

PTSD DISABILITY CLAIMS

An Essential Guide for U.S. Veterans



GANG & ASSOCIATES LLC

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for U.S. Veterans**

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Media and Reviewer Contact: maggie@elitelawyermanagement.com

Copy Editor: Rylann Watts

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Gang & Associates

About This Guide

Prominent former New York City litigator, author, and founding partner of one of the nation's leading veterans' disability law firms, Eric A. Gang, has litigated more than 1,000 appeals at the U.S. Court of Appeals for Veterans Claims, winning some of the largest VA awards on record. With a long-standing reputation as an aggressive and tenacious veteran's advocate, Eric is renowned for his calculated approach to complex VA claims and appeals involving PTSD, traumatic brain injury, and other psychiatric illnesses. Eric's diligence, legal acumen, and understanding of the interrelationship between psychological and physical illness continues to help U.S. military veterans maximize the benefits they deserve.

If you or a family member is experiencing post-traumatic stress disorder (PTSD) due to service in the U.S. Army, Air Force, Marine Corps, Navy, Coast Guard, or Reserves, you have the right to collect benefits from the Department of Veterans Affairs (VA). To maximize these benefits, it is important to (1) recognize your rights as a veteran with PTSD, (2) familiarize yourself with the VA PTSD claims and appeals process, and (3) understand your options under the law.

A quick and easy reference for:

- Legal rights of U.S. Military Veterans with PTSD
- Basics of filing a VA PTSD disability claim
- Steps to preparing a compelling PTSD disability claim
- How to maximize your VA PTSD disability rating

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How Common Is PTSD In U.S. Military Veterans?

Post-traumatic stress disorder (PTSD) is a diagnosable mental health disorder that impacts millions of people across the country. Roughly 6% of the United States population, or approximately 15 million adults, are diagnosed with PTSD each year.

PTSD can impact anyone, but certain risk factors can make a person more likely to develop PTSD at some point in life. For example, studies indicate that women are at higher risk of developing PTSD, with about 8% of women developing PTSD compared to 4% of men. Military veterans, both combat and non-combat, are also at higher risk for developing PTSD due to experiencing a traumatic event or events during service.

PTSD and the Veteran Population

Not every military servicemember will develop PTSD. However, military service increases one's risk for developing PTSD. Various factors contribute to the development of PTSD in the veteran population, including age, sex, status in the military, type of service, and the timeframe of service.

The service era influences the number of veterans who develop PTSD. For example:

- It is estimated that 30% of Vietnam veterans are diagnosed with PTSD.
- About 12% of Gulf War Veterans are diagnosed with PTSD each year.
- Between 11% and 20% of Veterans in Operations Iraqi Freedom and Enduring Freedom are diagnosed with PTSD each year.

Veterans are exposed to unique risk factors that civilian populations are not likely to experience. For example, losing fellow service members to injury or death, witnessing the injury or death of a comrade, experiencing sudden gunfire or explosions, being exposed to physical or sexual harassment or abuse on base, and frequent relocation to unfamiliar and dangerous surroundings can impact a veteran's development of PTSD – during peacetime, training, or at war.

Sexual harassment and abuse are a leading contributor to PTSD in both men and women and is unfortunately common in military service. Veterans who receive VA healthcare report that:

- 38% of men and 55% of women have experienced sexual harassment while in the military.
- 25 out of 100 women report having experienced sexual trauma while in the military.
- 1 out of 100 men reports having experienced sexual trauma while in the military.

These numbers represent only those who report the incidents – which is rare. Military service members do not often report cases of sexual harassment or abuse due to fear of retaliation, lack of faith in the disciplinary system, or fear of the stigma attached to such experiences.

What Are the Symptoms of PTSD?

PTSD is the side effect of a biological survival mechanism. When the brain is exposed to a shocking, dangerous, or otherwise traumatic event,

it is “rewired” to prepare us should the event occur again. We become hypervigilant, hypersensitive to sight and sound, hyperaware of our surroundings, guarded in the presence of others. Depending on the nature of the traumatic event, our brain adapts to be able to detect and respond to that event at any moment, should it happen again.

But because the brain is “rewired,” the effect is permanent. Without treatment to reverse the hypervigilant state, the patient can have tremendous difficulty performing daily tasks, maintaining employment, and forming and maintaining relationships.

Symptoms of PTSD typically begin within three months after the traumatic event; however, symptoms may not show up for an entire year after the trauma. Symptoms of PTSD can last for several months or years, depending on the individual. PTSD that lasts longer than one year is considered chronic PTSD.

To be diagnosed with PTSD, symptoms must be severe enough to impact a person’s ability to do work and/or maintain healthy relationships, and symptoms must be present for longer than 30 days.

