




Paralyzed Veterans of America


Veterans with Disabilities as People with Disabilities

Mid-Atlantic ADA Update 2017


ABOUT PARALYZED VETERANS OF AMERICA

- ▶ Founded in 1946 by a band of service members who came home from World War II with spinal cord injuries.
 - ▶ Focused on quality health care, research and education, benefits, and civil rights that maximize the independence of our members.
 - ▶ Located throughout the country to serve veterans with spinal cord injury or disease and their families.
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HOW MANY VETERANS LIVE WITH DISABILITIES?

- ▶ 5.5 million veterans with disabilities (total)
 - ▶ 4.4 million with Department of Veterans Affairs (VA) service-connected disabilities
 - ▶ Nearly 570,000 veterans with 100% disability ratings from VA.
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WHO IS A VETERAN?

- ▶ Title 38 defines a veteran as “a person who served in the active military, naval, or air service, and who was discharged or released therefrom under conditions other than dishonorable.”
 - ▶ Eligibility for certain VA benefits may include additional requirements such as length and time of service.
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WHO DOES VA SERVE AND WHAT SERVICES AND BENEFITS DO THEY PROVIDE?

- ▶ VA provides services and benefits to veterans, their dependents and survivors.
 - ▶ Benefits and services provided include health care; monetary benefits, including disability compensation and pension; vocational rehabilitation services; education benefits; and burial benefits.
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HOW DOES VA DETERMINE WHETHER A DISABILITY IS SERVICE-CONNECTED?

- ▶ In order for VA to determine that a disability is service-connected, the veteran must have a current disability with which there is a medical nexus to an incident that occurred in service.
 - ▶ If VA determines that a disability is related to military service, then VA uses the Veterans Affairs Schedule for Rating Disabilities to evaluate the severity of the disability.
 - ▶ The degree of severity is expressed as a percentage rating which determines the amount of monthly compensation.
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WHAT ARE CURRENT DISABILITY RATINGS AND HOW DO THEY RELATE TO BENEFITS?

- ▶ In general, veterans receive VA disability ratings from 0% to 100% with no payments for a 0% service-connected disability. For the most severe disabilities, additional compensation rates are provided as statutory awards authorized by 38 U.S.C. 1114 subsection (k) through (r)(2), also known as special monthly compensation.
- ▶ Benefits are provided to veterans depending on their percentage ratings with the highest level of additional benefits being available to veterans with ratings at 100%.


WHAT BENEFITS MAY NON-SERVICE-CONNECTED VETERANS BE ELIGIBLE TO RECEIVE?

- ▶ Low income veterans with a disability not related to military service may be eligible for a VA pension (slightly higher than SSI). Pension veterans are eligible for health care under Priority Group 5 and may be eligible for aid and attendance.
- ▶ If the disability is deemed “catastrophic,” then the veteran would be eligible for health care under Priority Group 4.
- ▶ Non-service connected disabled veterans may be eligible for small home modification grants and hand controls for autos.

AMERICANS WITH DISABILITIES ACT (ADA)

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HOW DOES THE ADA DEFINE DISABILITY?

- ▶ The ADA defines a disability as an impairment that substantially limits one or more major life activities.
 - ▶ Impairments can be physiological or psychological.
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WHAT ARE EXAMPLES OF COMBAT INJURIES THAT ARE NEARLY ALWAYS DISABILITIES?


▶ Amputations

- 1,713 OEF (Afghanistan)/OIF (Iraq) amputees


▶ Post-Traumatic Stress Disorder (PTSD)

- Nearly 920,000 veterans receive VA disability compensation for PTSD


HOW DO WE DEFINE DISABILITY FOR VETERANS?

- ▶ The VA's definition of disability is not the same as the ADA's definition.
 - ▶ A veteran may have a disability that is not related to his or her military service that qualifies as a disability under the ADA.
 - ▶ A veteran may also have a VA service-connected disability that is not a disability under the ADA.
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HOW DO VETERANS WITH DISABILITIES VIEW DISCLOSURE OF A DISABILITY TO AN EMPLOYER?

- ▶ Signature injuries for the post-9/11 generation include PTSD and Traumatic Brain Injury (TBI).
 - ▶ Generally, veterans with disabilities are uncertain about whether they must disclose a disability to an employer.
 - ▶ Even veterans without disabilities are sometimes regarded as having a disability if they served in combat.
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WHAT DO VETERANS NEED TO KNOW ABOUT ADA EMPLOYMENT PROTECTIONS?

- ▶ The ADA prohibits employers from discriminating based on a disability.
 - ▶ Employers must provide reasonable accommodations for applicants and employees with disabilities.
 - ▶ Applicants and employees have protections in the types of medical information employers can obtain and the types of medical exams they can require.
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WHAT DO VETERANS NEED TO KNOW ABOUT ACCESS TO TRANSPORTATION?

