

MODULE #17 APPELLATE PROCESSES

DATE STARTED: _____ **LOCATION:** _____

SERVICE OFFICER/TRAINEE SIGNATURE: _____

TRAINER SIGNATURE: _____

DATE COMPLETED _____

I. Please rate the effectiveness of this training module.

Objective		Acceptable	Marginal	Unacceptable
Review ratings for understanding.	Objective Achieved			
	Applied objective content through practical exercises			
	Effectiveness of teaching methods used			
Objective				
When to file an appeal: when to request reconsideration.	Objective Achieved			
	Applied objective content through practical exercises			
	Effectiveness of teaching methods used			
Objective				
Time frames to file a proper appeal to include COVA.	Objective Achieved			
	Applied objective content through practical exercises			
	Effectiveness of teaching methods used			
Objective				
Properly completed Notice of Disagreement.	Objective Achieved			
	Applied objective content through practical exercises			
	Effectiveness of teaching methods used			
Objective				
Properly formatted Form 9 (appeal form)	Objective Achieved			
	Applied objective content through practical exercises			
	Effectiveness of teaching methods used			
Objective				
DRO & all hearings fully explained.	Objective achieved			
	Applied objective content through practical exercises			
	Effectiveness of teaching methods used			
Objective				
Necessary reference materials needed in researching appeals.	Objective achieved			
	Applied objective content through practical exercises			
	Effectiveness of teaching methods used			

MODULE # 17 CONTINUED

Objective		Acceptable	Marginal	Unacceptable
	Objective Achieved			
	Applied objective content through practical exercises			
	Effectiveness of methods used			
Objective				
	Objective Achieved			
	Applied objective content through practical exercises			
	Effectiveness of methods used			
Objective				
	Objective Achieved			
	Applied objective content through practical exercises			
	Effectiveness of methods used			

SUBJECTIVE EVALUATION

		Good	Fair	Poor
1. Please rate the extent to which you met your personal objective for this module				
2. Rate the information provided in the Training Manual & other reference materials				
3. Please evaluate the physical environment where the training was held.				
4. Is there anything that we could have done to make this training better for you? (Please comment)				

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APPELLATE PROCESSES

Objective: To learn how to assist a claimant to appeal the denial of a VA benefit, and to become familiar with the procedures for such actions, including appeals to the U.S. Court of Appeals for Veterans Claims.

References:

Title 38, U.S. Code, Chapters 71 and 72.
38 Code of Federal Regulations, Parts 19 and 20.
Adjudication Manual 21-1MR, Part 1, Chapter 5, Section A thru K.
VA Pamphlet Understanding the Appeals Process.
VA Pamphlet Federal Benefits for Veterans and Dependents.

Instructions: Study the assigned reference materials to learn how to submit a timely and proper Notice of Disagreement and Substantive Appeal, and how to advise claimant on the correct procedures and assist with the proper development and presentation of the claim.

Summary:

Any unfavorable adjudicative decision by the Department of Veterans Affairs (VA) may be appealed to the Board of Veterans Appeals, and if the denial continues, to the U.S. Court of Appeals for Veterans Claims (previously called the Court of Veterans Appeals). An adjudicative decision is one which establishes or denies eligibility to a VA benefit, such as service connection for a disability, eligibility for dental treatment, monthly rate of education assistance, waiver of overpayment, etc. A decision that a veteran should be given one type of medical treatment rather than some other is not an adjudicative decision, and is not appealable through these channels. A proposal to change a benefit (i.e. to decrease a SC rating) is also not an issue for appeals action.

An appeal is defined as a timely filed written Notice of Disagreement from a VA decision and, after a Statement of the Case has been furnished, a timely filed Substantive Appeal. A claimant has one year from the date of the letter notifying him or her of the denial of a benefit to submit a Notice of Disagreement; otherwise, that decision becomes final. The only requirements for a Notice of Disagreement are that it must be in writing, that it must be addressed to the activity or operating element of VA which made the adverse decision, and that it must be worded so that it can be reasonably construed as disagreement with the decision and a desire for appellate review. If multiple issues were decided and the claimant disagrees with some but not all of the decisions, the Notice of Disagreement should specify which decisions are being contested. If it is not clear which decisions are being disagreed with, the claimant may be asked to be more specific.

