

**VA**



U.S. Department  
of Veterans Affairs



Board of  
Veterans'  
Appeals

**How Do I Appeal?**

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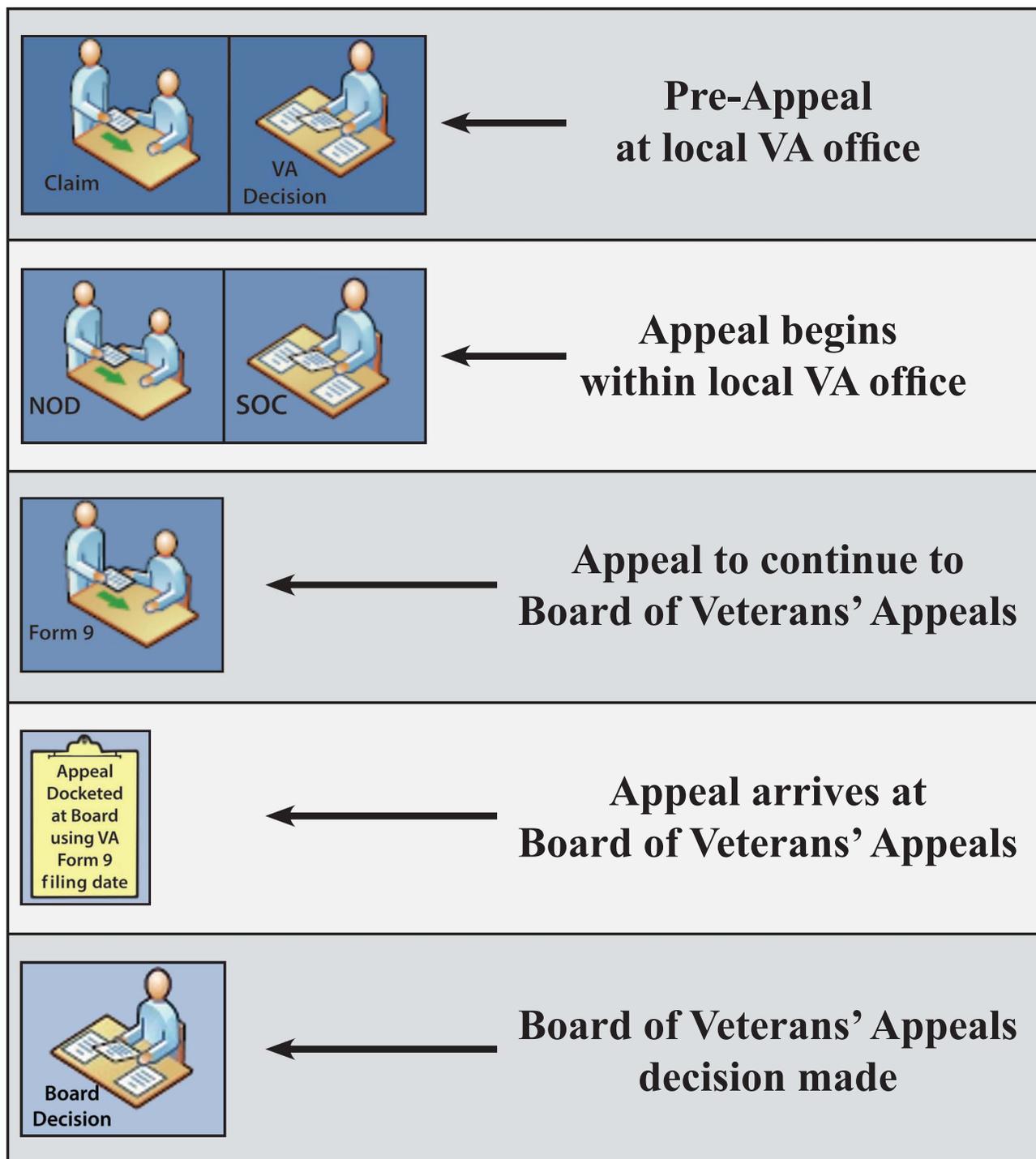
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# Obtaining Help with Your Appeal

You can receive help with your claim and/or appeal.

