



NORTH DAKOTA VETERANS AFFAIRS

*"A man who is good enough to shed his blood for his country
is good enough to be given a fair deal later."™*

What are the ways to get
Service Connected



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- **Direct**
- **Secondary**
- **Presumptive**
- **VocRehab**
- **1151**



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Direct Service Connection

- **In-service event, injury or illness**
- **Chronicity**
 - "Chronic vs acute"
- **Current Diagnosis**
 - Nexus



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STEP #1: FILE THE 21-0966 (the "ITF")

- You have 1 year to develop the claim
 - Get a diagnosis
 - Get the etiology
 - Medical Opinion
 - "At least as likely as not"
 - Nexus
 - Lay statements
 - Pictures
 - Studies/Literature
 - BVA Cases
 - "PubMed"



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Nexus Letter

EXAMPLE OF A NEXUS LETTER

*Note: This is **not** a form to fill out. Please re-type the following
information onto your professional letterhead/stationery.
Thank you for your time and consideration.*

DATE _____

Reference: *(Veteran's name)* _____

SS# _____ VA File # _____

To Whom It May Concern,

I am Dr. _____, I am board certified to practice in my specialty. My credentials are included. I have been asked to write a statement in support of the aforementioned veteran's claim.

I have personally reviewed his medical history - *(name the documents)*. I have also reviewed and have noted the circumstances and events of his military service, which include *(name the event or events you claim are the cause of the condition)*, in the years _____ *(list dates of service)* while in military service.

Mr. _____ is a patient under my care since *(enter Date)*. His diagnosis is _____ *(name the condition)*.

I am familiar with his history and have examined Mr. _____ often while he has been under my care. *(specify lab work, x-rays, etc.)*

Mr. _____ has no other known risk factors that may have precipitated his current condition.

After a review of the pertinent records it is my professional opinion that it is *(choose a likelihood from below)* that Mr. _____'s condition is a direct result of his *(event in service)* as due to his military service. *(Choose one degree of likelihood with which you can concur - "at least as likely as not", "more than likely", or "highly likely")*

In my personal experience and in the medical literature it is known *(give a rationale)*.

Signed,

Dr. _____
(List your credentials and contact information)

Please understand that the VA often uses credentials to assign probative value to the nexus letter. While the nexus letter must be brief as possible, it should be as detailed and complete as the circumstances dictate.



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STEP #2: FORMALIZE THE CLAIM

- Use the 21-526EZ or 21-526b
 - Attach all required standardized forms
 - EX: 21-0781 for PTSD
 - EX: 21-0781a for MST
 - Attach other supporting evidence
 - Lay statements
 - Pictures
 - Studies/Literature
 - BVA Cases
 - "PubMed"
- Your goal is to make it as fully developed as possible!!
- Your goal should be to obtain a C & P exam!!



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EXAMPLE:

- Veteran was discharged in 1996
- During his service he noticed dark veins on his legs, but never sought treatment
- In 2004 he was diagnosed with "Chronic Venous Insufficiency"
- He knew his first symptoms were during his service, and manifested as visible symptoms witnessed by his mother and spouse. He wrote a personal statement and obtained lay statements from them.
- Obtained a specialist's opinion asserting that the progression of the condition was likely exacerbated by the rigors of his service.

DO YOU THINK HE WAS SERVICE-CONNECTED?



DEPARTMENT OF VETERANS AFFAIRS
ST. PAUL REGIONAL OFFICE
BISHOP HENRY WHIPPLE FEDERAL BUILDING
1 FEDERAL DRIVE
ST. PAUL, MN 55111

[REDACTED]

VA File Number
[REDACTED]

Represented By:
DISABLED AMERICAN VETERANS

Rating Decision
October 31, 2013

INTRODUCTION

The records reflect that you are a Veteran of the Peacetime and Gulf War Era. You served in the Army from November 1, 1988 to March 19, 1996. You filed a new claim for benefits that was received on June 5, 2013. Based on a review of the evidence listed below, we have made the following decision on your claim.

DECISION

Service connection for chronic venous insufficiency, bilateral lower extremities is denied.

