

# The Appeals Process

You are here

We are here  
to help you  
achieve  
your goals



# OBJECTIVES

- Define and identify an appeal
- Identify important appeal abbreviation/acronyms and terminology
- Identify appeal time limits
- Identify a valid NOD
- Distinguish between the DRO review and the traditional review
- Identify the stages in the appeal process
- Demonstrate through practical exercise an understanding of the appeal process

# Acronyms/Abbreviations/Terms

## **Appeal**

A timely notice of disagreement in writing and, after a Statement of the Case (SOC) has been furnished, a timely filed Substantive Appeal.

## **Decision Review Officer (DRO)**

A senior technical expert whose duties include reviewing and deciding appeal cases; holding informal conferences and personal hearings with claimants.

DROs conduct *de novo* reviews of claims on Appeal.

## **De novo Review**

A new and complete review of the appealed issue with no deference given to the decision being appealed. It leads to a new decision, which may be a full grant, partial grant, CUE, or no change.

## **Contested Claims**

Claims where two parties have an interest in the outcome. A grant on one claim requires denial of the other claim and one claimant contest the award to the other claimant. These cases typically involve apportionment, attorney fees, claims based on relationship, or two people claiming entitlement to the same benefit.

# Notice of Disagreement (NOD)

## Notice of Disagreement (NOD)

A written communication from a claimant or his or her representative expressing dissatisfaction/disagreement with a decision that specifically names the issues or issues with which the claimant disagrees.

- Must be received within one year of the date of notification; 60 Days on a contested claim
- Must be both Valid and Timely

## Two most common types of appeals are:

- Denial of Service Connection (involves disability compensation)
- Disagreement with an assigned evaluation (directly related to the amount of monthly disability compensation entitlement)

*For Compensation claims decided on or after March 24, 2015, VA Form 21-0958 must be used to file an NOD when the form is provided with the decision letter.*

# Stages in the Appeals Process

## STAGE 1

Appellant files a timely notice of disagreement (NOD) in response to a Department of Veteran Affairs (VA) decision regarding benefits claimed. (M21-1, MR Part I, 5B)

### **Receipt of an Incomplete VA Form 21-0958 -**

When a claimant is notified that an incomplete form was received, the claimant has to provide a completed form within:

- 60 days from the date of the request or
- The remainder of the 1 year from the mailing of the notice of decision of the agency of original jurisdiction, whichever is later.

## STAGE 2

NOD is accepted if no further clarification is needed. If multiple issues are on the rating decision, the appellant must specify which issue or issues are being appealed – or state that all the issues are being appealed.

VACOLS record is established to control and track an appeal

*Note: if appellant does not elect an appeals review option with their NOD, a letter is sent giving them the option to elect either the DRO review process or the traditional appeal process*

# Stages in the Appeals Process

## **STAGE 3**

Appellant elects either the DRO review process, or traditional appellate review process without DRO review.

If appellant does not elect the DRO review process on the NOD or within 60 days of VA notification of the right to this process, the appeal proceeds in accordance with the traditional appellate review process.

## **STAGE 4**

Based on the appellant's choice one of the following review processes is conducted:

Traditional appellate review process without a DRO review by:

-VSR

-RVSR

DRO review process by:

-DRO

# Stages in the Appeals Process

## STAGE 5

After reviewing the claims file determine if a *change is warranted* in the decision.

If yes on all issues (VSR, RVSR, DRO):

- Issues a new rating decision. Include a complete statement of facts in the new decision with any discussion needed to clearly show the basis for the allowance.

If yes on only some issues (VSR, RVSR, DRO):

- issue a new rating decision.
- issue a SOC confirming the decision, including those issues that remain denied or granted in part, and explaining the reasons for the decision
- send VA Form 9, Appeal to Board of Veterans' Appeals, to the appellant

## STAGE 6

The appellant returns VA Form 9 or a Substantive Appeal in lieu of VA Form 9 within the applicable time frame, and may elect local hearing, before a DRO at the RO of jurisdiction, or one of the following types of Board of Veterans' Appeals (BVA) hearings:

- Travel board
- Videoconference, or
- In person in Washington DC

Note: Additional evidence received which requires a Supplemental Statement of the Case (SSOC). VA must provide the claimant an additional 60 day period in which to file a substantive appeal from the date of the SSOC.

