

Department of Veterans Affairs

§3.151

applicable to original and supplemental claims as well as claims for increase.

(1) If a claim is reviewed on the initiative of VA within 1 year from the effective date of the law or VA issue, or at the request of a claimant received within 1 year from that date, benefits may be authorized from the effective date of the law or VA issue.

(2) If a claim is reviewed on the initiative of VA more than 1 year after the effective date of the law or VA issue, benefits may be authorized for a period of 1 year prior to the date of administrative determination of entitlement.

(3) If a claim is reviewed at the request of the claimant more than 1 year after the effective date of the law or VA issue, benefits may be authorized for a period of 1 year prior to the date of receipt of such request.

(Authority: 38 U.S.C. 1805, 1815, 1821, 1832, 5110(g))

(b) *Discontinuance of benefits.* Where the reduction or discontinuance of an award is in order because of a change in law or a Department of Veterans Affairs issue, or because of a change in interpretation of a law or Department of Veterans Affairs issue, the payee will be notified at his or her latest address of record of the contemplated action and furnished detailed reasons therefor, and will be given 60 days for the presentation of additional evidence. If additional evidence is not received within that period, the award will be reduced or discontinued effective the last day of the month in which the 60-day period expired.

(Authority: 38 U.S.C. 5112(b)(6))

[27 FR 11886, Dec. 1, 1962, as amended at 55 FR 13529, Apr. 11, 1990; 62 FR 17706, Apr. 11, 1997; 65 FR 35282, June 2, 2000; 67 FR 49586, July 31, 2002; 76 FR 4247, Jan. 25, 2011; 84 FR 168, Jan. 18, 2019; 84 FR 4336, Feb. 15, 2019]

§3.115 Access to financial records.

(a) The Secretary of Veterans Affairs may request from a financial institution the names and addresses of its customers. Each such request, however, shall include a certification that the information is necessary for the proper administration of benefits programs under the laws administered by the

Secretary, and cannot be obtained by a reasonable search of records and information of the Department of Veterans Affairs.

(b) Information received pursuant to a request referred to in paragraph (a) of this section shall not be used for any purpose other than the administration of benefits programs under the laws administered by the Secretary if the disclosure of that information would otherwise be prohibited by any provision of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3401 through 3422).

(Authority: 38 U.S.C. 5319)

[58 FR 32445, June 10, 1993]

CLAIMS

§3.150 Forms to be furnished.

(a) Upon request made in person or in writing by any person applying for benefits under the laws administered by the Department of Veterans Affairs, the appropriate application form will be furnished.

(Authority: 38 U.S.C. 5102)

(b) Upon receipt of notice of death of a veteran, the appropriate application form will be forwarded for execution by or on behalf of any dependent who has apparent entitlement to pension, compensation, or dependency and indemnity compensation. If it is not indicated that any person would be entitled to such benefits, but there is payable an accrued benefit not paid during the veteran's lifetime, the appropriate application form will be forwarded to the preferred dependent. Notice of the time limit will be included in letters forwarding applications for benefits.

CROSS REFERENCE: Extension of time limit. See §3.109(b).

[26 FR 1570, Feb. 14, 1961, as amended at 30 FR 133, Jan. 7, 1965; 79 FR 57695, Sept. 25, 2014]

§3.151 Claims for disability benefits.

(a) *General.* A specific claim in the form prescribed by the Secretary must be filed in order for benefits to be paid to any individual under the laws administered by VA. (38 U.S.C. 5101(a)). A claim by a veteran for compensation may be considered to be a claim for pension; and a claim by a veteran for

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pension may be considered to be a claim for compensation. The greater benefit will be awarded, unless the claimant specifically elects the lesser benefit. (See scope of claim, § 3.155(d)(2); complete claim, § 3.160(a); supplemental claims, § 3.2501(b)).

(b) *Retroactive disability pension claims.* Where disability pension entitlement is established based on a claim received by VA on or after October 1, 1984, the pension award may not be effective prior to the date of receipt of the pension claim unless the veteran specifically claims entitlement to retroactive benefits. The claim for retroactivity may be filed separately or included in the claim for disability pension, but it must be received by VA within one year from the date on which the veteran became permanently and totally disabled. Additional requirements for entitlement to a retroactive pension award are contained in § 3.400(b) of this part.

(c) *Issues within a claim.* (1) To the extent that a complete claim application encompasses a request for more than one determination of entitlement, each specific entitlement will be adjudicated and is considered a separate issue for purposes of the review options prescribed in § 3.2500. A single decision by an agency of original jurisdiction may adjudicate multiple issues in this respect, whether expressly claimed or determined by VA to be reasonably within the scope of the application as prescribed in § 3.155(d)(2). VA will issue a decision that addresses each such identified issue within a claim. Upon receipt of notice of a decision, a claimant may elect any of the applicable review options prescribed in § 3.2500 for each issue adjudicated.

(2) With respect to service-connected disability compensation, an issue for purposes of paragraph (c)(1) of this section is defined as entitlement to compensation for a particular disability. For example, if a decision adjudicates service-connected disability compensation for both a knee condition and an ankle condition, compensation for each condition is a separate entitlement or issue for which a different review option may be elected. However, different review options may not be selected for specific components of the knee dis-

ability claim, such as ancillary benefits, whether a knee injury occurred in service, or whether a current knee condition resulted from a service-connected injury or condition.

(d) *Evidentiary record.* The evidentiary record before the agency of original jurisdiction for an initial or supplemental claim includes all evidence received by VA before VA issues notice of a decision on the claim. Once the agency of original jurisdiction issues notice of a decision on a claim, the evidentiary record closes as described in § 3.103(c)(2) and VA no longer has a duty to assist in gathering evidence under § 3.159. (See § 3.155(b), submission of evidence).

(Authority: 38 U.S.C 5110(b)(3))

CROSS REFERENCE: Intent to file a claim. See § 3.155(b).

[50 FR 25981, June 24, 1985, as amended at 79 FR 57695, Sept. 25, 2014; 84 FR 168, Jan. 18, 2019]

§ 3.152 Claims for death benefits.

(a) A specific claim in the form prescribed by the Secretary (or jointly with the Commissioner of Social Security, as prescribed by § 3.153) must be filed in order for death benefits to be paid to any individual under the laws administered by VA. (See § 3.400(c) concerning effective dates of awards.)

(Authority: 38 U.S.C. 5101(a))

(b)(1) A claim by a surviving spouse or child for compensation or dependency and indemnity compensation will also be considered to be a claim for death pension and accrued benefits, and a claim by a surviving spouse or child for death pension will be considered to be a claim for death compensation or dependency and indemnity compensation and accrued benefits.

(Authority: 38 U.S.C. 5101(b)(1))

(2) A claim by a parent for compensation or dependency and indemnity compensation will also be considered to be a claim for accrued benefits.

(Authority: 38 U.S.C. 5101(b)(2))

(c)(1) Where a child's entitlement to dependency and indemnity compensation arises by reason of termination of