On receipt of a valid Notice of Disagreement, the responsible VA activity (called the Agency of Original Jurisdiction) is obliged to review the decision for correctness and to determine if any further development is necessary, and if so, to do it. After this review, if the benefit being sought is still not granted, VA will then furnish a Statement of the Case to the claimant and his or her representative, if any. If more than one VA element was involved in the unfavorable decision, the activity, which notified the claimant of the denial, has primary responsibility for the Statement of the Case. The Statement of the Case will contain a recitation of the evidence considered in the decision, a recitation of

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the laws and regulations applicable to the decision, a statement of the decision, and a discussion of the reasons and bases why the rules applied to this evidence did not permit the benefit being sought to be granted. The claimant then has 60 days or the remainder of the one-year appeal period, whichever is later, to submit a Substantive Appeal (VA Form 9, ***Appeal to the Board of Veterans' Appeals***, or equivalent written statement) on the issue(s) covered; otherwise, the decision becomes final.

A Supplemental Statement of the Case will be furnished if additional evidence is considered after the original Statement of the Case has been sent; if an amended decision has been made granting part but not all of the benefit(s) being sought; if there was any material defect in the original Statement of the Case. (A new Statement of Case must be issued when new issues are raised.) The Supplemental Statement of the Case has the same elements as the original Statement of the Case. If the appeal period had not expired when the additional evidence was considered or when the additional issue was disagreed with, the claimant and representative (if any) will be furnished another VA Form 9 and allowed another 60 days (or to the end of the appeal period, whichever is later) for response.

The Substantive Appeal must make specific contentions relating to errors of fact or law made by VA in reaching the decision(s) being appealed. To the extent feasible, it should relate to specific points in the Statement(s) of the Case. Once the Substantive Appeal has been returned, the appeal has been "perfected," and the claimant is not required to take any further actions except for cooperating with any additional development determined to be necessary.

The Agency of Original Jurisdiction will again review the evidentiary record for completeness and to make sure that all due process requirements have been observed. If these reviews result in a Supplemental Statement of the Case, the claimant and representative (if any) will be given 60 days to make any further response desired. However, once the Substantive Appeal has been submitted any further response is optional and is not required to continue the appeal. If there is a representative, the representative will be invited to make a final argument. The Agency of Original Jurisdiction will then certify that the appeal is ready for review by the Board of Veterans' Appeals (BVA), and forward the complete record to the Board.

The claimant and representative will be notified when the appeal is received at BVA, and will be allowed a period of up to 90 days to submit additional evidence or request a personal hearing (if not already done), or to request a change in representation. (Note that most veterans service organizations have strict rules regarding accepting an appointment as representative during an ongoing appeal.) If the Board determines that the appeal is not ready for review, they will remand it to the Agency of Original Jurisdiction for additional development, observance of due process requirements, etc., as instructed. If the Board determines that the case requires special expertise or involves obscure legal issues, the Board may request an independent (outside VA) expert medical opinion or a legal opinion from VA General Counsel. If they determine that the appeal is ready for review, they will proceed. Whether the Board's final decision grants the appeal or upholds the denial, the claimant and representative (if any) will be advised in writing of the Board's decision. The notice will include a listing of the issue(s) considered; findings of fact and law; a recitation of the evidence considered; and the reasons and bases for the decision as to each issue. The notice will also include notice of appeal rights for the Court of Appeals for Veterans Claims, including instructions on where and how to file an appeal to the Court and the time limit for filing an appeal.

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Additional evidence may be submitted by or for the claimant at any point between the time VA first notifies the claimant of its decision and the time BVA notifies the claimant of its decision. **Remember, however, that submission of additional evidence does not extend the time limits for initiating or completing an appeal.** Discretion must be exercised when requesting reconsideration of a decision based on additional evidence—if there is any question at all whether the new evidence can be reviewed, a notice (of continued denial) sent out, and the Notice of Disagreement filed before the one-year period from the date of the original notice elapses, it is better to word the request for reconsideration as an intent to appeal if the denial is continued. The claimant's appellate rights must be protected, even at the cost of some administrative inconvenience to the Department of Veterans Affairs.

After the appeal has been forwarded to BVA and the 90-day period has elapsed, any additional evidence submitted may not be reviewed by BVA until it has been first reviewed by the Agency of Original Jurisdiction, unless a waiver of such review is filed by the claimant or representative. Such a waiver must be in writing and must accompany the evidence being submitted. If no waiver is given, BVA will remand the appeal back to the Agency of Original Jurisdiction for review of the additional evidence and preparation of a Supplemental Statement of the Case, if the claim remains denied.

A claimant may request a personal hearing at any point in the appeal up to the time BVA issues its decision. The hearing may be held before the Board sitting in Washington, D.C.; before a traveling section of the Board at the Department of Veterans Affairs Regional Office; or by teleconference, with the claimant at a designated VA station and the Board member in Washington, D.C. A local hearing may also be requested to be held before the Decision Review Officer.

