

**TDVS Benefits Bulletin**  
**21-10**

**TDVS Updates**

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**TDVS Updates**

Fall Training Schedule

- October 25<sup>th</sup> to October 29<sup>th</sup> – TDVS Accreditation Course for New Service Officers
- November – No Lunch and Learn
- December 8, 2021 – December Lunch and Learn – Topic TBA

**VA and Veteran Benefit Updates**

Regulatory Updates

- Final Rule – Schedule for Rating Disabilities; The Genitourinary Diseases and Conditions

On September 30, 2021, VA published a [final rule](#) amending VA's Schedule for Rating Disabilities or VASRD by revising the portion of the VASRD that addresses the genitourinary system.

- Final Rule – Schedule for Rating Disabilities: The Cardiovascular System

On September 30, 2021, VA published a [final rule](#) amending VA's Schedule for Rating Disabilities or VASRD by revising the portion of the VASRD that addresses the cardiovascular system.

- Final Rule - Extension of the Presumptive Period for Compensation for Persian Gulf War Veterans

On September 14, 2021, VA published an [Interim Final Rule](#) that extended the presumptive period for disabilities resulting from undiagnosed illnesses in Persian Gulf War veterans.

Current law provides compensation to eligible Persian Gulf War veterans with a chronic disability resulting from an undiagnosed illness. The illness must either during active-duty service in the Southwest Asia theater of operations during the Persian Gulf War or must become disabling to a degree of 10 percent or more during a period determined by the VA Secretary. This Interim Final Rule extends the period by which the illness must become disabling to a degree of 10 percent or more to December 31, 2026.

- Proposed Rule – Fiduciary Bonding Requirements

On, September 29, 2021, VA published a [proposed rule](#) in the Federal Register that proposes to amend the regulations governing fiduciary actives. Specifically, the proposed rule would exempt a VA appointed fiduciary who is also serving as a court-appointed fiduciary from posting multiple bonds. It would also exempt a VA appointed fiduciary who is a state agency with existing liability insurance from obtaining an additional bond. Comments must be received before November 29, 2021.

- Interim Final Rule – Extension of Program of Comprehensive Assistance for Family Caregivers Eligibility for Legacy Participants and Legacy Applicants

On September 22, 2021, VA published an [interim final rule](#) in the Federal Register that extended the eligibility for legacy applicants, participants and family caregivers in VA's Program of Comprehensive Assistance for Family Caregivers (Caregiver Program). As background, in October of 2020, VA published a Final Rule implementing legislative changes to the Caregiver Program. At the same time, VA began reassessments of legacy applicants, participants, and family Caregivers to ensure continuing eligibility under new program rules. This further extension allows VA additional time to reassess program eligibility.

*Why It Matters:* It's likely current participants will lose access to the Caregiver Program – including monthly stipends – because of this review. Advocates need to know how to disagree with a Caregiver Program decision and other support options available for veterans and their family caregivers.

Here's more from VA on the [reassessment](#) and [additional information](#) on the Caregiver Program, including how to disagree with a Caregiver Program decision. [Benefits Bulletin 21-6](#) highlighted a court decision that expanded judicial review to these decisions and [Benefits Bulletin 21-7](#) provided guidance on how to appeal.

And more in an [article](#) from Leo Shane in The Military Times about this ongoing review.

## Annual Cost-of-Living-Adjustment

Veterans and survivors will see an annual cost-of-living adjustment of 5.9% in 2022. This adjustment is effective December 1<sup>st</sup> and will appear in the compensation benefits paid December 31, 2021. The cost-of-living adjustment is determined by the Bureau of Labor Statistics' Consumer Price Index and matches the one for military retirees and social security recipients.

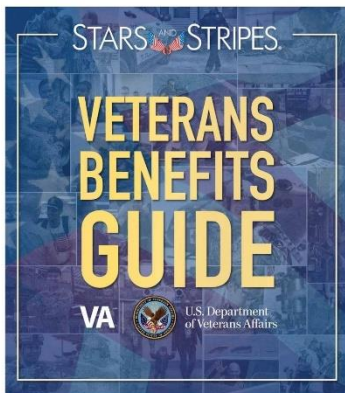
### Debt Collection & Debt Relief

On October 1, 2021, [VA resumed over-payment notifications](#) for both new benefit debts and debts that had been deferred during the COVID pandemic from April 6, 2020 through September 30, 2021. Collections on medical co-payments also resumed October 1, 2021.

*Why It Matters:* Given the length of time these debts have been deferred, veterans may be surprised to begin receiving these notifications and will need advice and assistance on how to resolve overpayment and debt related issues.

