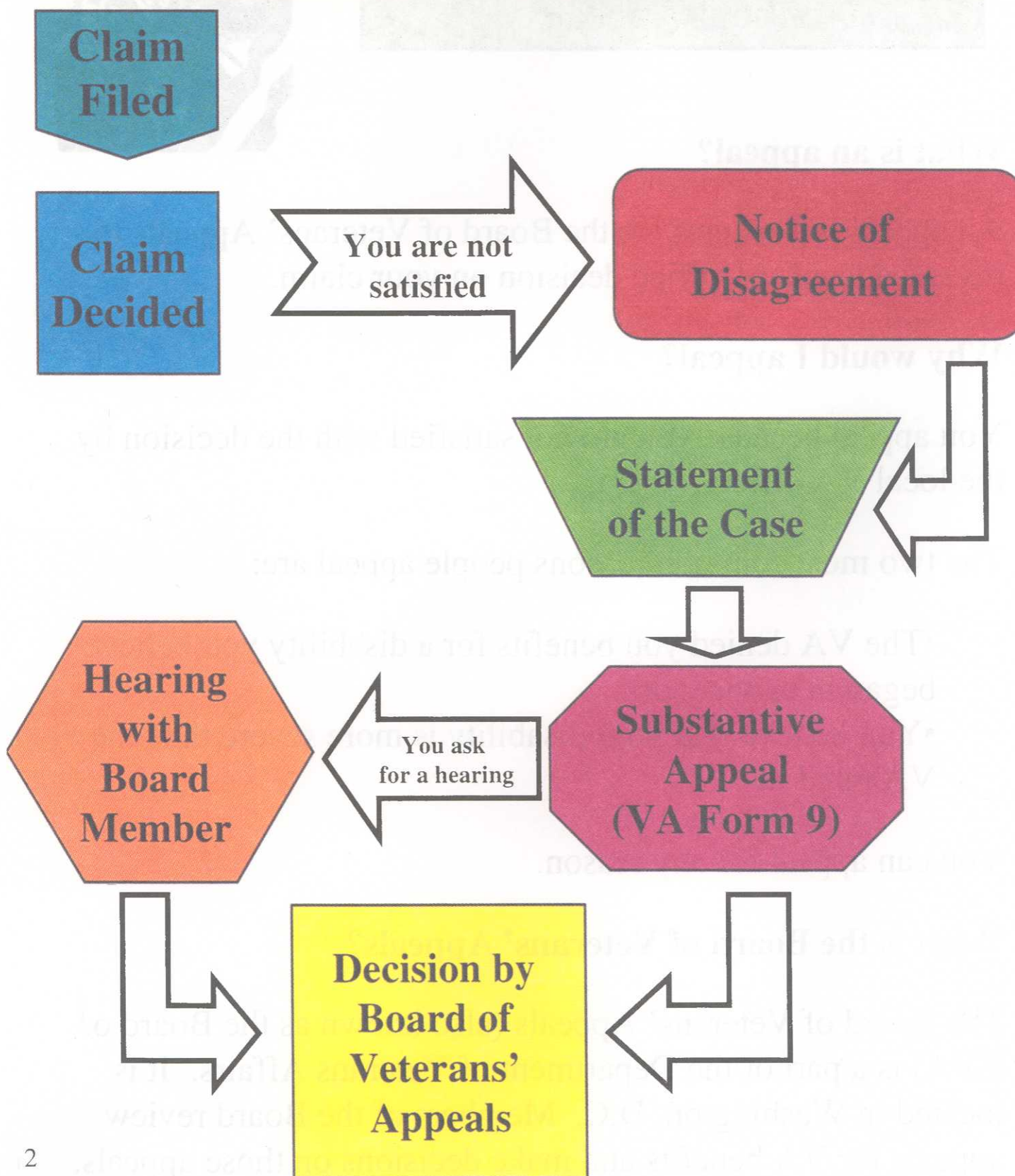
You can appeal for any reason.

What is the Board of Veterans' Appeals?