As previously stated, the symptoms of PTSD can present differently depending on the individual. However, many symptoms are common in veterans who may be experiencing PTSD.

Physical symptoms are usually mild to moderate in nature and may be short-term or chronic. They can include:

- Headache

- Dizziness
- Stomachache
- Sweating
- Decreased libido
- Sexual difficulty
- Circumlocutory speech
- Flattened affect
- Spatial disorientation
- Memory loss

Mental PTSD symptoms are often more severe and longer-lasting than physical symptoms. Mental PTSD symptoms can be divided into five categories:

Re-experiencing/Intrusive symptoms

- Experiencing involuntary and distressing memories of the event
- Distressing dreams that regularly occur
- Involuntary flashbacks or disassociative reactions that feel as if the person is re-experiencing the event
- Prolonged and intense psychological distress when reminded of the event by people, places, and things
- Intense physiological reactions when reminded of the event

Avoidance symptoms

- Efforts to avoid distressing thoughts, feelings, and memories about the event and things that remind a person of the event
- Efforts to avoid external stimuli associated with the traumatic event, such as objects, places, people, situations, and conversations that remind a person of the event

Arousal And Reactivity symptoms

- Poor judgment, self-destructive, and reckless behavior.
- Physical and verbal anger outbursts towards others or objects that are unprovoked.
- Hypervigilance means an elevated state of constantly assessing the surrounding environment for potential threats.
- Difficulty with focus and concentration.
- Exaggerated startle reaction.
- Sleep problems include difficulty falling or staying asleep.

Cognition symptoms

- Difficulty or inability to remember key features or aspects of the traumatic event
- Chronic and severe negative beliefs about oneself, the world, or other people. For example, “the world is dangerous” or “I am bad”
- Chronic and distorted thoughts about the cause or outcome of the traumatic event lead to self-blame or blaming others

Mood symptoms

- Chronic and intense feelings of anger, shame, guilt, fear, or horror
- Anhedonia or a significant loss in activities that were once enjoyable
- Feeling isolated, detached, or estranged from other people
- Chronic inability to experience positive emotions such as joy and happiness

Effective PTSD Treatments

Scientists consider the brain as the “final frontier” of medicine. Because we know so very little about the brain, it has taken decades to discover effective treatments for PTSD. In most cases, the treatments we have today that are effective in reducing PTSD symptoms have been discovered by accident—the doctor was treating a patient for some other condition, and the patient (who happened to also be suffering from PTSD) showed significant reduction of PTSD symptoms. The treatment was then assigned an indication to treat PTSD.

Fortunately, veterans today have access to numerous forms of therapies and medications that can reduce and minimize the debilitating symptoms associated with PTSD. With the help of doctors and mental health specialists, a treatment will be tailored to each veteran’s specific needs, symptoms, and treatment goals. There is no one size fits all approach in terms of treatment services, and interventions are constantly changing and evolving as a veteran works through the recovery process.

Common treatment approaches include a combination of psychotherapy and medication. The type of medication and therapy, the dosage of medication, and the duration of treatment are all dependent on individual variables.

PTSD Medications

Certain psychotropic medications have been proven effective in treating PTSD symptoms in veterans and the general population. Serotonin-norepinephrine reuptake inhibitors (SNRIs) and selective serotonin

reuptake inhibitors (SSRIs) are the two most common types of medication that are used in the treatment of PTSD.

For most people, symptoms start to improve within 4-6 weeks after they start the medication. Studies demonstrate that medication (SSRIs or SNRIs) can improve symptoms and functioning. In fact, for every 100 people who receive SSRIs or SNRIs for diagnosed PTSD, 42 of them no longer have PTSD after three months.

The four most common SNRI/SSRIs prescribed for PTSD include:

- Fluoxetine, also known as Prozac
- Paroxetine, also known as Paxil
- Sertraline, also known as Zoloft
- Venlafaxine, also known as Effexor

PTSD Therapeutic Approaches

Common evidence-based therapeutic approaches that are specifically designed to target trauma include prolonged exposure therapy, cognitive processing therapy, and eye movement desensitization and reprocessing therapy. All these modalities are considered trauma-focused psychotherapies.

- **Cognitive Behavioral Therapy (CBT):** Works to identify the veteran's PTSD symptoms and the triggers that produce those symptoms, then reshapes the thought processes, feelings, and behaviors that surround those triggers to improve function.
- **Cognitive Processing Therapy (CPT):** A type of CBT that focuses on challenging and altering unproductive beliefs about the traumatic event.