EVIDENCE

- DD Form 214, Certificate of Release or Discharge from Active Duty, from November 1, 1988 through March 19, 1996
- Service Treatment Records, from July 25, 1988 through February 6, 1996
- Rating Decision, and all evidence contained therein, dated October 12, 2012
- VA Form 21-526EZ Application for Disability Compensation and Related Compensation Benefits, dated June 5, 2013

- Lay Statement from your mother received June 10, 2013
- VA Form 21-4138, Statement in Support of Claim, received June 10, 2013
- Hogue Vein Institute Treatment Records dated from November 29, 2004 through June 3, 2013, received June 10, 2013
- Lay statement, from spouse, received June 5, 2013
- Disability Benefit Questionnaire (DBQ), Artery and Vein Conditions, submitted by you, dated June 5, 2013
- 5103 Waiver Notice Letter dated July 15, 2013
- Additional 5103 Duty to Assist Notice Letter dated August 26, 2013
- VCAA Notice Response, received September 16, 2013
- VA Form 21-4138, Statement in Support of Claim, received September 16, 2013
- VA Form 21-4138, Statement in Support of Claim, received September 19, 2013
- Treatment reports, Bay Pines VA Health Care Center, received September 19, 2013

REASONS FOR DECISION

Service connection for chronic venous insufficiency, bilateral lower extremities.

Service connection may be granted for any disease or injury that is considered to have resulted in a period of war or service. To establish direct service connection for a claimed disorder, objective evidence must show a diagnosis of a current disability that is related to a disease or injury incurred in or aggravated during "active" service; or that manifested itself to a compensable degree within one year from the date of discharge.

The evidence does not show an event, disease or injury in service. Your service treatment records do not contain complaints, treatment, or diagnosis for this condition. There was no continuity of symptoms from service to the present.

You submitted a lay statements to support your claim from your mother, your spouse, and yourself. A credible lay statement may establish what was seen, heard, and directly experienced. The lay evidence was found not to be competent and sufficient in this case to establish a link or nexus between your medical condition and military service or to establish that such a link has been found by a medical professional.

While some evidence supports your claim, your disability benefits questionnaire (DBQ) and your lay statements, we found other medical evidence from your service treatment records more persuasive because it is supported by your relevant military and/or personal history. We acknowledge receipt of your private medical opinion from your submitted disability benefits questionnaire, Hogue treatment reports, and Bay Pine treatment reports, which diagnosed your current disability and discusses the symptoms of your medical condition. However, no continuity

is found and the examiner on the DBQ states you were diagnosed with this disability in 2009, many years after your release from discharge.

Service connection for chronic venous insufficiency, bilateral lower extremities (claimed as varicose veins) is denied since this condition neither occurred in nor was caused by service.

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 web site, www.va.gov.



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STEP #3: AGREE, RECONSIDERATION OR NOD (Notice of Disagreement)

- What evidence does the veteran need to provide?
- How quickly can the evidence be obtained?
 - 30 days or less = RECONSIDERATION
- De Novo Review: When you believe another set of eyes may grant the claim with the evidence already provided
 - File 21-0958
 - Request DRO hearing OR
 - Request BVA hearing



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EXAMPLE Appeal:

- Veteran's POA bypassed the DRO; thinking that the claim would not be granted locally
- Filed an appeal with the BVA
 - Provided the veteran's mother's credentials. She was in the medical field and so her lay statement should be given more weight.
 - Provided a clear timeline to avoid conflicting "date evidence." He felt the veteran's positive evidence outweighed the VA's lack of evidence

DO YOU THINK HE WON HIS APPEAL?



DEPARTMENT OF VETERANS AFFAIRS
Department of Veterans Affairs
Appeals Management Center

[REDACTED]

VA File Number

[REDACTED]

Represented By:
AMERICAN LEGION

Rating Decision
08/11/2016

INTRODUCTION

The records reflect that you are a veteran of the Gulf War Era and Peacetime. You served in the Army from November 1, 1988 to March 19, 1996. The Board of Veterans Appeals remanded the case to our office on January 28, 2016. Based on a review of the evidence listed below, we have made the following decision(s) on your claim.

