

HEATHER ANSLEY:

We appreciate you taking the time to join us today for this important presentation. The next slide is -- I want to discuss who our presenters are today: David L. Houppert is our National Service Director for VetsFirst, a program of United Spinal Association, and he is based in our Washington D.C Policy Office. We also have myself, Heather Ansley, and I am the Vice President of Veterans Policy, again, for VetsFirst. And I'm also based in our Washington Office, and our contact information is available on that slide. And before we get in to any specifics here today, we want to let you know that this presentation will be archived so that both the slides and the audio will be available for later so that you can go back and review any of the things that we have discussed today.

So the next thing that I want to do is to go through how you can ask us a question as we go through today's presentation. We will be holding all questions until the end of the formal presentation, but you have an opportunity via the questions box that's in your control panel to submit a question. We do ask that if you have specific questions about a claim with the VA that you have that you would please feel free to contact Mr. Houppert at the end of the webinar, and we would be happy to speak with you regarding your particular situation and how we may assist you. And again I can provide his email address; it's dhouppert@vetsfirst.org.

Our next slide, we want to just give you a little idea of who we are here at VetsFirst. VetsFirst, as I've mentioned, is a program of United Spinal Association. We represent 60

years of service to veterans and their families. We provide representation for veterans, their dependents, and survivors as they pursue VA benefit. We also fight to ensure that all veterans with disabilities have the ability to live and work in their communities and to achieve greater independence. That's something that's been a hallmark of our organization for many years and one of the things that we are the most proud of.

And now that you know a little bit about us, we would like to take an opportunity to interact with you and learn a little bit more about our participants on the line today. So we are going to be doing a poll if we could have our technical advisor go on and launch that poll now. We'd just like to know a little bit about which of the following best describes you. So you will be seeing that on your screen momentarily. And again, which of the following best describes you. You could select one. We have veteran, family member of a veteran, a caregiver of a veteran, a veteran's advocate or service provider. And we will see our results momentarily.

Wonderful. And it looks like we have a good number of veterans on the line with us today, and also veteran's advocate and service providers. We are glad to have such a good cross-section available with us today and hope that the information that we're sharing is really going to be helpful to you either as with your own particular claim or as you work with a veteran or family member who may have a claim for benefits with the VA. I would now like to -- we will begin our formal presentation, and Mr. Houppert

will be joining us to begin walking us through service-connected disability compensation and the basic eligibility requirement. David?

DAVID HOUPPERT:

Thank you very much. What is service-connected disability compensation? Service-connected disability compensation, also referred to as disability compensation, is a monetary benefit paid to veterans on a monthly basis because of injury or diseases that happened while in active duty, or were made worse by active military service. These tax-free benefits are also paid to some veterans who were disabled as a direct result of injuries from VA healthcare, vocational rehabilitation, or work therapy.

Who is a veteran for VA disability compensation purposes?

A veteran is defined as a person who serves in the active military, naval, or air service and who is discharged or released under conditions other than dishonorable. Basic eligibility requirements for VA benefits: the veteran must meet active duty requirements which mean the veteran must have active military, naval, or air service, and this includes full-time service in the Army, Navy, Marines, Air Force, or coastguard. Individuals who are in active duty for training will also qualify if the disability is related to their training incident, and this comes under play when a Reserve is, for example, is injured during mandatory physical training. This period of active duty for training for them will allow for the service to receive service-connected compensation for the injuries that were a direct result of their training. The National Guard members or Reserves also qualify if called up to serve on active duty. In addition to receiving benefits for injuries due to active duty for

training, Reserves and Guard Members will also be eligible for service connection where they have an activated active duty. We saw many incidents of this during the past decade or so when Reserves and Guard Members were activated for service in Iraq and Afghanistan. Guard Members will not be eligible for VA benefits where they are activated for the well-being of the state. For example, if they are activated by their state government to respond a natural disaster such as flooding or a large snow fall, that will not qualify them for VA benefits. They would have a recourse through their state.