- **Prolonged Exposure Therapy:** A type of CBT that gradually exposes the veteran to PTSD triggers, including memories, sounds, sights, feelings, or environmental situations, effectively rewiring the brain to recognize these cues as safe and approachable.
- **Narrative Exposure Therapy (NET):** A form of therapy that seeks to clarify the narrative of the veteran's life, allowing the veteran to gain perspective on the traumatic event and how it tangibly affects their life today.
- **Cognitive Therapy (CT):** A type of CBT that focuses on altering the unproductive memories surrounding the traumatic event, effectively interrupting any debilitating thought or behavior patterns.
- **Eye Movement Desensitization and Reprocessing (EMDR) Therapy:** A form of therapy that applies physical eye movements (bilateral stimulation) while the veteran is focused on a traumatic memory, ultimately desensitizing the patient to the memory and the emotion associated with it.
- **Brief Eclectic Psychotherapy:** A combination of CBT and psychodynamics that focuses on altering unproductive emotions like guilt, shame, or resignation and nurtures the relationship between the therapist and the veteran.

What PTSD Benefits Are Available?

The Department of Veterans Affairs (VA) offers treatment, health care benefits, and financial disability compensation for veterans who have developed PTSD. To qualify for VA PTSD disability benefits, the veteran

must be able to prove all three of the following elements:

1. A doctor has formally diagnosed the veteran with PTSD, and
2. A stressor or traumatic event occurred during military service, and
3. The stressor or trauma that occurred caused the PTSD diagnosis.

There is also the requirement in certain circumstances for the PTSD stressor to be corroborated. This process has been made easier by provisions in the law for combat veterans when the stressor is related to combat, and for fear of hostile or terrorist activity in a combat theater in accordance with the 2010 amendments to the VA regulations that liberalized the stressor corroboration requirements.

As determined by the VA, a stressor or traumatic event may include any of the following:

- Suffering a sexual violation or sexual trauma or
- Suffering a personal trauma, or serious injury or
- Being threatened with injury, death, or sexual assault

The PTSD Rating Scale

Just as with any disability or health condition that qualifies for VA disability compensation, the severity of the PTSD determines the veteran's level of compensation. Your doctor uses a PTSD rating scale to define the severity of the PTSD for the purposes of VA benefits. Where you fall on this scale will determine the benefit amount you are eligible to receive.

A person can be diagnosed with PTSD and experience mild to severe symptoms as well as minimal to severe impairment in functioning. The

DSM-5 outlines criteria to assess the level of impairment and severity of PTSD. The rating scale exists on a continuum from 0-100 and is broken down into different categories. The higher the number, the higher the severity of symptoms and impairment in functioning.

The PTSD rating scale occurs as follows:

- **100-** This range represents the most severe PTSD symptoms and represents total social and occupational impairment. A veteran within this rating may experience chronic delusions and hallucinations, and gross impairment in thought processing and communication. They can also experience severe memory loss, cannot maintain personal hygiene, may be at risk of harming themselves or others and other grossly inappropriate behaviors, and be disoriented to time or place. A veteran who meets these criteria would have difficulties maintaining employment and would not be able to effectively live on their own.
- **70-** In this range, there is social and occupational impairment and deficits in school, work, relationships, cognition, judgment, and behavior. Suicidal thoughts, obsessional rituals, illogical, obscure, circumlocutory speech, chronic panic attacks, depression, irritability and violence, and difficulties building and maintaining healthy relationships. Neglect of personal appearance and hygiene can also occur, and individuals in this range will struggle with being able to live independently without assistance.
- **50-** Social and occupational problems occur, including reduced productivity and work reliability. Symptoms include flattened affect, panic attacks occurring more than once a week,

stereotyped speech, difficulty understanding, and processing complex tasks, long-term and short-term memory impairment, poor judgment, low mood and motivation levels, and problems building and sustaining work social relationships occur.

- **30-** In this range, social and occupational dysfunction is present; however, it isn't chronic; impairment includes occasional declines in occupational functioning, although overall work performance and ability to maintain activities of daily living are satisfactory. Mild memory impairment, occasional anxiety and depression, and infrequent panic attacks and suspiciousness can occur. Ability to converse, maintain adequate self-care, and maintain stable employment is possible.
- **10-** Social and occupational impairment is mild; symptoms are managed effectively by medication, and work deficiencies occur only due to a temporary increase in stress.
- **0-** A person previously met criteria for PTSD; however, symptoms have been resolved to the point where they do not impair a Veteran's social or occupational functioning, nor do they require continuous medication.

The VA uses the above scale to help determine a veteran's disability rating and the amount of disability compensation. Again, the higher the rating, the more severe the impairment, and the more benefits the veteran qualifies for. Keep in mind that VA is proposing changes to the way it [rates mental disorders](#). Regardless, the same principles will apply: that is, the more severe and debilitating the symptoms are, the higher the rating will be.