DECISION

1. Service connection for Chronic venous insufficiency left lower extremity is granted with an evaluation of 10 percent effective June 5, 2013.
2. Service connection for Chronic venous insufficiency right lower extremity is granted with an evaluation of 10 percent effective June 5, 2013.

EVIDENCE

- Outpatient treatment records from the VAMC Fargo covering the period October 2004 to January 2016
- VA examination completed April 5, 2016

REASONS FOR DECISION

1. Service connection for Chronic venous insufficiency left lower extremity.

Service connection for Chronic venous insufficiency left lower extremity has been established as directly related to military service.

A review of the claims folder reflects lay statements from you and family members attesting to the disability. The outpatient treatment records denote treatment and complaint for the venous insufficiency of both legs. The VA examiner (of the only exam of record) noted the diagnosis of chronic venous insufficiency / bilateral varicose veins with symptoms of throbbing, swelling, induration, aching, compression stockings used with some relief, elevation provides some relief, aching and fatigue after prolonged standing or walking, brachial index not performed and the examiner opined that it is at least as likely as not the disabilities were incurred in active military service providing a rationale in support of the opinion.

Based on the medical evidence an evaluation of 10 percent is assigned from June 5, 2013 the date of receipt of your claim for benefits.

We have assigned a 10 percent evaluation for your Chronic venous insufficiency left lower extremity based on:

- Aching in leg after prolonged standing or walking
- Fatigue in leg after prolonged standing or walking
- Symptoms relieved by compression hosiery
- Symptoms relieved by elevation of extremity

A higher evaluation of 20 percent is not warranted for varicose veins unless the evidence shows:

- Persistent edema, incompletely relieved by elevation of extremity, with or without beginning stasis pigmentation or eczema.

This is considered a full grant of benefits sought on appeal for this issue.

2. Service connection for Chronic venous insufficiency right lower extremity.

Service connection for Chronic venous insufficiency right lower extremity has been established as directly related to military service.

A review of the claims folder reflects lay statements from you and family members attesting to the disability. The outpatient treatment records denote treatment and complaint for the venous insufficiency of both legs. The VA examiner (of the only exam of record) noted the diagnosis of chronic venous insufficiency / bilateral varicose veins with symptoms of throbbing, swelling, induration, aching, compression stockings used with some relief, elevation provides some relief, aching and fatigue after prolonged standing or walking, brachial index not performed and the examiner opined that it is at least as likely as not the disabilities were incurred in active military service providing a rationale in support of the opinion.

Based on the medical evidence an evaluation of 10 percent is assigned from June 5, 2013 the date of receipt of your claim for benefits.

We have assigned a 10 percent evaluation for your Chronic venous insufficiency right lower extremity based on:

- Aching in leg after prolonged standing or walking
- Fatigue in leg after prolonged standing or walking
- Symptoms relieved by compression hosiery
- Symptoms relieved by elevation of extremity

A higher evaluation of 20 percent is not warranted for varicose veins unless the evidence shows:

- Persistent edema, incompletely relieved by elevation of extremity, with or without beginning stasis pigmentation or eczema.

This is considered a full grant of benefits sought on appeal for this issue.

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Secondary Service Connection

- **Condition related to an already service-connected disability**
- [Wolff's Law](#)
- **Chronicity**
 - "Chronic vs acute"
- **Current Diagnosis**
 - Nexus



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STEP #1: FILE THE 21-0966 (the "ITF")

→ You have 1 year to develop the claim

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 - BVA Cases
 - "PubMed"

ASK THE TOUGH QUESTIONS!!!



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STEP #2: File the 21-526EZ or 21-526b

→ Attach other supporting evidence

- MEDICAL OPINION
- Lay statements
- Pictures
- Studies/Literature
 - BVA Cases
 - "PubMed"

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Reasonable Doubt





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Individual Unemployability

Individual Unemployability is a part of VA's disability compensation program that allows VA to pay certain Veterans disability compensation at the 100% rate, even though VA has not rated their service-connected disabilities at the total level.