- ❖ Help is available from national and state Veterans Service Organizations, attorneys, or agents recognized by VA.
- ❖ You can find more information about obtaining a representative, to include a list of VA authorized representatives, at <http://www.va.gov/vso>.

# Overview of the VA Appeals Process



# Overview of the VA Appeals Process *(continued)*

You may appeal any or all issues in a decision by a local VA office or VA medical center.

- ❖ A VA appeal is separated into two main stages:  
(1) within the local VA office, and (2) continuing to the Board of Veterans' Appeals in Washington, DC.
- ❖ The two most common reasons people appeal are:  
(1) VA denied you benefits for a disability you believe is related to service; or (2) you believe that your disability is more severe than VA rated it.

# Steps in the VA Appeals Process

## PRE-APPEAL

- ❖ To apply for benefits, file a claim with a local VA office or medical facility, either on paper or electronically through eBenefits, at <https://www.ebenefits.va.gov>.
- ❖ The local VA office makes a decision on your claim and mails it to you.

# Steps in the VA Appeals Process *(continued)*

## APPEAL: Step 1

- ❖ If you disagree with all or part of the decision, file a **Notice of Disagreement (NOD)**.
- ❖ **WHEN DO I FILE?** You have one year from the date of the letter notifying you of the decision on your claim.
- ❖ **WHAT DO I FILE?** In most cases, a Notice of Disagreement is filed on VA Form 21-0958, available at <http://www.vba.va.gov/pubs/forms/VBA-21-0958-ARE.pdf>.
- ❖ **WHERE DO I FILE?** Follow the instructions included with the letter notifying you of the decision on your claim.

# Steps in the VA Appeals Process *(continued)*

## APPEAL: Step 2

### Steps in the VA Appeals Process

- ❖ Once you file a Notice of Disagreement, your local VA office will review your file again, prepare a written explanation of why your claim was denied, known as the **Statement of the Case (SOC)**, and mail it to you.
- ❖ If you submit any evidence or request that VA obtain any evidence for you after receiving your Statement of the Case, you may receive a **Supplemental Statement of the Case** after your local VA office reviews that evidence.
- ❖ **WHAT DO I FILE?** Nothing. This step is performed by your local VA office.

# Steps in the VA Appeals Process *(continued)*

## APPEAL: Step 3

- ❖ If you disagree with the Statement of the Case and would like to appeal to the Board of Veterans' Appeals, file a **Substantive Appeal**. At this time, you can also choose whether you want an optional hearing before a Veterans Law Judge.
- ❖ **WHEN DO I FILE?** You have **one year** from the date of the letter notifying you of the original decision on your claim or **60 days** from the date of the letter accompanying the Statement of the Case, **whichever provides you with more time**.
- ❖ **WHAT DO I FILE?** The Substantive Appeal is filed on VA Form 9, available at <http://www.va.gov/vaforms/va/pdf/VA9.pdf>.
- ❖ **WHERE DO I FILE?** Follow the instructions included with your Statement of the Case.

# Steps in the VA Appeals Process *(continued)*

## APPEAL: Optional Step 4

- ❖ If you selected an optional in-person or video teleconference hearing with a Veterans Law Judge at the Board of Veterans' Appeals, the hearing will be scheduled at your local VA office (or in Washington, DC, if you selected that location).
- ❖ Please see pages 9 and 10 for more information about hearings.

## APPEAL: Step 5

- ❖ After you file a Substantive Appeal, the local VA office will transfer your appeal to the Board of Veterans' Appeals, where a **decision** will be prepared and mailed to you.
- ❖ **WHAT DO I FILE?** Nothing. This step is performed by the Board of Veterans' Appeals.

# Hearings

- ❖ You may request an **optional** personal hearing before an adjudicator who works at your local VA office.
- ❖ You may also request an **optional** hearing before a Veterans Law Judge who works at the Board of Veterans' Appeals.
- ❖ Due to scheduling demands for Board personnel, requesting an optional hearing will add significant delay to issuance of a Board decision.