Maximizing Your PTSD Benefits

Most veterans who experience PTSD also develop other disorders, both physical and mental. To ensure you receive the maximum benefits you deserve, you seek to service connect all health conditions that you have been diagnosed with.

And while not all of them may appear to be service connected, you might be surprised at the numerous associations between PTSD and other mental and physical health conditions. If you obtain service connection for PTSD, you can use that service connection to obtain VA benefits for the other associated conditions.

For example, say a veteran receives PTSD benefits. And ten years after he left the military, he is diagnosed with autoimmune disease. There is nothing he can pinpoint during service that caused his autoimmune disease, so he doesn't think he's eligible for service connection and disability benefits.

However, he very well could be eligible, if he can show the VA that his autoimmune disease is secondary to his service-connected PTSD.

Numerous physical and mental disorders may be associated with PTSD. Researchers have found a direct correlation between PTSD and poor physical health, including:

- Autoimmune disease
- Hypertension (high blood pressure)
- Heart disease

- Type 2 Diabetes
- Immune dysfunction
- Hormonal dysfunction
- Thyroid problems

Take autoimmune disease. The VA highlighted a study comprised of more than 666,000 veterans of Iraq and Afghanistan who had PTSD and autoimmune disorders. These autoimmune disorders included:

- Rheumatoid arthritis
- Multiple sclerosis
- Lupus
- Inflammation of the thyroid
- Inflammatory bowel disease

The study's authors found a two-fold increase in the risk among those with PTSD compared to those who had no psychiatric diagnoses. The reasons for this linkage are not fully known. Suggestions have been made that include hormonal changes brought on by PTSD or a decline in health habits that are common in those with PTSD, factors such as smoking, drinking alcohol, poor diet, inactivity, or impaired sleep.

Studies show that 80% of people with PTSD also suffer from at least one additional mental health disorder. Substance use disorders (SUDs), the chronic abuse of alcohol or drugs, are common among veterans with PTSD. A study conducted among individuals with lifetime PTSD found that 46.4% met the criteria for a SUD. A study conducted during the 1980s found that 74% of Vietnam Veterans with PTSD also met the criteria for a SUD.

Researchers continue to observe the existence of a growing body of literature that highlights the increased risk for other chronic physical diseases in those veterans that suffer from PTSD and other psychiatric disorders.

The relationship may be explained through lifestyle factors. For instance, veterans with severe PTSD tend to turn to comfort foods as a way of coping and self-medicating. These foods may lead to obesity, which in turn can lead to type 2 diabetes and cardiovascular disease.

Secondary Service Connection

In trying to prove a claim for service connection for a health condition secondary to PTSD, you must rely on the concept of an association, NOT a causative link.

The standard of proof to prove service connection for an autoimmune disease secondary to PTSD is very low. One merely needs to prove that the condition as likely as not caused by the PTSD. This means that it must only reach the level of 50 percent probability. A strong association and correlation are enough to reach the 50 percent probability threshold in terms of establishing proof of a causative link between PTSD and another health condition.

Although PTSD may not directly cause autoimmune conditions, PTSD does cause certain lifestyle and health impairments that, in turn, can cause a myriad of health problems, such as autoimmune disease and heart disease. Therefore, if you are service connected for PTSD, you can achieve secondary service connection for any health condition that you can prove to be associated with PTSD, maximizing your VA benefits.

Establishing A Medical Nexus

If you are seeking secondary service connection for a health condition associated with PTSD, you will need evidence showing a high level of association between PTSD and your health condition. Obviously, medical literature and articles from respected, peer-reviewed journals are good forms of evidence, but VA is unlikely to grant a claim based upon journal articles that you obtain and submit on your own.

It's better to have a medical expert write an opinion showing an association by citing evidence from the scientific literature. This is typically referred to as a medical nexus letter. The medical expert will draw a correlation between PTSD and your health condition and provide an expert opinion on the association.

It is important to note that not all doctors can write medical nexus letters for VA claims. Medical nexus letters include much more than just physical exam results. The writer of the medical nexus letter must:

- Affirm a current diagnosis with PTSD
- Review the veteran's VA claims file
- Review the relevant evidence for service-connection (medical and personnel documents from before and after service)
- Reach a conclusion to a degree of "at least as likely as not"
- Provide a detailed rationale for their conclusion, i.e., support their conclusion with reasons that relate to the facts
- Address any negative factors that weigh against the claim

In addition, as noted, the VA requires that a veteran's nexus letter state that service "as least as likely as not" caused the disability. In other

words, there is a 50% chance the disability came from service. The doctor supports this statement by providing evidence linking or establishing a nexus between the event in service and the current disability. Of course, if the doctor writing the VA nexus letter can state his opinion to a higher degree of medical probability, such as within a reasonable degree of medical certainty, then this is even better.