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Eligibility Requirements:

- You must be a Veteran
- You must have at least one service connected disability rated at least at 60%, OR
- Two or more service connected disabilities at least one disability ratable at 40 percent or more with a combined rating of 70 percent or more.
- You must be unable to maintain substantially gainful employment as a result of service-connected disabilities (marginal employment, such as odd jobs, is not considered substantial gainful employment for VA purposes).



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Evidence Requirements:

- Evidence of at least one service connected disability AND
- That the service-connected disability or disabilities are sufficient, without regard to other factors, to prevent performing the mental and/or physical tasks required to get or keep substantially gainful employment
AND
- That one disability is ratable at 60 percent or more, OR
- If more than one disability exists, one disability is ratable at 40 percent or more with a combined rating of 70 percent or more.

Under exceptional circumstances this benefit may be granted with a lower disability rating than noted above provided the evidence shows the service-connected disability or disabilities present such an exceptional or unusual disability picture, due to such factors as marked interference with employment or frequent periods of hospitalization, that applying the normal disability requirements is impractical.



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Filing I/U:

Forms Needed:

[21-8940](#)

[21-4192](#)

Department of Veterans Affairs
VETERAN'S APPLICATION FOR INCREASED COMPENSATION BASED ON UNEMPLOYABILITY
OMB Approval No. 1505-0044
 Regulatory Burden: 43 minutes
 Signature Date: 9/29/2017

NOTE: This is a claim for compensation benefits based on unemployment. When you complete this form you are claiming total disability because of a service-connected disability (or) which has been provided you after securing or following any substantially granted occupation. Answer all questions fully and accurately.

Social Security Benefits: Individuals who have a disability and meet medical criteria may qualify for Social Security of Equivalent Security Income disability benefits. If you need like more information about Social Security benefits, contact your nearest Social Security Administration (SSA) office. You can locate the address of the nearest SSA office in your state through the report under "United States Government, Social Security Administration" or call 1-800-772-1213 (hearing impaired TDD line 1-800-325-0778). You may also contact SSA by Internet at <http://www.ssa.gov>.

1. NAME OF VETERAN (FIRST, MIDDLE INITIAL, LAST)
 2. VETERAN'S SOCIAL SECURITY NUMBER
 3. VA FILE NUMBER
 4. DATE OF BIRTH: Month Day Year
 5. ADDRESS OF VETERAN (No. and street or rural road, city or P.O. Box and ZIP Code)
 Apt./Apt. Number City State/Province Country ZIP Code/Postal Code
 6. EMAIL ADDRESS (if applicable)

SECTION I - DISABILITY AND MEDICAL TREATMENT

7. WHY SERVICE CONNECTED DISABILITY PREVENTS YOU FROM SECURING OR FOLLOWING ANY SUBSTANTIALLY GAINFUL OCCUPATION?
 8. DATE(S) OF TREATMENT BY DOCTOR(S)
 9. HAVE YOU BEEN UNDER A DOCTOR'S CARE AND/OR HOSPITALIZED WITHIN THE PAST 12 MONTHS?
 YES NO
 10. NAME AND ADDRESS OF DOCTOR(S)
 11. NAME AND ADDRESS OF HOSPITAL
 12. DATE(S) OF HOSPITALIZATION
 FROM TO

SECTION II - EMPLOYMENT STATEMENT

13. DATE YOUR DISABILITY AFFECTED FULL-TIME EMPLOYMENT
 14. DATE YOU LAST WORKED FULL-TIME
 15. DATE YOU BECAME TOO DISABLED TO WORK
 16A. WHAT IS THE MOST YOU EVER EARNED IN ONE YEAR?
 16B. WHAT YEAR?
 16C. OCCUPATION DURING THAT YEAR

17. LIST ALL YOUR EMPLOYMENT INCLUDING SELF-EMPLOYMENT FOR THE LAST FIVE YEARS YOU WORKED

A. NAME AND ADDRESS OF EMPLOYER (OR UNIT)	B. TYPE OF WORK	C. HOURS PER WEEK	D. DATES OF EMPLOYMENT FROM TO	E. TIME LOST FROM ILLNESS	F. HIGHEST GROSS EARNINGS PER MONTH