We also need to talk about the character of discharge. A veteran must have been discharged or released under conditions other than dishonorable. In general, the service branches use five types of discharges and these are: 1) an honorable discharge, 2) a discharge under honorable conditions or a general discharge, 3) a discharge under other than honorable conditions, 4) bad conduct discharge, and 5) a dishonorable discharge. Certain administrative discharges by Department of Defense do not carry a characterization of service, and VA reviews this on a case-by-case basis to determine if they are other than honorable. Examples of these types of discharge include entry-level separation, void enlistment, and drop for the roles. The reason for this was because veterans receiving administrative discharges frequently have only served on active duty for a short period of time, and the military branches do not feel they can accurately assess their service based on their short-term service. Again, we frequently see these types of discharge where a service member, for

example, injures themselves during their initial training in a boot camp, for example, and were ultimately discharged as a result of that injury. Dishonorable, bad conduct discharges, or other conduct may operate as a statutory part of benefits. If necessary, former service members may be able to seek a discharge upgrade from a military discharge review board or the Board for Correction of Military Records.

Service-connected disability compensation. To summarize, again, service-connected disability compensation is available where a claimed disability was incurred or aggravated in the line of duty and not a result of willful misconduct. The veteran's discharge and the veteran's discharge was other than dishonorable. The "in the line of duty" requirement is very liberal. For example, a service member injures their knee while navigating an obstacle course during mandatory physical training, or a service member injures their knee during an IED blast in Iraq, or a service member injures their knee while playing football on base after normal working hours. In this example, however, if the veteran is under the influence of illegal drugs, then this may be considered willful misconduct, and service connection could be denied with the exception of the willful misconduct. Example, all of the above injuries could be eligible for service connection as they were in the line of duty.

We have three requirements for obtaining service-connected disability compensation: 1) a medical diagnosis of a current disability, 2) evidence of an in-service

occurrence or aggravation of a disease or injury, and 3) a link or nexus between the in-service occurrence or aggravation of a disease or injury and the current disability. Let's talk about number one, a medical diagnosis of a current disability. A veteran can submit a VA... military and private medical records to the VA to support their diagnosis and to support their claim. Under the Veterans Claims Assistance Act, often referred to as the VCAA, the VA had a statutory duty to assist claimants for benefits, and part of this duty includes ordering a medical examination by a VA or a VA-contracted physician when necessary. In theory, this means the veteran could file a claim without any medical evidence or whatsoever. The VA would then be required to develop the evidence and essentially adjudicate the claim eventually. But what you don't want to do if at all possible is to rely upon the VA to develop your claim for you. There are a lot of wonderful folks who work at the VA, but if you've been watching the news lately, they are way behind schedule and they are overworked, and I would not rely upon them to do something that you can do yourself if at all possible.

The second requirement is the in-service occurrence or aggravation. And when reviewing a claim, the VA relies heavily on the contents of the service medical records and the military personnel records. And essentially what the VA is doing is looking at the records that were created while you were on active duty to determine if what you say happened, happened. As we all know, depending upon whether you're in combat or not, depending upon the circumstances, there may or may not be evidence in your

official records, but that's one of the things the VA heavily relies upon. The VA may also be required to consider lay evidence. Lay evidence may be sufficient when an issue relates to an observable event. For example, a combat veteran can testify about what happened to them in combat. A witness who is not a trained medical professional can testify that the veteran had a compound fracture of their leg. Why? Because they could visibly see that the leg bone is sticking out of the side of the thigh. The same witness could not testify the veteran had cancer, as they are not qualified through their education, experience, or training to make such a diagnosis. Combat veterans may have an easier time meeting their burden. This is because the evidentiary standards for combat veterans are **[unintelligible - 00:12:17]** in accordance with title 38 of United States Code Section 1154b, which requires the VA to take the veteran at his word. If the event they're testifying about occurred while engaged in combat with the enemy, their statement is consistent with the circumstances of such service, and there's no clear and convincing evidence to the contrary. The way this is supposed to work is if an individual is a combat veteran and they can prove they served in combat, usually proved in award or decoration denoting combat experience such as Purple Heart Combat infantry badge. If they have a back problem, for example, after the military service, and they file a claim with the VA and they said, "Look, I was under fire. I was diving into a foxhole. When I jumped in the foxhole, I injured my back, and I'd like to file a claim for that." The VA had to take the veteran at his word that he did injure his back while jumping into that foxhole unless they can prove

otherwise. And this is because during combat, we all know that it's very difficult to keep accurate records of who did this and who did that; and as a result, because of their combat experience, the VA takes that from their word. Now, what the VA wouldn't take a veteran at their word is if they made a statement for example that when they jumped into a foxhole, they were abducted by aliens, and when they're abducted by aliens, they fell from the spacecraft and injured their back. In that situation, the VA will not accept them at their word.