All these requirements mean you must choose a medical nexus doctor who is familiar with the VA system and claims process. In addition, you don't want to use a VA doctor. VA C&P exam doctors work for the VA. Most VA doctors are going to do whatever they can to show that no evidence exists to support service connection or an increased rating.

Claims involving health conditions secondary to PTSD are challenging. Veterans must obtain a private doctor to write an objective, unbiased, informed nexus letter that includes an extensive opinion explaining why your disability is related to service.

Doctors that write nexus letters don't exactly advertise it. They can be hard to find. One of the best ways [to get a medical nexus opinion letter](#) is to go through a veterans' disability attorney. These attorneys have connections to and relationships with medical practitioners who regularly work as professional expert witnesses in VA claims cases.

The problem with this is that a veteran who is disabled is probably not working or is not earning what he or she could - which means they don't want to be spending any money trying to get a nexus letter. But veterans can find a medical expert to write a professional and persuasive nexus letter without having to pay upfront, if they hire the right veterans' disability law

firm. Veterans should steer away from so-called “claims consultants” that charge a percentage of back pay in exchange for a medical nexus letter.

Certain veterans’ law firms will advance the cost of your medical expert (plus legal fees) out of their own pocket, usually on the condition that these costs will be paid back once you win your claim. By obtaining a lawyer and veterans’ law firm on contingency, the veteran can leverage the resources of the law firm to obtain the right expert and potentially win the claim.

How To Prove Eligibility for VA PTSD Benefits

Recognizing what constitutes PTSD and familiarizing yourself with your legal rights is helpful in deciding whether to pursue VA disability benefits for PTSD and other secondary conditions. To qualify for VA PTSD disability benefits, you will need to have evidence showing:

- (1) Diagnosis with PTSD
- (2) A traumatic in-service event
- (3) The traumatic in-service event caused your PTSD diagnosis

To prove these three elements, you will need to follow the steps listed below.

STEP 1: OBTAIN A PTSD DIAGNOSIS

Make an appointment for an examination with your doctor. You can use a VA doctor or a private practitioner, if they are a licensed doctor.

Your physician will conduct an examination to determine whether your symptoms confirm you are suffering from PTSD.

PTSD Diagnostic Criteria

According to the Diagnostic Statistical Manual of Mental Disorders 5th Edition (DSM-5-TR), which outlines the diagnostic criteria used to diagnose mental health disorders, a PTSD diagnosis applies only to patients who have had exposure to serious injury, threat of death, or sexual violence in one or more of the following situations:

- By directly experiencing the event themselves
- By witnessing the event happen to someone else in real-time
- By learning of a traumatic event happening to a close friend or family member (In the event of the threatened or actual death of a friend or family member, the event must have been accidental, violent, or both)
- By chronic and repeated exposure to horrific and aversive details of the event, such as collecting human remains, listening repeatedly, or incidents of child abuse

Furthermore, the symptoms must be present for at least one month, must not be attributed to the physiological impact of drugs, alcohol, or another underlying medical condition, and must cause significant dysfunction in a person's social, occupational, psychological, or family functioning.

To be diagnosed with PTSD, a person must have experienced the following symptoms (see above for the explanations of these PTSD symptom categories).

- A minimum of one re-experiencing/intrusive symptom
- At least one avoidance symptom
- A minimum of two arousal and reactivity symptoms
- At least two cognition and mood symptoms

These symptoms must have appeared at some point after the traumatic event (not before) and may or may not worsen over time.

STEP 2: GATHER EVIDENCE OF SERVICE CONNECTION

In addition to obtaining a diagnosis of PTSD, you will need to gather evidence that shows your PTSD is the result of a traumatic experience in military service.

A traumatic experience or “PTSD stressor” includes witnessing, experiencing, learning of, or being exposed to a serious injury, threat of death, or sexual violence (see step 1). For each traumatic event, you will need to describe:

- What happened
- Your unit assignment
- Date of the event
- Location of the event
- Your dates of assignment
- Full names and unit assignments of anyone injured or killed during the event
- Any medals you received due to the event

The dates should be as specific as possible but can fall in a 60-day range. If

you don't know the exact date, try to remember what was going on around the time of the event (holidays, news headlines, weather conditions) and use that to narrow your date. While you may not remember the names and unit assignments of fallen comrades, write as much as you can recall. The more information, the better.