Here are several resources –

- [Slides and a video](#) of VA's Debt Management Center presentation at the TDVS's 2020 Fall Training Conference are available to support you.
- Benefit Debt – [Debt Management Center](#) at 1-800-827-0648
- Medical Care and Pharmacy Services Copayment Debt – VA's Health Resource Center at 1-866-400-1238



### New Veterans Benefits Guide

VA recently released a new [Veterans Benefits Guide](#) in partnership with Stars and Stripes.

### Quality Review Insights

#### Lack of Veteran or Claimant Signature

TDVS's quality review program frequently identifies forms that lack a veteran, claimant, or VSO signature. COVID restrictions in many communities have caused us to modify how we obtain client signatures. As a reminder, with limited exceptions, VA has not relaxed or modified the signature requirements for compensation and pension claims and appeals.

The only exceptions are for certain Vocational Rehabilitation forms such as VBA-28-1900 and VBA-28-8832 and the VA Form 10182 (Decision Review Request: Board Appeal). On these forms, the typed name of the veteran or claimant will suffice for a signature.

All other forms continue to follow existing guidance that requires a wet, electronic, or digital signature and is outlined in more detail below.

#### What forms can a representative sign?

Representatives have the authority to prepare and submit certain types of claims and other claim-related documents on behalf of the represented individual without that individual's signature. These include but are not limited to –

- Intent to file (ITF) a claim
- Supplemental Claim
- Request for higher-level review
- Legacy Substantive Appeal

A POA may prepare, but may not sign, documents that require the claimant's signature, such as (this list is not all forms...but rather several examples) –

- Original Applications for Veterans Benefits
- VA Form 21-8940, Veteran's Application for Increased Compensation Based on Unemployability
- VA Form 21-4142, Authorization to Disclose Information to the Department of Veterans Affairs (VA)
- VA Form 21-0538, Mandatory Status of Dependents

Please review [VA's M-21 Adjudication Procedures Manual](#) – I.3.A.4.b. – for additional information.

### **Practice Like a Pro**

#### VA Schedule for Rating Disabilities Update

Many of you already use VA's Schedule for Rating Disabilities (VASRD) to provide counsel to veterans on expected disability levels or whether their symptoms warrant seeking an increase.

As highlighted in [Benefits Bulletin 21-2](#), VA has been in a multi-year process of updating all 15 body systems of the VASRD to reflect modern medicine more accurately. Earlier this year,

the musculoskeletal system was updated. Here is a [summary of the most significant changes](#) that became effective February 7, 2021. NVLSP provided in-depth training on these changes to the musculoskeletal system at this year's annual conference. On September 30, 2021, VA updated two additional body systems – the cardiovascular and genitourinary systems.

TDVS recommends using the electronic CFR or eCFR -- <https://www.ecfr.gov/> -- which is updated nearly daily, to ensure you are accessing the current VASRD and providing the best advice possible to veterans and their family members.

## **Advocate Spotlight**

### Disagreeing with a VA Decision

How veterans “disagree” with a VA decision can make a significant difference. The Appeals Modernization Act of 2017 or AMA changed VA’s claims and appeal processes and took effect February 19, 2019. Most significantly, the AMA allows veterans to choose from three decision review options (Supplemental Claim, Higher-Level Review, Board Appeal). Here’s a [quick reference](#) on AMA and how to choose a lane as well as TDVS’s [guidance on which form to use](#).

Recently, the Davidson County Service Office assisted a veteran in disagreeing with a VA decision using two methods of disagreement – Supplemental Claim and Higher-Level Review (HLR). The HLR was adjudicated in three days and resulted in the veteran’s disability compensation being adjusted from 10% to 100% P&T.

Veteran had originally filed for service connection for lung cancer, without the assistance of a service officer, due to asbestos exposure. The veteran served in the Coast Guard as a Fireman Apprentice and worked in a shipyard dismantling and reconfiguring ships. VA conceded asbestos exposure but denied the claim in July 2021. Shortly after the denial, the Davidson County Service Office stepped in and recommended veteran attempt to obtain a positive nexus opinion from his treating VA doctor. The veteran’s treating VA doctor provided a positive nexus opinion and veteran filed a supplemental claim on August 24, 2021. On September 8, 2021, VA denied the supplemental claim reiterating original reason for denial. On September 21, 2021, veteran filed a higher-level review. On September 24, 2021 VA granted service connection and awarded 100% P&T along with a retroactive award of over \$25,000.

Amazing advocacy and a great example of how selecting the right option – or multiple options -- of disagreeing with a VA decision can not only make a difference, but make it happen fast!



*If you have an example of teamwork between Veteran service offices/organizations across the state making a difference in the lives of Tennessee veterans, please share with your Regional Director for possible inclusion in an upcoming "Advocate Spotlight."*

*TDVS Benefits Bulletins Can Be Found on the [VSO Tools](#) Portion of TDVS's Website*