As we mentioned, we also need a link or a nexus between active military service and the current disability. Now there are five ways to establish this, and the VA is required to consider all five. You may file a claim and only mention one of the five, but by regulation and statutes, the VA is required to consider all five. These are: 1) direct service connection, 2) by aggravation, 3) statutory presumption, 4) secondary service connection, and 5) what we call 1151 and Federal Tort Claims Act claims.

Before we talk about the five ways, I'd briefly like to talk about medical evidence, and especially medical evidence in general, because medical evidence is going to be required for most all claims. And claims generally require competent medical evidence, which much establish that it is at least as likely as not that the current disability resulted from disease, injury or a precipitating event during service. This is referred to as the benefit of the doubt standard, and it means that when the evidence is in relative equipoise, which means the evidence is 50/50, the benefit of the doubt

goes to the veteran. The veteran is supposed to win. Many veterans' advocates do not believe the VA used the standard appropriately, and I and many others have personally seen many examples where a veteran has a favorable medical examination by their private physician, and they may have a negative medical examination from the VA physician, and the VA gives the VA examiner more credibility, and they usually come up with a reasoning such as well, the VA examiner had the claims file available for review, so we must give them more weight. But unfortunately they don't always make sure that the examiner reviewed the claims file, so that's really something to watch out for.

Medical evidence is not required if the nexus is presumed, such as in the following instances. We have chronic disabilities which are diagnosed in service, and we see this where a veteran for example tears their meniscus in their knee due to extensive marching. While on active duty, they have surgery on their knee. During the rest of their time on an active duty, their medical records is full of visits to medical and [unintelligible - 00:15:54] off their knee. In an example such as this, it is obvious that the injury occurred while the veteran was on active duty. We do see problems of these types of claims where the veteran waits decades after active duty to file a claim, and they have no recent medical records showing treatment for their condition. For example, they injured their knee while on active duty, they get out in 1975, but maybe they wait 30 or 40 years to file a claim for it. In that situation, we have a little bit of difficulty. Disabilities presumed to be service-

connected diagnosed within presumptive periods while in service is another issue. And in fact, Heather Ansley will speak about that shortly.

We also have what is called direct service connection. Now, direct service connection is where an event or incident in service caused the veteran to suffer a disease or disability many years later. For example, the veteran develops PTSD, Post Traumatic Stress Disorder, later in life due to exposure to traumatic events while on active duty; or a veteran breaks his hands while on active duty. The break heals, but the veteran eventually develops arthritis in the hand due to the break. That would be direct service connection. We also have what's called chronicity. And if a veteran was diagnosed with a chronic disability while in the service or during the applicable presumptive period and currently suffers from the same chronic disability, the VA will assume the disability is related to military service. A chronic disability is a disability that is permanent. It may get better and it may get worse, but it never fully goes away. Examples include malaria and also multiple sclerosis. We also have continuity of symptomatology, and these are shown through military personnel records or service medical records that the condition was diagnosed or manifested during active duty and with aggravation. Aggravation can be a really **[unintelligible - 00:17:51]** for a lot of folks, and this happens where a veteran shows worsening of a pre-existing condition due to military service. For example, a veteran may enter the service with a history of back strain. Maybe prior to the service, they strained their back, they went

through physical therapy, they had MRIs and x-rays done, whatever the case maybe, and the back strain is fully healed. The veteran even went to their private physicians, had it examined prior to entering the service. They had a clean bill of health from their doctor. There was no doubt that their doctor said their back is fine. While on active duty, they're humping 100-pound pack, and the veteran pulls their back muscle again. That back injury could be service-connected. This is because veterans are considered to be in sound condition when they're inducted into the service. This holds true in general unless there is a notation in their induction physical. And please remember, unless the veteran is a medical professional, you can rely upon their personal comments and the VA can't use their personal comments against them. And for those of you who served on active duty, you may recall when you went through your induction and probably your annual physicals, you pull up that two- or three-page piece of paper. It has a whole bunch of questions of, have you ever had problems to your eyes, ears, nose, and you have a choice of checking a yes or no. If you check yes in one of those boxes and the VA holds it against you later, they can't unless, you are a medical professional and you were qualified to make those statements. Now, certain disabilities cannot be service-connected because they are what the VA calls congenial or developmental in nature, and this is the fancy way of saying the veteran is born with the condition or it was genetic, thus the VA is not going to provide benefits for that disability. Now, I would like to briefly turn it back over to Ms. Ansley, who would like to talk to you again.