The Board of Veterans' Appeals (also known as the Board or BVA) is a part of the Department of Veterans Affairs. It is located in Washington, D.C. Members of the Board review appeals for VA benefits and make decisions on those appeals.

How do I appeal?

The Appeals Process



Claim Filed

To apply for benefits, you file a claim at your local VA office or VA medical facility. This is when you ask for the benefit you want.

There is at least one VA office in each state, Puerto Rico, and Manila. You can also file your claim on the internet at www.vba.va.gov.

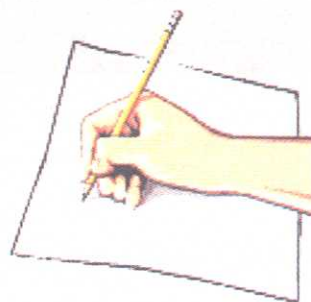
You can ask for help with your claim. Help is available from Veterans Service Organizations (VSO), such as The American Legion or Disabled American Veterans, as well as from attorneys, or agents recognized by VA.

VSOs have staff at most local VA offices.

Claim Decided

The local VA office makes a decision on your claim and sends it to you.

The local VA office's decision will allow or deny your claim. If you are not satisfied with the decision, you can appeal.



You file a claim



**Ask for help
with your claim**



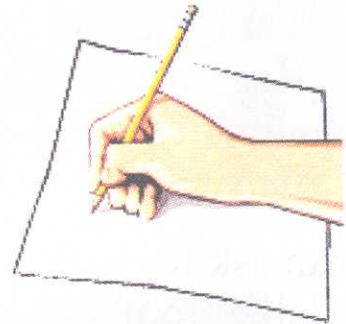
**You get your
decision from VA**

Notice of Disagreement (NOD)

What is a Notice of Disagreement?

If you disagree with the rating decision, you can write a statement to your local VA office saying that you disagree and that you want to appeal the decision.

This statement is called a Notice of Disagreement (NOD).



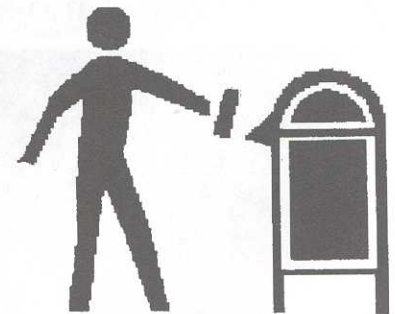
Where do I send my NOD?

You send your NOD to your local VA office.

**You tell VA you disagree
and want to appeal**

When do I send my NOD?

You must send your NOD within one year of the date your local VA office mailed you its original decision denying your claim.



After you send your NOD you may request that your file be reviewed by a Decision Review Officer (DRO) from your local VA office. DROs offer a second review of your entire file and can also hold a personal hearing on your claim.

**Send your NOD to your
local VA office**

**Remember time limit
for filing your NOD!**

Statement of the Case (SOC)

After the local VA office gets your NOD it will create a “Statement of the Case” (SOC).



VA gets your NOD

What is a Statement of the Case?

The SOC is a detailed explanation of the evidence, laws, and regulations used by the local VA office in deciding your claim.



VA prepares SOC

Who sends the SOC?

The SOC will be mailed to you along with a VA Form 9, Substantive Appeal Form by your local VA office.



SOC is mailed to you

Substantive Appeal (VA Form 9)

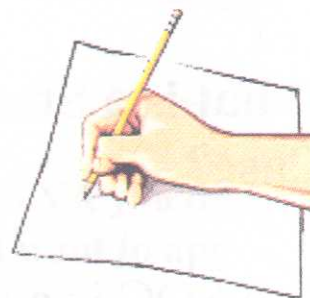
When you get the SOC from your local VA office, a VA Form 9 will be included with the SOC. The VA Form 9 is also available through the internet at www.vba.va.gov.



You get SOC and Form 9
from VA

What is a Form 9?

A VA Form 9 is the last step in the appeal process. To finish the appeal process you must fill out the VA Form 9 (Substantive Appeal) and send it back to your local VA office.



You fill out Form 9

When you fill out your VA Form 9 you should state the benefit you want, any mistakes you find in the SOC, and if you want a personal hearing.