Various types of documentation can serve as evidence showing you experienced a traumatic event during service, whether that event was recorded or not. Evidence may include:

- Military records showing dates and locations of service
- Military records showing dates and times of combat events
- Military records showing any medical treatment for injury or sexual trauma
- Military records showing STD/HIV tests or pregnancy tests (suggesting military sexual trauma)
- Military records showing disciplinary action for alcohol/drug use, behavioral problems, and AWOL (these are associated with PTSD)
- Military records showing a sudden request for transfer (suggesting military sexual trauma)
- Witness statements from fellow service members reporting sudden behavioral changes during service
- Witness statements from fellow service members reporting sudden drug or alcohol abuse during service
- Witness statements from fellow service members reporting sudden isolation or aggression during service
- Witness statements from fellow service members reporting sudden isolation or aggression during service

- Witness statements from fellow service members reporting that you confided in them about sexual harassment or sexual trauma

For veterans who obtained a medal or award like a Combat Action Award or Purple Heart, proving service-connection for diagnosed PTSD is straightforward. But in many cases, the exact stressful event(s) that caused your PTSD is harder to pinpoint, often because it was never reported or happened while off duty.

If your military documents do not show evidence of trauma, your list of stressful incidents must be very detailed. Typically, VA will reject PTSD service connection because the veteran could not verify a specific stressor or is not officially diagnosed with PTSD. But there is a wide array of evidence you can use to pinpoint the date and location of a specific stressor.

For example, if your military records show sudden behavioral changes or disciplinary measures that were once out of character, you can use these records to help determine which stressor may have been likely to trigger the development of PTSD.

You can also submit a buddy letter testifying to any traumatic events that are not documented in military records. The statements included in the buddy letter may be able to be verified through other means of investigation.

STEP 3: FILE A CLAIM FOR PTSD DISABILITY BENEFITS

VA form 21-0781 is used by veterans who have been diagnosed with posttraumatic stress disorder (PTSD) and are seeking PTSD benefits or services.

You can get a copy of VA form 21-0781 online, pick one up at your regional VA office, or call the VA to request one at 800-827-1000.

In part II of form 21-0781, you will need to list the stressful events that you feel caused your PTSD diagnosis using the evidence listed in step 2. You can attach pages if needed.

Finally, you need to sign and submit form 21-0781. There are three ways to submit your form:

1. Mail the completed form to the VA regional office,
2. Take the completed form to your VA regional office in person, or
3. Fax the completed form to your VA regional office.

If you need help filling out VA form 21-0781 or gathering evidence of PTSD service connection, a veterans' disability attorney can assist you.

Can You Dispute the VA Decision?

Yes! As a veterans' disability lawyer, I have helped numerous veterans fight for previously-denied VA compensation for PTSD – and win. Typically, the Department of Veterans' Affairs denies PTSD claims for two reasons:

1. Absence of a verified stressor, or
2. Absence of a PTSD diagnosis

Denials based on the absence of a verified stressor are common with non-

combat VA claims when the veteran doesn't have combat theater service or other exposure to direct combat stressors. Since many events during service are never reported, non-combat veterans can have a hard time verifying that a stressful incident took place.

If the veteran can verify a stressor, the VA may then try to deny the claim for the absence of a bona fide PTSD diagnosis. They may argue that the veteran is "malingering," and doesn't have all the symptoms required for true PTSD diagnosis. The VA may also claim a veteran is malingering when he or she is seeking a higher disability rating, saying the veteran is exaggerating their PTSD symptoms.

Even if a veteran has an official diagnosis of PTSD, the VA may try to say a veteran doesn't have true PTSD because he or she lacks consistent mental health treatment during the time between discharge from service and their official diagnosis. They assume if you aren't being treated, you aren't sick.

Of course, this is not the case. Reports show that over 70% of people with mental illness never receive treatment. In fact, few mental health patients are treated. Many take years to admit they are struggling. Others simply don't have access to treatment. This treatment gap illustrates the difference between "true prevalence" and "treated prevalence," – concepts the VA tends to confuse.

True prevalence means the condition exists, but healthcare professionals don't document it because veterans aren't reporting problems. When the VA sees the absence of treatment, it wrongly assumes the absence of the illness altogether. They fail to understand the concept of true prevalence,

and they fail to consider the data regarding mental health treatment rates versus mental illness rates.

There is extensive research that explains why we have such a significant treatment gap and the principal factors behind it. For example, people suffering from mental illness don't want to admit they have a problem due to the negative stigma around mental illness. Indeed, a very negative stigma surrounds mental health therapy in the military population. Many military personnel consider seeking therapy as weak and contrary to their ubiquitous machismo attitude.

Some patients even have extreme paranoia and distrust of mental health professionals – often as part of the mental illness itself. Yet the VA universally fails to recognize that it is quite common for veterans with PTSD to go years without formal treatment. The VA wrongly concluded that if they aren't getting treatment, they don't have PTSD.