HEATHER ANSLEY:

Thank you, David. Now that we've had the opportunity to go through some of the basics of service connection, we want to take a quick moment to do our second poll of the webinar. And if I could have our web IT help launch that second poll now. As you can see on your slide, it says we would like to know, if you are a veteran, which means if you are, then which era did you serve in. We have before Vietnam, Vietnam, Cold War Peace Time, Gulf War Desert Storm and post 9/11. Don't cover all the periods of service, **[unintelligible - 00:20:24]** please use the one that most closely approximates where you are in that timeline. We're just waiting to tabulate the result. We could see from our results that we have that many of you served during Vietnam, and the other remaining are Cold War Peace Time and post 9/11. So that helps us as we go in now to statutory presumption, and we also want to say thank you to all of our veterans for their service. If we could now switch back to the slide presentation.

So again, the next thing we want to talk with you about is something called a statutory presumption, and that's something that Congress has done to determine that certain disabilities and conditions are presumed to be related to your military service. So it's a way that when you can't necessarily prove that link that the Congress goes in and by what we call a legal fiction can make that determination. So some of the types of presumptions, and then we'll talk a little bit about how this might be applicable. You can see from the slide that we have chronic or tropical diseases that are manifested within a defined period of time, prisoners of war, Persian Gulf War veterans that have a manifestation of

certain disabilities, including certain undiagnosed disabilities, radiation exposed veterans, and also Agent Orange.

Because we do have many veterans of the Vietnam era on the phone with us today, we want to take a moment to talk quickly about some of the presumptions related to Agent Orange, and we will use that as an example of how somebody might use a presumption to prove their service. So with Agent Orange, there are several presumptions that have been determined by VA through the Institute of Medicine that they are presumed that if you have the type of disability or disease that it is related to your military service. So in 2010, the VA recently added the new diseases to those associated with exposure to Agent Orange, including hairy cell leukemia and other chronic B cell leukemias, Parkinson's disease, ischemic heart disease. And as I stated, the disability that are added to that list based on the scientific determination of the Institute of Medicine who determined that there is a scientific link between Agent Orange and a particular disease, and in the VA's determination that they're going to add that disease to that list. So for example, if you're a veteran who served during Vietnam and you actually were in Vietnam, you were booted on the ground in the ground in Vietnam, and later, you were to be diagnosed with Parkinson's disease, so you have number one, you were in Vietnam during the presumptive period boots on the ground; number two, you have diagnosis of Parkinson's disease, then VA will presumptively assume that your Parkinson's disease is related to your military service. So you don't have to prove

that in fact it was a cause because Congress has said if you've got the one and you got the other then we're going to go on and do the service connection, and that's the case for any of the statutory presumptions that exist. Because I know Agent Orange in Vietnam and where people served in that period can make a difference for people who were boots on the ground in Vietnam, and you were in what's called the inland waters of Vietnam, the brown water veteran, those presumptions apply. For folks who were out off shore, the blue water veteran, the presumptions that are not there. And so there's then action in Congress over the years; they tried to extend those presumptions to other veterans. But it is a way that Congress has looked at adding diseases that science says are presumptively related when it's very difficult for veterans to show that connection but science can kind of fill in the gap for it. So that's a good example of something that Congress has used and the VA has used to help people to make that connection. So now I'm going to turn it back over to David, and he's going to talk with us about another issue, which is secondary service connection. David?

DAVID HOUPPERT:

Thank you, Ms. Ansley. In addition to the statutory presumptions, we also have the secondary service connection, which is another way of proving that link or nexus between your military service and the current disability. And for a lot of folks, this can be extremely important. And essentially, if a service-connected condition causes or aggravates a second condition, and that second condition is treated as also service connected. For example, if a veteran is service-connected for a knee condition due to a gunshot wound and the knee condition

causes him to walk differently and he developed a back and hip disability, the additional disabilities—in this case the back and the hip disability—can also be service-connected. Essentially anything stemming from their original disability can also be treated as though were service-connected, and it can also be compensated by the VA.