- ▶ The ADA prohibits discrimination against individuals with disabilities in public transportation services.
 - ▶ Public transit agencies that provide fixed-route services must also provide paratransit services for passengers with disabilities.
 - ▶ Private transportation providers such as over-the-road bus and airport shuttle companies must also provide accessible service to people with disabilities.
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WHAT DO VETERANS NEED TO KNOW ABOUT ACCESS FOR SERVICE ANIMALS?

- ▶ The Department of Justice's (DOJ) ADA regulations define a service animal as a dog that has been individually trained to do work or perform tasks for an individual with a disability.
 - ▶ Unlike DOJ, the Department of Transportation's (DOT) ADA regulations for transit providers allow access for other species of service animals beyond dogs.
 - ▶ Employers may allow access for a service animal as a reasonable accommodation.
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ACCESS TO HOUSING & VETERANS WITH DISABILITIES

HOW DOES THE FAIR HOUSING ACT (FHA) APPLY TO VETERANS WITH DISABILITIES?

- ▶ Fair Housing Accessibility Guidelines
 - ▶ Reasonable Modifications
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HOW DOES THE FHA APPLY TO VETERANS WITH DISABILITIES?

Service animal policies apply to:

- ▶ Guide dogs
- ▶ Hearing assistance dogs
- ▶ Emotional support animals



HOW DOES THE FHA APPLY TO VETERANS WITH DISABILITIES?



- ▶ Prohibitions in the sale and rental of housing
- ▶ Refusals to rent or sell housing
- ▶ Refusals to negotiate for housing
- ▶ Making housing unavailable
- ▶ Setting different terms, conditions or privileges for sale or rental of a dwelling
- ▶ Providing different housing services or facilities
- ▶ Falsely denying that housing is available for inspection, sale, or rental
- ▶ Denying access to or membership in a facility or service related to the sale or rental of housing

WHAT VA RESOURCES ARE AVAILABLE TO HELP VETERANS WITH SERVICE-CONNECTED DISABILITIES WITH HOUSING ADAPTATIONS?

- ▶ Specially Adapted Housing Grant
 - Assists veterans in modifying or building a home owned by the veteran
 - Eligibility depends on the nature of the veteran's disability
 - Three time use maximum up to the maximum grant amount
- ▶ Special Housing Adaptation Grant
 - Assists veterans with who are blind, have loss or loss of use of both hands, severe burns, or impacts of respiratory injury.
 - May be used to adapt a veteran's or family member's existing home, adapt a home being purchased, or to help a veteran or family member purchase a home already adapted.
 - Three time use maximum up to the maximum grant amount
- ▶ Temporary Residence Adaptation Grant

WHAT VA RESOURCES ARE AVAILABLE TO HELP VETERANS WITH DISABILITIES WHETHER SERVICE-CONNECTED OR NOT WITH HOUSING MODIFICATIONS?

- ▶ Home Improvements and Structural Alterations Grant (HISA) may be used by both service-connected (\$6800) and non-service connected (\$2000) veterans.
- ▶ The HISA grant can be used in conjunction with the Specially Adapted Housing Grant and the Special Housing Adaptation Grant.
- ▶ A medical determination is needed from a doctor.
- ▶ Uses include building accessible entrances, improving bathroom or kitchen access, installing handrails, lowering electrical outlets and switches, improving paths or driveways, and improving plumbing/electrical work for dialysis patients.

ACCESS TO AIR TRAVEL



WHAT IS THE AIR CARRIER ACCESS ACT (ACAA)?


- ▶ Prohibits disability-based discrimination in air travel.
- ▶ Provides protections including:
 - Opportunity to preboard if need additional time or assistance in boarding.
 - Timely assistance in boarding and deplaning from trained air carrier and contract personnel.
 - No charge for a passenger with a disability to store an assistive device, including a bag containing only medication and medical supplies.
 - Seating accommodation needed due to a disability without additional cost in passenger's class of service.

WHAT ARE PROBLEMS ENCOUNTERED IN AIR TRAVEL?

- ▶ Broken assistive devices.
- ▶ Delays in receiving assistance.
- ▶ Training deficiencies.
- ▶ Difficulty in receiving seating accommodations.
- ▶ Lack of accommodation of service animals.
- ▶ Inaccessible aircraft and features.




HOW CAN COMPLAINTS BE RESOLVED?