18. IF YOU ARE CURRENTLY SERVING IN THE RESERVE OR NATIONAL GUARD, DOES YOUR SERVICE CONNECTED DISABILITY PREVENT YOU FROM PERFORMING YOUR MILITARY DUTY?
 YES NO

19. INDICATE YOUR TOTAL EARNED INCOME FOR THE PAST 12 MONTHS \$
 20. IF PRESENTLY EMPLOYED, INDICATE YOUR CURRENT MONTHLY EARNED INCOME \$

21. DID YOU LEAVE YOUR LAST JOBS/SELF-EMPLOYMENT BECAUSE OF YOUR DISABILITY?
 YES NO (If "Yes," give the date in Item 23. "Month")

22. DO YOU RECEIVE/EXPECT TO RECEIVE DISABILITY RETIREMENT BENEFITS?
 YES NO

23. DO YOU RECEIVE/EXPECT TO RECEIVE WORKERS COMPENSATION BENEFIT?
 YES NO

VA FORM 21-8940 SUPPLEMENTED VA FORM 21-8943, JUL 2016, WHICH WILL NOT BE USED Page 1

Department of Veterans Affairs
REQUEST FOR EMPLOYMENT INFORMATION IN CONNECTION WITH CLAIM FOR DISABILITY BENEFITS
OMB Control No. 2900-0068
 Regulatory Burden: 15 minutes
 Expiration Date: 11/30/2017

SECTION I - IDENTIFICATION INFORMATION (To be completed by VA)

1. NAME AND ADDRESS OF EMPLOYER OF VETERAN (Complete)
 2. ADDRESS (Complete)
 RETURN TO

INSTRUCTIONS: The veteran named in Item 3 has filed a claim for veterans disability benefits and has stated that he/she was recently employed by you. In order to arrive at a fair decision in this case, we need the information requested below. Please complete Sections II, III and IV and return to the office at the above address. Please be sure to sign and date this form on Items 21A and 21B. For free help in completing this form, call VA toll-free at 1-800-827-1000. If you use a Telecommunications Device for the Deaf (TDD), the Federal number is 211.

3. FIRST NAME, MIDDLE INITIAL, LAST NAME OF VETERAN
 4. SOCIAL SECURITY NO.
 5. VA FILE NO.

SECTION II - EMPLOYMENT INFORMATION (To be completed by employer)

6. BEGINNING DATE OF EMPLOYMENT
 Month Day Year
 7. ENDING DATE OF EMPLOYMENT
 Month Day Year

8. AMOUNT EARNED DURING 12 MONTHS PRECEDING LAST DATE OF EMPLOYMENT (BEFORE DEDUCTIONS) \$
 9. TIME LOST DURING 12 MONTHS PRECEDING LAST DATE OF EMPLOYMENT (DUE TO DISABILITY)

10. TYPE OF WORK PERFORMED
 11. NUMBER OF HOURS WORKED
 A. DAILY
 B. WEEKLY

12. CONCESSIONS (IF ANY) MADE TO EMPLOYEE BY REASON OF AGE OR DISABILITY

13A. IF VETERAN IS NOT WORKING, STATE REASON FOR TERMINATION OF EMPLOYMENT: (IF RETIRED ON DISABILITY, PLEASE SPECIFY)
 13B. DATE LAST WORKED
 Month Day Year

14A. DATE OF LAST PAYMENT
 Month Day Year
 14B. GROSS AMOUNT OF LAST PAYMENT \$

15A. WAS LUMP SUM PAYMENT MADE?
 YES NO (If "Yes," complete Items 15B and 15C)
 15B. GROSS AMOUNT PAID \$
 15C. DATE PAID
 Month Day Year

VA FORM 21-4192 SUPPLEMENTED VA FORM 21-4193, DEC 2010, WHICH WILL NOT BE USED

Questions?



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Feel free to contact me with any questions!

Mike Conklin
701-451-4642
Marvin.Conklin@va.gov