Lastly, we have what's referred to as 1151 and FTCA claims. They are called 1151 because it refers to section 1151 of title 38 of United States Code, and this is basically a medical malpractice claim against the VA. This is used where a disability or disease was caused by VA medical treatment or vocational rehabilitation, and that disability or disease is treated as if it was connected to the military service. It's essentially a legal fiction, and an example would be if a veteran goes in for surgery on the right leg, the VA makes a mistake in the surgery on the left leg, which is a healthy leg. If there is an injury standing from that other leg, that individual can get service-connected for it. We also have the what we call the FTCA claims which again stands for Federal Tort Claims Act, and an FTCA claim must be filed with the VA prior to filing the federal lawsuit. It usually—not always, but usually—must also be filed within two years. The Federal Tort Claims Act claims are very difficult, very complicated. If you think you may have a potential FTCA, if you think there's even a chance you may have one, contact a qualified attorney immediately. In a perfect world, you would like an attorney to handle an FTCA claims and your 1151 claims at the same time. And I'd like to turn it over to Ms. Ansley to talk to us about getting help with claims.

HEATHER ANSLEY:

Thank you, David. So now you can see that we have issues of, how do you get help in filing a claim for VA disability benefit? So now you know all this information, and now you want to go through and begin the process. And as you'll see from the slide—and I apologize, our slides have been lagging a bit; we're having a technical difficulty—but as you could see, there's a lot of paperwork, and after what you just heard, you may feel that way as though you were surrounded. But the good news is that there are ways to get help with your VA claim, and so we just want to take a little bit of a time right now to discuss that. So basically, applying for and establishing that you're entitled to VA benefits, it can be a difficult road to go down. And a successful claim is usually going to require that you have knowledge of the benefits that you have, as you heard, good medical evidence, military service records, and all of those different things that are going to allow you to prove the different things that you need to prove for VA. And even if you have a situation where VA does grant your claim, you'll need to know whether or not VA has granted everything to what you were entitled. Because when we review cases, we do find that sometimes VA doesn't consider something that it should consider, and we're able to go back and get that claim re-adjudicated to make sure that that veteran or family member receives all the benefits that they have earned.

Some people may wonder what if I just want to file my claim alone; I just want to be able to go through this by myself. And many veterans have successfully won filing their own claims without assistance. Of course, it is helpful

if you have a background in law or medicine. As you can see, medicine and medical records are an important part of this process, and that you have the knowledge you need to kind of conduct the research that may be helpful and get the types of record that you'll need to get. And just in kind of going to the VA process, that can also be helpful if you have the time to invest in understanding the VA system. So if you're looking to get help, we have three main ways that you can get help to go through your claims. We have service officers, claims agents, and attorneys, and now I just want to go through each one of those individuals and discuss a little bit about how they might be able to assist you.

First, we have service officers, and a service officer is also known as a service representative, and these are individuals who worked for an organization or they're a recognized veterans' service organization such as United Spinal Association, Vietnam Veterans of America, other veteran service organization that you may have heard of, or a state or county Department of Veterans Affairs. These individuals have experience and education, training that helps them to understand the claims process, the proper forms that need to be filled out, what evidence it takes in order to have a successful claim with the VA, and they're credited by VA as having the ability to help claimants and the ability to use the service officer. For instance, the veterans' service organization is free of charge. So that service officer is not going to charge you for your assistance as they work with you, so that's something that - - and that's prohibited by law if they were to charge you a

fee. So it's a great service that is available to veterans who want to have some help in figuring out how to prosecute their claims against the VA.

The second avenue for help that's available are claims agents, and claims agents are non-attorneys who have been authorized by the VA to represent the claimant. They must have completed background investigation, they have good moral character, they have to pass an exam through the VA, and it is important to know that unlike service officers, these agents may charge a fee in some situation. So there are agents that are out there in some cases that are able to assist you.