Mail Form 9 to your
local VA office

When do I send my VA Form 9?

Your local VA office must get your VA Form 9 within 60 days of the date that they mailed you your SOC or within one year of the date that they mailed you the original decision denying your claim, whichever is later.

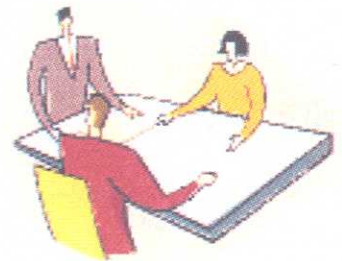
**REMEMBER
TIME LIMIT FOR
FILING FORM 9!**

Personal Hearings

You can request a personal hearing in connection with your appeal.

What is a personal hearing?

A personal hearing is a meeting between you, your representative if you have one, and the person from the VA who will decide your case.



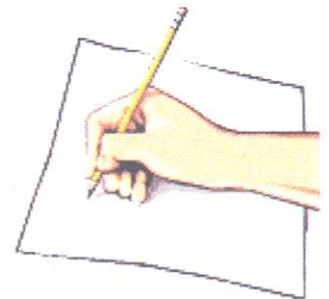
You can request a personal hearing

There are two types of personal hearings:

- A hearing with someone from your local VA office, or
- A hearing with a member of the Board of Veterans' Appeals.

How do I get a hearing?

You can request a personal hearing with a local VA official at any time by sending a written request to your local VA office.



You can request a Board hearing on your Form 9

You can request a hearing with a member of the Board of Veterans' Appeals when you fill out your VA Form 9.

Personal Hearings with a Board Member

Are all personal hearings with Board Members the same?

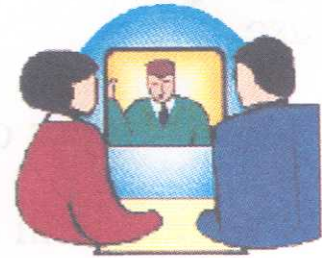
No, if you want a personal hearing with a member of the Board, you can choose from several different types.

- A hearing in Washington, D.C., where the Board of Veterans' Appeals is located.
- A videoconference hearing with you at your local VA office and the Board Member in Washington, D.C.
- A hearing at your local VA office with the Board Member present.

Because of scheduling delays, a videoconference hearing is the quickest way to get a hearing with a Board Member.



Hearing in Washington, D.C.



Local videoconference hearing with Board Member in Washington D.C.



Hearing with Board Member at your local VA office

Personal Hearings with a Board Member

What happens at a Board hearing?

- Personal hearings with a Board Member are informal. They are not like the courtroom hearings you see on TV or in trials.
- The Board Member will identify himself or herself, and will make sure you agree about what the claims are on appeal.
- The Board Member will tell you about what happens during the hearing.
- You will be asked to take an oath to tell the truth.
- You will be given a chance to make sure any information you think is important is heard by the Board Member.



Personal hearing with Board Member



Local videoconference hearing with Board Member in Washington, D.C.

Personal Hearings with a Board Member

➤ If you have a representative, the representative will ask you questions to help you explain your claim. If not, the Board Member will ask you to tell him or her about your claim.



➤ The Board Member may or may not ask questions during the hearing.

You tell the Board Member about your claim

➤ You can add evidence to your claim at the hearing. This evidence will be added to your file and reviewed by the Board Member when a decision is made on your claim.



➤ The Board Member does not make a decision on your claim at the hearing. *A transcript of the hearing will be made and sent to the Board of Veterans' Appeals with your file.* When the Board Member gets all this information, he or she will review it and make a decision.

You can add evidence at your hearing

Did you know?

When you have your hearing, the Board Member will be holding as many as nine other hearings that day!



Your file and a transcript of the hearing go to D.C.

Decision by Board of Veterans' Appeals

When do I get my decision from the Board?

After reviewing the evidence in your file, the Board Member will make a decision on your appeal. The Board will send you a copy of the decision.