## **There are two types of hearings before the Board of Veterans' Appeals:**

- (1) In-person – you will offer testimony on your appeal before a Veterans Law Judge in Washington, DC, or at your local VA office.
- (2) Video teleconference – you will offer testimony on your appeal at your local VA office to a Veterans Law Judge in Washington, DC, by live video teleconference. **\*\*This type of hearing is quicker to schedule.\*\***

# What to Expect at a Hearing Before a Veterans Law Judge

- ❖ **Hearings are informal.** While the Veterans Law Judge may ask some clarifying questions, he or she will not cross examine you.
- ❖ **You will be testifying under oath.** Before beginning the hearing, the Veterans Law Judge will ask you to swear or affirm that you will tell the truth in your testimony.
- ❖ **You will offer testimony.** If you have a representative, he or she will usually ask you questions relevant to your appeal. If not, you should tell the Veterans Law Judge why you believe you deserve the benefits you are seeking.
- ❖ **You may submit more evidence.** If you want, you may submit more evidence for your appeal at the hearing, which will be placed in your file.
- ❖ **The Veterans Law Judge does not make a decision at the hearing.** After the hearing, a transcript of the hearing is created and associated with your file and will be reviewed by the Veterans Law Judge together with all other evidence in deciding your appeal.

# The Board of Veterans' Appeals and Beyond

- ❖ After reviewing and considering every piece of evidence in your file, a Veterans Law Judge will make a decision on each issue of your appeal.
- ❖ The decision will **grant**, **remand**, or **deny** each issue.

## GRANT

If an issue is granted, you will receive a decision from your local VA office implementing the decision by the Board of Veterans' Appeals.

## REMAND

- ❖ Remand means that one or more issues in your appeal is sent back to a local VA office to perform further evidence collection or for other procedural reasons. Your appeal will return to the Board of Veterans' Appeals when the local VA office complies with the Board's remand instructions.
- ❖ A remand usually occurs when the Board of Veterans' Appeals finds that it does not have enough information about an issue in your appeal to make a decision (for example, additional medical records and/or a new VA examination are needed).

# The Board of Veterans' Appeals and Beyond *(continued)*

## DENY

If an issue is denied and you want to pursue further action, you may:

- ❖ File a **new claim** with your local VA office;
- ❖ File a **motion** asking the Board of Veterans' Appeals to reconsider your appeal (there is no time limit to file this motion);
- ❖ File a **motion** asking the Board of Veterans' Appeals to review your appeal again because there was clear and unmistakable (obvious) error in its decision (there is no time limit to file this motion); and/or
- ❖ File a **Notice of Appeal** with the United States Court of Appeals for Veterans Claims.
  - ◆ **WHEN DO I FILE?** You have 120 days from the date of the decision by the Board of Veterans' Appeals (stamped on the first page of the decision).
  - ◆ **WHAT DO I FILE?** You must file a written Notice of Appeal, available at [http://www.uscourts.cavc.gov/forms\\_fees.php](http://www.uscourts.cavc.gov/forms_fees.php).
  - ◆ **WHERE DO I FILE?** Send your Notice of Appeal to the Clerk of the Court of Appeals for Veterans Claims. The filing mailing address, e-mail, and fax number are available at <http://www.uscourts.cavc.gov/appeal.php>.

# Checking the Status of Your Appeal

**Before** you receive a letter stating that your appeal has been transferred to the Board of Veterans' Appeals, call **(800) 827-1000** to check the status of your claim or appeal. You may also be able to check the status of your claim or appeal on eBenefits, at <https://www.ebenefits.va.gov>.

**After** you receive a letter stating that your appeal has been transferred to the Board of Veterans' Appeals, call **(202) 632-4623** to check the status of your appeal.

# Department of Veterans Affairs

**Board of Veterans' Appeals (BVA)**  
**Washington, DC 20420**

**[www.va.gov](http://www.va.gov)**

## **How Do I Appeal?**

VA PAMPHLET 01-15-02B  
MAY 2015

SUPERSEDES VA PAMPHLET 01-02-02A, APR 2002,  
WHICH WILL NOT BE USED