The third area that we want to discuss is attorney, and they're having changes in the VA representation system that allow attorneys to represent veterans who are filing initial VA claims or appeal; and it's important to know that a veteran may only be charged by an attorney once that claim has reached the appeal stage. So for instance, if you contracted an attorney at the very beginning of your claim and that attorney agreed to help you file the paperwork with VA and work with VA and you're successful with that level, the attorney may not charge you. They are not allowed to charge you for their work. If you contract with them after the VA has made initial determination and they have determined that you're not eligible for veteran's benefit, or if they granted your claim but they didn't provide the level of rating and **[unintelligible - 00:33:32]** that you were entitled to and so you appeal that decision, then an attorney can step in at that point. Because of the

lack of ability to receive payments in those initial claims of cases, it can be difficult to find attorneys who will accept these types of claims. But it is an avenue that we wanted to make sure that individuals who are aware of, and particularly as you do reach the appellate level. And there are organizations that are in service organizations, some of which have attorneys, who work for them, again, including Vietnam Veterans of America. And there are also other law firms who have specialized in veterans' work, particularly at the appellate level if you're needing to appeal that decision that VA gave to you.

So now that we talked about the different types of places where you can go to help, we want to switch back to those veterans or family members who may want to decide to prosecute their own claims with VA, and to give you some resources that might be available. And for that, I'm going to turn back to David.

DAVID HOUPPERT:

Thank you, Ms. Ansley. If you decide to represent yourself and you have any questions about your claim, please visit our website at www.vetsfirst.org. And from this page, you can use our extensive self-help resources and submit any questions you may have through our Ask VetsFirst feature, which I believe will be self-explanatory to you from the website. And of course, you can also contact me from the contact information at the beginning of the webinar. And even if we cannot represent you, we would be more than happy to provide you with advice and guidance; and also remember that the VA moves extremely slow, so be prepared for long wait. Whatever happens, don't take it personally, and don't give up. I have worked with lots of

veterans over the years who I hate to say it, some have fought with their claims, five, six, 10, and some cases 12 or 13 years, and some were along the way. Most of them get discouraged. They want to give up. And whenever possible, when they have a good claim, we're trying to talk him out of it, trying to tell them, think of it as retirement fund, think of it as something, but just persevere; because it's amazing how many of us can get through this if we are willing to put up the fight and put up the time. Ms. Ansley? Would you like to discuss other questions?

HEATHER ANSLEY:

That's the end of our -- yes, that's the end of our formal presentation, and now we will be looking for any questions that attendees may have. So there is a question box that is on your control panel where you have the ability to type in questions about anything that you heard. And I don't have any questions showing at the moment, so we'll give folks an opportunity to do that. And David, I'm going to ask you if there's anything regarding that you might be able to tell us just to kind of have a question to get us started related to presumptions for our post-9/11 veterans. Is there anything out there that we're seeing with environmental exposures or concerns?

DAVID HOUPPERT:

Well, I mean, there's definitely presumptives that have been recognized for Gulf War veterans, and these are actually folks not just post-9/11, but these are folks who served there since a particular date in August of 1990, and I can't pull the date out of my head right now. But anyone who served in the combat theater of operations in the Middle East, and if they've come down with a number of conditions, they are entitled to presumptive service connection. The big ones that we've been seeing are the

undiagnosed conditions such as irritable bowel syndrome, which is a gastrointestinal disorder. We're also seeing a lot with headaches and a number of other conditions. Those conditions are not necessarily related to the burn pits, but those are definitely some of the big ones.

HEATHER ANSLEY:

That's great. And one of the other things, you also mentioned, David, was service record and the importance of having your service record. As a part of the overall connection, can you just give us a quick idea about where folks would go for that particular type of assistance or for the medical evidence that you discussed?

DAVID HOUPPERT:

Well, there's a number of different places you can go to get your military records and your military medical records. Probably the easiest is the National Archives in the records administration, and their website is www.archives.gov. I haven't been to the page in a couple of weeks, but traditionally in the past when you go to their home page, again, at www.archives.gov, on the home page is a tab under most requested; the very first one is military records. You can click on there, and it's pretty neat. You can usually request your military medical records, your military personnel records, but you can also obtain a replacement copy of your DD214, which is your discharge certificate. What a lot of folks don't know is you can also request one free replacement set of your awards and decorations, meaning your medals and ribbons you received while on active duty. If you're doing it just to obtain the medals and decorations, if possible get your DD214 first, request the DD214, then submit that back to the archives with the appropriate form, and it usually goes a lot quicker. If you make a request for your records and they can't find them,