# Stages in the Appeals Process

## **STAGE 7**

VSR, RVSR, or DRO sends a SSOC to the appellant if:

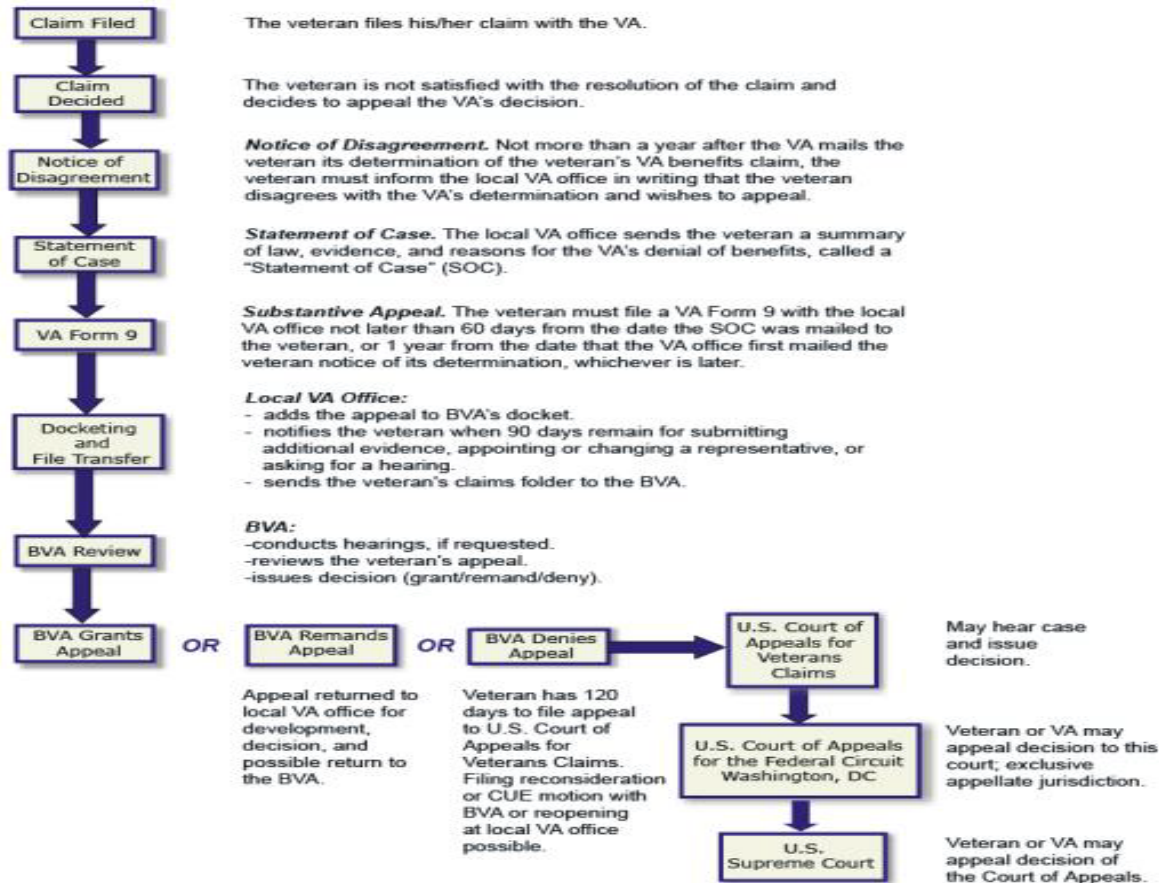
- VA receives additional evidence material to one or more issues on appeal, and
- The appeal cannot be granted in full

SSOC presents the appellant with changes or additions to the SOC when:

- Additional evidence is received, unless duplicate, not relevant, or results in a total grant of issue on appeal.
- A change in the regulations has occurred
- A Remand has been issued
- A personal hearing
- A material error was made in the SOC



# Flow Chart



Questions?