- ▶ Passengers with disability-related complaints may work directly with the air carrier.
 - ▶ Disability-related complaints may also be filed with DOT.
 - ▶ File a lawsuit under state law.
 - No guaranteed private right of action under the ACAA.
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VETERANS WITH DISABILITIES RETURNING TO WORK

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WHAT RESOURCES ARE AVAILABLE TO HELP VETERANS WITH DISABILITIES RETURN TO WORK?

- ▶ Service-Connected Veterans:
 - VA Vocational Rehabilitation and Employment Program
 - Assistance from Disabled Veterans Outreach Program Specialists and Local Veterans' Employment Representatives
 - ▶ VA Education Benefits
 - ▶ Priority Access at American Job Centers
 - ▶ Hiring Preferences
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ARE THERE HIRING PREFERENCES FOR VETERANS WITH DISABILITIES?

- ▶ Employers may voluntarily give preference to veterans with disabilities.
 - ▶ The federal government provides preference to veterans with service-connected disabilities.
 - ▶ Certain federal contractors have affirmative action requirements related to veterans with disabilities.
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WHAT ARE VEVRAA AND SECTION 503?

- ▶ VEVRAA (Vietnam Era Veterans Readjustment Assistance Act)—covers protected veterans—contracts of \$100,000 plus non-discrimination and affirmative action plan.
 - Service-disabled—30% plus; or 10-20% with serious employment disability.
- ▶ Section 503—people with disabilities—contracts of \$10,000 plus non-discrimination; \$50,000 plus for affirmative action plan.
- ▶ Of 5.78 million in labor force with a disability—14.21% or 822,000 are veterans.

WHAT IS USERRA?

- ▶ Has requirements for reemploying veterans who have service-connected and non-service-connected disabilities.
 - ▶ Enforced by the Department of Labor and DOJ.
 - ▶ Includes stronger accommodation provisions than the ADA with the obligation to retrain a returning employee, if needed, due to a disability.
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ADDITIONAL RESOURCES

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WHERE CAN I GET MORE INFORMATION?

- ▶ VA Benefits and Services:
 - Vets.gov (VA benefits resource site)
 - Federal Benefits for Veterans Dependents and Survivors (Published yearly by VA):
www.va.gov/opa/publications/benefits_book.asp
 - VA accredited representatives and organizations:
www.va.gov/ogc/apps/accreditation/index.asp
 - National Center for PTSD: www.ptsd.va.gov

WHERE CAN I GET MORE INFORMATION?

► Employment:

- Veterans.gov (DOL employment site for veterans)
- VA Veterans Employment Center: www.vets.gov/employment/
- FedshireVets (Federal employment resources for veterans): www.fedshirevets.gov
- VetsFirst Disabled Veterans Employment Guide: www.vetsfirst.org/veterans-employment
- The Family and Medical Leave Act, the Americans with Disabilities Act, and Title VII of the Civil Rights Act of 1964: www.eeoc.gov/policy/docs/fmlaada.html
- The Mental Health Provider's Role in a Client's Request for a Reasonable Accommodation at Work: www.eeoc.gov/eeoc/publications/ada_mental_health_provider.cfm

WHERE CAN I GET MORE INFORMATION?

► Employment (continued):

- Understanding your Employment Rights Under the ADA: A Guide for Veterans: www.eeoc.gov/eeoc/publications/ada_veterans.cfm
- Veterans and the ADA: A Guide for Employers: https://www.eeoc.gov/eeoc/publications/ada_veterans_employers.cfm
- Frequently Asked Questions About the Family and Medical Leave Act's Military Provisions: www.dol.gov/whd/fmla/2013rule/militaryFR_FAQs.htm
- OFCCP Resources for Federal Contractors—Section 503 and VEVRAA: www.dol.gov/ofccp/regs/compliance/resources.htm
- DOL Veterans Employment and Training Service: www.dol.gov/vets/
- Job Accommodation Network – excellent resources on accommodating PTSD and other conditions: www.askjan.org

WHERE CAN I GET MORE INFORMATION?

▶ Housing:

- VA Specially Adapted and Special Housing Adaptation Grants: <http://benefits.va.gov/homeloans/adaptedhousing.asp>
- VA HISA Grant: www.prosthetics.va.gov/HISA2.asp
- Homes For Our Troops: www.hfotusa.org
- Rebuilding Together: www.rebuildingtogether.org
- PVA's "Accessible Home Design" Book: www.pva.org/accessible-design/accessible-home-design-book

▶ Veterans Information:

- National Association of State Directors of Veterans Affairs (NASDVA): www.nasdva.us
- National Resource Directory: Connecting Wounded Warriors, Service Members, Veterans, Their Families and Caregivers Who Support Them: www.nationalresourcedirectory.gov
- Directory of Veterans Service Organizations: www.va.gov/vso

QUESTIONS?