sometimes they're going to tell you that they were destroyed in the fire, and it is true. There was a rather large fire that occurred in the archives in 1973, and there's also information on their web page about that. The nice thing is on their web page, you can look at the dates and the names of the veterans who were affected by it. So for example, if you know you got off active duty in 1975, but they tell you your records were destroyed in 1973, you know they made a mistake because your records weren't even there yet. You were still on active duty. Also, if they tell you they can't find their records and they don't know where they are, go and make a new request once a year, you know, five, six, or seven years. The archive has millions upon millions upon millions of pages of paperwork, and like anybody else, sometimes things get misplaced, sometimes they pop up. Maybe the first time they made a search, it was a bad employee who didn't do a proper search, but make that search once a year just to activate. In some cases we've had veterans who may have filed, especially Vietnam veterans, who may have filed their claim in 1972, didn't get it, forgot about it, and their medical records are actually at the VA and they don't even realize it. But there are all kinds of different options and **[unintelligible - 00:40:26]** and if anybody has specific questions, they can go and contact us.

HEATHER ANSLEY:

Great. I have another question, David. In general, what are the chances of a current rating being lowered if somebody puts in an application to have their disability rating increased?

DAVID HOUPPERT:

Well, they're going to look at the evidence; and really, the question becomes has that individual's condition gotten

better. It's somewhat difficult to say of course that they're having medical records. There is an underlying **[unintelligible - 00:41:00]** among a lot of veterans who for example made get their initial service connection, maybe their 30, 40, 50 percent, and they are afraid to go back to the VA because they're afraid the VA is going to say, "Oh, you're not as bad as you said you were," or, "Your condition has improved." Are there instances where someone goes in and the VA determines their condition has improved? Yes, that happened a lot. No, if someone truly believes their condition has worsened, I would definitely try and convince them to go to the VA. Also, if they believe their condition has worsened and if there is a hesitation on their part about whether or not to go the VA, spend a few dollars, go to an outside physician if you can or use insurance if you have any, get another opinion from someone outside the VA first before you go back to the VA. And in a lot of situations, even if someone may not need the compensation now, maybe by getting that extra rating, that can help them in the future. And God forbid that they actually pass away from that condition, it can help with dependency and [identity] compensation benefits for family members. There's a whole lot of reasons why you want to do it. But if you think it's gotten worse, definitely pursue it. If you're hesitant, go ahead and talk to an outside physician first and then follow up depending upon what that physician tells you.

HEATHER ANSLEY:

Great. Thanks, David. I have another question for us. Questioner writes, "I have eight to 10 issues that I'm filing a claim for and would like to know if they could be combined. If combined, they may total 100 percent even

though I am not unable to take care for myself. Some of the issues that we're talking about are back problems, sleep apnea, knee injury that precipitated from surgery two years ago, some things like that, and all of these injuries stemmed from the original injury that was many years ago." So if you could maybe talk about how somebody maybe who does have a lot of issues, how those claims are adjudicated so that they work together and what type of total rating you may get.

DAVID HOUPPERT:

Well, first off, what a lot of folks don't realize is the VA uses what we call VA math, and the VA math is not like the kind of math we use. If we add 10 plus 10 plus 10, we get 30. If we add 20 plus 20 plus 20, we get 60. The VA uses what they call combined rating table, and what those means is they may add 10 plus 20 plus 30, but they're not going to get 60. It's going to be combined based upon the conditions. So if someone does have eight to 10 conditions, depending upon what each condition is rated and based on the combined rating table, it's going to determine the final rating. And if **[unintelligible - 00:43:47]** confusing but that individual who has questions about that wants to follow up afterwards, I can actually send them the regulations which explains the combined rating table and show the combined rating table.

The other thing to watch out for, if anyone is filing eight to 10 issues, the way it should work is that if the VA gets a claim and there's eight to 10 issues and there's evidence in the record that shows, "Okay, look. There's eight to 10 issues. We can grant three of them right now. Let's grant three, and then let's work on the other seven later." Sure, it

may take a while with the other seven, but at least you get some money in the veteran's pocket. Unfortunately that's not the way it usually works, and it's not uncommon for filing eight to 10 claims. I hate to say it, but it could be well over a year plus before the VA makes the final decision on all those claims.