Filing An Appeal

Do not give up if your PTSD claim is denied. Unfortunately, many claims of PTSD service connection are not won without an appeal. If it didn't work the first time around, you have three appeal lane options: a Higher-Level Review, a Supplemental Claim, or a Direct Appeal to the Board. If you choose the Direct Appeal to the Board, there are three-lane options at the Board level. They are:

1. Direct Review – A review of the claim as it is, with no additional evidence and no hearing. This is the fastest option (you should obtain a review decision within 1 year).
2. Evidence Submission – A review of the claim along with additional

evidence to support your argument. You have 90 days to submit your new evidence after you submit form 10182.

3. Board Hearing – A review of the claim along with additional evidence (if you want but not required) and a chance to speak with the Judge about your disagreement (either in person or virtually).

If you feel the VA simply erred in its decision, you can request a direct review using the same evidence you presented before. But if you are concerned that your claim was not compelling enough to secure service-connection, you will need to submit new evidence for review.

Once you decide to proceed with an appeal to the Board, you will need to fill out VA Form 10182 to request a review of the decision on your claim.

You can get a copy of VA form 10182 online, pick one up at your regional VA office, or call the VA to request one at 800-827-1000.

In general, Form 10182 must be submitted within 1 year of the date the VA mailed your decision notice. Since you cannot request two appeals consecutively for the same claim, it is important to fill out this form properly the first time.

In Part II of the Decision Review Request form, you'll need to select which type of review you want: direct review, evidence submission, or Board hearing.

In Part III, you need to list the issues in the VA decision that you disagree with, along with the date of that decision. You can list just one or several

issues. For example, you may disagree with your effective date, service connection, or disability evaluation. List it and add the date of that decision.

Note that while you don't have to appeal every single issue you list to the Board, you cannot add an issue later. Only the issues listed on form 10182 will be considered at your appeal.

Finally, you need to sign and submit form 10182. There are three ways to submit your form:

1. Mail the completed form to the Board of Veterans' Appeals at PO Box 27063, Washington, D.C. 20038, or
2. Take the completed form to your VA regional office in person, or
3. Fax the completed form to 844-678-8979.

If you need help filling out VA Form 10182 or preparing evidence for a decision review, a veterans' disability attorney can assist you.

Submitting New Evidence (Supplemental Claim)

If you choose the new evidence submission option, you will need to provide additional "new and relevant" evidence to support your claim (additional to what you provided in the original claim that was denied). The VA will review the new evidence and decide whether it changes their decision.

The evidence in your supplemental claim must be both new and relevant. This means (1) the VA did not have this evidence for its prior decision, and (2) the evidence is related to the issue being disputed.

For example, if you feel your PTSD disability rating should be 70%, not 30%, you will need to provide additional evidence (medical records, physician opinion, or witness statements) that you have not given the VA before and that shows your level of difficulty maintaining gainful employment or performing certain daily tasks.

To submit new evidence, you will need to fill out VA form 20-0995. You can get a copy of [VA form 20-0995 online](#), pick one up at your [regional VA office](#), or call the VA at 800-827-1000 to request a form.

In general, Form 20-0995 can be submitted at any time. There is no deadline. But VA recommends that you submit it within 1 year of the date the VA mailed your decision notice.

In Part II of the Supplemental Claim form, you'll need to list each issue in your VA decision that you want to have reviewed in your supplemental claim. The easiest way to do this is to look at your decision notices, read the list of decided issues, and select the issues that you want reviewed AND have additional evidence for. Then list the date of the decision notice for each issue.

In Part III, you need to supply your new and relevant evidence.

1. If you have this evidence with you, write your name and file number on each page and attach it to form 20-0995.
2. If you want VA to gather any non-federal records for you (like non-VA medical records or other private provider records), you will need to print, fill out, and attach the proper authorization forms to form 20-0995. The authorization forms you'll need

should be listed on your decision letter.

3. If you want VA to gather any federal records (like VA medical centers, federal agencies, and VA treatment facilities), you will need to list the names, locations, and dates of those federal records in Part III of Form 20-0995.

Finally, you need to sign and submit form 20-0995. There are three ways to submit your form:

1. Mail the completed form to the VA regional office that handles the type of benefit you selected in Part I, line 12, or
2. Take the completed form to your VA regional office in person, or
3. Fax the completed form to your VA regional office.

VA aims to deliver a decision on your supplemental claim within 5 months (averaging around 125 days).

If you need help filling out VA form 20-0995 or preparing additional evidence, a veterans' disability attorney can assist you.

Helpful Resources for Veterans with PTSD

The National Suicide Prevention Lifeline

A 24/7, 365-day-a-year emergency mental health hotline

- Online chat
- 800-273-8255

The Substance Abuse and Mental Health Services

Administration (SAMHSA)

A 24/7, 365-day-a-year free, confidential help with treatment referral and information services for individuals and families with mental health and/or substance use disorders.

