



NATIONAL GUARD, RESERVE MEMBERS, AND VETERANS

Mississippi VA

Understanding VA Claims and
Other Valuable Information for
Active Duty, Guard & Reserve
Members

Principles of Service Connection

Principles of Service Connection

Service connection connotes many factors but basically it means that the facts, shown by evidence, establish that a particular injury or disease resulting in disability was incurred coincident with service in the Armed Forces, or if preexisting such service, was aggravated therein. This may be accomplished by affirmatively showing inception or aggravation during service or through the application of statutory presumptions.

Current, diagnosed disability

Injury or Disease, in-service or caused by service

Medical nexus between current condition and service

VA has a Duty to Assist with
Obtaining Records and a Medical
Exam or Opinion.

Principles of Service Connection

Types of Service Connection

Direct

Disability results from an injury or disease incurred in line of duty during active service.

Aggravated

Pre-existing condition was made worse by military service.

Presumptive

Disability presumed to have been caused by service based on location or circumstances of service, or by military service itself.

Secondary

Disability proximately due to, or the result of, a service-connected condition – the s/c condition directly caused the claimed disability.

Principles of Service Connection

Example of Direct Service Connection

- Veteran's STRs show a single complaint of left knee strain in service with a negative separation examination. The Veteran's claim states, "I hurt my left knee when I fell off of a truck in Afghanistan, and it has hurt ever since that time."
- March 2014 x-rays from the Veteran's orthopedist show traumatic arthritis of the left knee and his private doctor provides a medical opinion stating that the Veteran's current left knee arthritis is at least as likely as not related to the Veteran's injury and left knee strain diagnosed in service.
- Veteran would be entitled to service connection for traumatic arthritis of the left knee
 - ✓ Event/disease/injury in service (diagnosed with a left knee strain/reported left knee injury)
 - ✓ Current medical diagnosis (03/14 x-rays show arthritis, left knee)
 - ✓ Link between the two (a medical opinion provided by a private doctor)

Principles of Service Connection

Example of Secondary Service Connection

- Veteran was diagnosed with degenerative joint disease, **left knee** on active duty in 1970 and is granted direct service connection in 2000 for the left knee.
- Veteran is diagnosed with degenerative joint disease of the **right knee** in 2006.
- A medical opinion is furnished stating that Veteran's **right knee DJD** is secondary to his **left knee DJD** with rationale being the right knee has suffered added stress due to compensating for the disease of the service-connected **left knee**.
- Veteran would be entitled to service connection on a **secondary basis** for the **right knee**
 - ✓ Event/disease/injury in service (Veteran is service connected for the **left knee**)
 - ✓ Current diagnosis (**right knee** degenerative joint disease)
 - ✓ Link between the two (medical opinion provides the link)

Principles of Service Connection

Example of Aggravation of Pre-Existing Disability to establish Service Connection

- **Prior to active-duty service**, Veteran is diagnosed with hypertension. Physician prescribes diet and exercise to improve blood pressure readings.
- **While on active duty**, Veteran's blood pressure readings increase, and he is prescribed medication for control of Veteran's hypertension.
- A VA examiner provides a medical opinion indicating that the Veteran's hypertension was aggravated beyond its natural progression during active-duty service (a rating specialist cannot make this medical determination alone).
- The Veteran would be entitled to service connection on an **aggravated** basis as control of Veteran's hypertension required only diet and exercise prior to active duty, and while on active duty, medication was added for control.
 - ✓ Event/disease/injury in service (placed on medication for pre-existing hypertension)
 - ✓ Current diagnosis (hypertension, with medication for control)
 - ✓ Link between the two (aggravation of the pre-existing condition during active service)

Principles of Service Connection

Example of **Presumptive** Service Connection

- Veteran served in Kuwait, “boots on ground,” in 2010.
 - Veteran is diagnosed with sinusitis in 2013.
 - Veteran would be entitled to service connection on a **presumptive** basis for sinusitis.

Can the VA deny a presumptive disability?

Yes. The VA can deny a presumptive disability if there is no clear diagnosis or if there's clear evidence indicating that the diagnosis was not caused by service. A lot of times Veterans say, “The VA diagnosed me with sleep apnea, I should be service connected for it.” We still have to show it was service connected.