HEATHER ANSLEY: Great. I think one of our other questions I'd liked to throw out there, David, is what are some of the most common issues you see as far as veteran decides to make a claim with VA, what are some of the most common missteps and how can veterans avoid those when they're filing that initial claim?

DAVID HOUPPERT: Let me approach this from a different perspective. Before I talk about what the veterans will do, let me talk about what the VA does. And I think it's easier to look at what they do and then try and counteract them either before or after the fact. The two biggest problems we have with the VA are either overdevelopment or underdevelopment. And when I say overdevelopment, this is where a Vietnam veteran for example file a claim for presumptive service connection for exposure in Agent Orange, let's say for prostate cancer. They submit their claim, and with their claim, they submit their DD214, they submit a copy of their military records that show they were in country in Vietnam boots in the ground. We have no doubt they are entitled to the presumption. They have medical records that show they have – I believe I used prostate cancer as an example. There are medical records that show they have prostate cancer. That should be a no greater slam dunk for the VA. Maybe they have to order a compensation and pension exam, maybe they don't, but they should be able to deal

with that claim. What we see all too often is the VA will get that, and the immediate reaction is someone says, “Oh, I need to verify the Vietnam service.” And the reason they’re doing that is because they’re not reading what the veteran submitted. Again, a lot of these folks at the VA, they have paperwork behind schedule, and they don’t fully read the submissions. In those situations, send a cover letter with your evidence. On your cover letter in claiming, state what you are applying for—in this case, let’s say service connection exposure to Agent Orange. “I have prostate cancer. In support of my claim, here are my documents.” List your documents one by one, submit it to the VA, make sure to never use double sided pieces of paper because a lot of times, the VA might make Xerox copies, miss half of it. But the make the copies, keep a copy for yourself, send it to the VA and then **[unintelligible - 00:46:46]** allows for tracking, return receipt requested obviously say that to get proof they got it. That’s one way.

Now, we also have where the VA under-develops, where the VA will deny a claim because in that same example, they won’t do the research to prove the veteran had boots in the ground in Vietnam, and maybe the veteran didn’t submit that evidence. In that case, it’s in the veteran’s best interest to try and prove their claim the best they can before they give it to the VA. Whenever you have the chance, try not to trust the VA. Try to do as much as you can on your own; give it to them in a nice little tiny box, the ribbon on it, you’re giving everything they need they can grant it pretty quickly and get it back after their work. Those are

the two biggest things. All we need to think about what happens to the VA overdevelops, what happens to the VA under-develops, and submit your documentation accordingly.

HEATHER ANSLEY:

Thanks, David. I don't have any more questions showing in the cue, so we'll take this opportunity just to go over some of the resources that are on the current slide. Of course, we want to show the VetsFirst webpage, and also the Ask VetsFirst site, which is the helpdesk.vetsfirst.org. And on [aspects] first, we want to specifically point out that you have the opportunity to enter a question that will go to one of our trained service officers. They'll be able to answer that question, point you in the direction of resources, provide you links to information, and if a service officer is something that you desire or that you could benefit from, they can also either direct you to one of our service officers or to someone who would be on your local area. We also have lots of information on there, and we'll be putting even more information on there so we encourage you to continue to check the website because we want to make sure that we have information that's in plain language about how you can prosecute your claim with the VA. So that's a great resource.

Of course, we also want the Department of Veterans Affairs website, and we also want to point out the federal guide for benefits and survivors' benefits, which is an important website that is the link to a book, and it's actually the link to the individual chapters in the book that give you a lot of information, a kind of high-level overview of VA healthcare, VA compensation benefits, resources that may

be available to you for vocational rehabilitation, just a lot of different resource areas. And of course we want to point out the webinar archive spot. That's where you'll be able to go back and to see this presentation, to listen to it again. And you also have the opportunity to look at other webinars that are on that website that are part of United Spinal Organization's webinar's theory. So we thank you for your kind attention today during the webinar. We hope that you found this information to be helpful; and again, if we can be of assistance, please don't hesitate to contact us through either the Ask VetsFirst website or through the email that you would see at the beginning of the presentation. Again, we thank you for your service if you were veterans, and we look forward to continuing to provide assistance in the future. This closes our webinar today. Thank you for attending./AT/jf/el/es