- **800-662-4357**

National Call Center for Homeless Veterans

A 24/7, 365-day-a-year free service for veterans who are homeless or at risk of becoming homeless.

- Online chat
- **877-424-3838**

Veterans Crisis Line

A 24/7, 365-day-a-year free service that connects veterans in crisis with VA responders through a confidential online chat, text, or toll-free hotline.

- Call **1-800-273-8255**, then **Press 1**
- [Online chat](#)
- Text **838255**

Veterans Disability Attorney

If you have further questions about filing or appealing a PTSD disability benefits claim, your rights as a veteran, or other concerns, please call Eric Gang at 888.878.9350 or visit www.VeteransDisabilityInfo.com. We are happy to help and work diligently to protect your privacy.

Source Material

1. How Common is PTSD in Adults? - PTSD: National Center for PTSD (va.gov)
2. NIMH » Post-Traumatic Stress Disorder (nih.gov)
3. How Common is PTSD in Veterans? - PTSD: National Center for PTSD (va.gov)
4. Exhibit 1.3-4, DSM-5 Diagnostic Criteria for PTSD - Trauma-Informed Care in Behavioral Health Services - NCBI Bookshelf (nih.gov)
5. VA Disability Compensation For PTSD | Veterans Affairs
6. VA proposes updates to disability rating schedules for respiratory, auditory, and mental disorders body systems - Vantage Point
7. PTSD Treatment Basics - PTSD: National Center for PTSD (va.gov)
8. Medications for PTSD - PTSD: National Center for PTSD (va.gov)
9. PTSD Treatment Decision Aid: SSRI/SNRI (va.gov)
10. Co-Occurring Conditions - PTSD: National Center for PTSD (va.gov)
11. Treatment of Co-Occurring PTSD and Substance Use Disorder in VA - PTSD: National Center for PTSD
12. PTSD and Physical Health - PTSD: National Center for PTSD (va.gov)

More Questions About Your PTSD Disability Claim?

It is essential that veterans understand their options to receive the support necessary to help manage and treat symptoms of PTSD. Benefits and compensation ARE available.

If you have further questions about filing a PTSD disability benefits claim, your rights as a veteran, or other concerns, please call Eric Gang at 888.878.9350 or visit www.VeteransDisabilityInfo.com. We are happy to help and work diligently to protect your privacy.

ERIC A. GANG
U.S. VETERANS DISABILITY LAWYER
VETERANS AUTHOR & ADVOCATE

Washington, D.C.

888.878.9350

www.VeteransDisabilityInfo.com

ABOUT GANG & ASSOCIATES, LLC

Maximizing VA Disability Benefits for U.S. Military Veterans Nationwide

Gang & Associates is a leading U.S. veterans' disability law firm specializing in highly complex VA disability claims and appeals. Founded by prominent former New York City litigator and author Eric Gang, the firm has litigated over 1,000 appeals at the U.S. Court of Appeals for Veterans Claims, achieving some of the largest VA awards on record.

Where most disability law firms assign paralegals or legal assistants to handle veterans' cases, our veteran clients receive one-on-one guidance from dedicated, highly qualified veterans' benefits attorneys, optimizing VA benefits for a broad spectrum of claims and appeals. Our team of experienced professionals includes skilled veterans, world-class medical experts, trained mental health professionals, a former chief judge of the Board of Veterans Appeals, an in-house medical doctor, and attorneys hand-picked from the nation's premiere VA benefits firms.

VETERANS DISABILITY INFO

- Traumatic Brain Injury (TBI)
- Toxin Exposure (Agent Orange, Camp Lejeune, Burn Pits, Red Hill)
- Total Disability Individual Unemployability (TDIU)
- Substance Abuse Disorder
- Sleep Disorders and Sleep Apnea
- Skin Conditions
- Post-Traumatic Stress Disorder (PTSD)
- Military Sexual Trauma (MST)
- Medical Nexus Letters
- Heart Disease and Cardiovascular
- Hearing Loss and Meniere's Disease
- Gastrointestinal and Digestive
- Diabetes, Endocrine and Metabolic
- Chronic Pain
- Cause Of Death and Dependency and Indemnity Compensation (DIC)
- Cancers

If you or a loved one has been denied VA disability benefits or is seeking to file a claim, our team of veterans disability attorneys will work diligently to achieve the best possible outcome for your case.

Attorney Eric Gang's veterans' disability law firm represents veterans and family members located across the United States. If you are filing a claim or appeal for VA disability benefits, call us now for a free, confidential, no obligation discussion of your case.

GANG & ASSOCIATES, LLC
EXPERIENCED AND AGGRESSIVE
VETERANS DISABILITY LAWYERS

PO Box 96503

Dept. # 34938

Washington, D.C. 20090-6503

(888) 878-9350

info@veteransdisabilityinfo.com