Principles of Service Connection

Types of Claims

Original Claim

First initial claim (there can only be one original)

Initial Claim (new claim)

First claim for one or more benefits

Supplemental Claim

Claim for the same or similar benefit on the same or similar basis was previously denied

Claims for Increase

Claim for increased evaluation of an existing service-connected disability

Principles of Service Connection

Supplemental Claim

Claim for the same or similar benefit, on the same or similar basis, which was previously denied

A Claimant must submit or identify evidence

- New-evidence hasn't been previously considered
- Relevant-tends to prove or disprove a matter at issue in a claim

VA Form
20-0995

Within one year of the prior decision or outside the year

Remember:
Same condition but claimed under a different theory – qualifies as a Supplemental Claim

National Guard/Reserve Info

- **1) Registering your DD-214** – Some Vets do not like registering their DD-214 at their local courthouse because anything registered or recorded is considered public information and there is sensitive information on the DD-214. That is true except for DD-214's. See below links that the VA and MS passed that restricts access to a Veteran's DD-214. If you want to get a deceased Vet's DD-214, you need to show that you are related to the Vet in one of three ways: birth certificate, marriage certificate or death certificate.
- <https://codes.findlaw.com/ms/title-35-war-veterans-and-pensions/ms-code-sect-35-3-13.html>
- <https://dpcl.dod.mil/Privacy/About-the-Office/DoD-Federal-Privacy-Rule/Subpart-E.aspx#310.24>

National Guard/Reserve Info

Do I qualify for VA benefits as a Traditional National Guard or Reserve member?

- Yes, generally, all National Guard and Reserve members qualify for some VA benefits. Different VA benefits may consider different factors to determine eligibility, such as length of service, type of service (such as under Title 10 or Title 32), wartime service, and/or service-related disability.
- However, the member will not draw full pay from the VA. Example - I am a Navy Reservist drawing 30% disability from the VA which is \$524 a month for Veteran alone. The VA breaks this down to a day (drill) rate which comes to \$17.46 per day/drill. If I do 48 drills for the year, I will owe the VA \$838.08 ($48 \times \17.46). At the end of the year, the VA will send you correspondence stating what you owe. If you do your 2-wk ADT, same math applies. If you are recalled to Active Duty, call the VA to stop your pay ASAP! It may take them 3 months to stop it. Understand they will come back and get the overpayment. If you don't contact them, it may take them 2 1/2 years for them to catch up to you, but they will.

National Guard/Reserve Info-Tricare

3) Tricare: Tricare Reserve Select Health Plan is available for Reservists/National Guard (NG). A family plan is approximately \$256.87 a month and a single person is approximately \$51.95 a month. If you are recalled to active duty on Federal Orders for 31 or more days, your Tricare Reserve Select will stop and you will be on the same Tricare as Active Duty (no monthly premium). If you do 31 days or more, you will be entitled to the Transition Assistance Management Program (TAMP) which gives you 180 days of Tricare with no premium after the end of your orders. Once your TAMP ends, you will have to pay back TWO MONTHS premium to get your Tricare Reserve Select started again. If you do not complete 31 days or more, you need to contact TRICARE immediately so that they can put you back on Tricare Reserve Select.

Early Retirement

4) Reservist/NG early retirement pay:

a) Normally a Reservist/NG member will draw their retirement pay and Tricare Insurance at age 60. But Congress passed a law that states that for every 90 consecutive days that a Reservist/NG member is recalled to FEDERAL ORDERS (not State), from January 28th, 2008 - Sept 30th, 2014, they get 90 days reduced from the age of 60. From Oct 1st, 2014 to present, a Reservist/ NG member can do 90 days aggregate (does not have to be 90 consecutive days) within two consecutive fiscal years and they get 90 days reduced from the age of 60. Example would be if you were recalled for 30 days in April 2022 and 60 days in February/March 2023, you would get 90 days reduced from the age of 60.

National Guard/Reserve Info-Retirement

- b) To get an approximate amount of your retirement pay, take the total number of points at retirement, divide by 360 and multiply times 2.5. Whatever that percent is will be your approximate pay. Example: You retire as an E-7 after 20 years with 3,600 points, your retirement will be approximately 25% of the base pay. Your retirement pay will be based ~~off of~~ the pay scale of the year you will draw your pay, not the year you retire. Example, I will retire from the Marine Corps Reserves at age 40, but will not draw my pay until the age of 55.
- c) Currently a "Grey Reservist" (a retired reservist that is not drawing their benefits) may only draw their retirement pay early, not Tricare Retired Reserve Insurance, which begins at the age of 60. Currently, there is a bill that is on the floor of the Armed Forces Committee that says, once a Reservist/NG member is eligible for pay, they get Tricare Healthcare at the same time and not have to wait until the age of 60. Let's hope this bill passes into law!



NATIONAL GUARD, RESERVE MEMBERS, AND VETERANS

Mississippi VA

Questions? Please contact Teddy Reed

Treed@msva.ms.gov

601-266-8386