The decision will allow, deny or remand your claim. If your claim is allowed or denied, the Board's decision is final. However, a remand is not a final decision.

What is a remand?

Sometimes the Board finds that it does not have enough information about your claim to make a decision.

When this happens the Board will either try to get more information itself or send your claim back to the local VA office so they can try and get that information.

When your claim is sent back to the local VA office, it is called a Remand.



Board Member makes a Decision on your claim



You get your decision from the Board



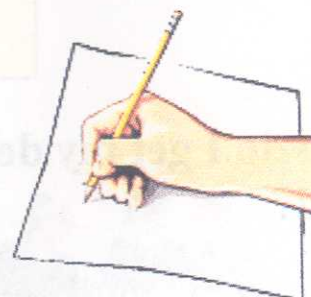
A remand is when your claim is sent back to the local VA office for more information

Decision by Board of Veterans' Appeals

What if the Board denies my claim?

If your claim is denied by the Board, this is what you can do:

- go back to your local VA and try to reopen your claim;
- file a motion asking the Board to reconsider your claim or review your case again because there was a clear and unmistakable error (CUE) in the Board decision;
- file an appeal with the U.S. Court of Appeals for Veterans Claims; or
- do nothing.



**Reopen at your
local VA office**



**Ask the Board to
reconsider or review
based on error**



**Appeal the
decision
to the Court**

Helpful Hints

✓ Have a representative help you with your claim and appeal.

- A representative can answer questions and can help make the process move faster.
- Representatives from Veterans Service Organizations have offices in most local VA offices.

✓ Give as much detail as possible about evidence that you want the VA to get before they make a decision on your claim.

- For example, full names, addresses, and dates are very important.

✓ Make sure you let your local VA office know if you move to a new address while your claim is being decided.

✓ Put your claim number on all letters or other evidence you send to the VA.

✓ Make sure you keep a copy of any evidence you give to the VA for your records.

✓ Try to identify as early as possible all the evidence you want the VA to look at when they make a decision on your claim.

- This will speed up the time it takes for the VA to make a decision on your claim.



Get a representative



If you move change your address at the VA



Make a copy of any evidence you give to the VA

Additional Information & Internet Resources

The Department of Veterans Affairs

www.va.gov

Information about VA, pamphlets and forms online, BVA decisions

The Veterans Benefits Administration

www.vba.va.gov

Benefits information, links to VA forms, regulations

United States Court of Appeals for Veterans Claims

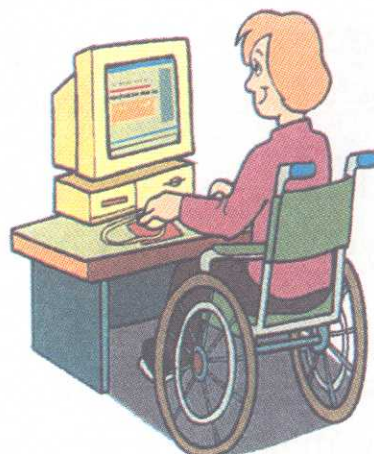
www.vetapp.uscourts.gov

Court cases, information on how to appeal a BVA decision, information on filing an appeal with the Court

Department of Veterans Affairs - Electronic FOIA reading room

www.va.gov/foia/

Links, answers to a number of VA issues



Additional Information & Internet Resources

National Archives and Records Administration
Code of Federal Regulations
www.access.gpo.gov/nara/cfr

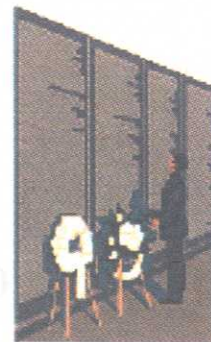
Published federal regulations, including 38 C.F.R., used by VA

The Office of the Law Revision Counsel
U.S. House of Representatives
uscode.house.gov/usc.htm

Search and print the United States Code, including 38 U.S.C.,
used by VA

Information about Veterans' Benefits
1-800-827-1000

Information about your appeal at the Board
1-202-565-5436



VA Salutes America's Veterans
Thank you for your service to our country

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Board of Veterans' Appeals
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