A Notice of Disagreement and Substantive Appeal may be filed by the claimant or representative, by the claimant's next friend, or, if the claimant is under a disability by a court, by a fiduciary. A Notice of Disagreement may be withdrawn in writing at any time prior to filing the Substantive Appeal, and a Substantive Appeal may be withdrawn in writing at any time before BVA promulgates its decision. Either the claimant or the representative may make the withdrawal, **except** that the representative may not withdraw either a Notice of Disagreement or a Substantive Appeal filed by the claimant, without the express written permission of the claimant.

Following an unfavorable BVA final decision, an appellant may file an appeal to the U.S. Court of Appeals for Veterans Claims (CAVC) within 120 days of the date of the BVA decision. **This appeal must be sent directly to the court, NOT to BVA or to any VA office.** The time limit for filing may not be extended or waived. There is a filing fee, which can be waived. Only the appellant or representative may appeal a BVA decision; the agency may not appeal. The court may consider only the issues, evidence and arguments that BVA reviewed in its decision. No new evidence may be submitted and no new arguments or issues may be raised. The court will uphold BVA if there is any reasonable basis for its decision, unless the court finds an error of fact or law or finds that BVA's decision was arbitrary and capricious. Either the appellant or VA may appeal the court's decision to the U.S. Court of Appeals for the Federal Circuit.

A claimant or representative may request reconsideration of a BVA decision at any time upon allegation of error of fact or law; discovery of new and material evidence in the form of relevant service records; or allegation of fraud or misrepresentation of evidence which materially influenced the Board's decision. However, if an appeal has been filed

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with the court, BVA may not reconsider its decision unless the court gives specific permission.

Decision Review Officers

One of the most significant changes to the traditional appeals process is the creation of the "De Novo" review. Webster's defines "De Novo" as Latin for "anew, afresh, again, from the beginning." That is just what the new regulation, 38 CFR 3.2600, "Review of benefits claims decisions," does. It offers a new appeal procedure at the Regional Office level that may result in a faster resolution of cases and cut down time-consuming traditional appeals.

As of June 1, 2001 a claimant can elect to have a Decision Review Officer (DRO) take a fresh look at the issue(s) on appeal by making a request for DRO review on the same statement as the Notice of Disagreement (NOD). The VA will also advise the claimant of the DRO option if the NOD did not specifically request this procedure. A claimant then has 60 days to accept the DRO review in writing, before the appeal is reviewed under the traditional process (the 60 day time limit can not be extended). The VARO will appoint a DRO to look at all the evidence on record, give no deference to the previous decision, and decide if further development or a personal hearing would be in order. The DRO may consult with the accredited representative to discuss the issue(s) on appeal, any further development or evidence needed, conduct personal hearings, or to determine if the appeal can be satisfied by a decision that does not grant all issues (i.e. a veteran will accept a higher scheduler rating even though a claim for Individual Unemployability benefits remains denied). The DRO is limited to making decisions that are in keeping with a previous VARO decision or one that is favorable to the claimant. Should the DRO uphold the prior decision or if the claimant is still dissatisfied with the new decision, the appeal is returned to the traditional BVA process.

In order to use the DRO procedure wisely, service officers and their claimants must understand that it is best used in those appeals that are more clearly defined, have fewer issues warranting development, and are not all ready in the traditional review process (i.e. under a BVA Remand or the file has been transferred to the BVA in Washington, D.C.). This makes it even more important for service officers to write NOD's that clearly state each issue being appealed, what evidence or law supports a claimant's position, and why the earlier decision is unsatisfactory. Every claim that warrants an appeal may not be appropriate for a DRO review.

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Review Questions: Appellate Processes

Using the assigned references and reading materials, answer the following questions:

1. To initiate an appeal of a VA decision, how long from the date of notice of the decision does a claimant have to file a Notice of Disagreement (N.O.D.)? 17-1
 - a. 60 days
 - b. Six months
 - c. One year
 - d. There is no time limit

2. What are the special requirements for a N.O.D.? 17-1
 - a. It must be in writing and communicate a desire to appeal the specific decision or decisions.
 - b. It must contain detailed and specific allegations of errors of fact and/or law in the decision.
 - c. It must be submitted on a specific form.
 - d. It must be submitted in a timely manner

3. A Supplemental Statement of the Case will be furnished if: 17-2
 - a. Additional evidence is considered after the original Statement of the Case has been issued.
 - b. No amended decision has been made granting any benefit.
 - c. Additional issues are raised not covered in the original Statement of the Case.
 - d. The claimant request that one be provided in order to prepare the appeal.

4. An appeal is defined as. 17-1
 - a. a timely filed written Notice of Disagreement from a VA decision and, after a Statement of the Case has been furnished, a timely filed Substantive Appeal.
 - b. a statement filed by the claimant that he/she disagrees with the rating decision and wishes to appeal.
 - c. a request by the claimant for the VA to reconsider the decision
 - d. a statement indicating that the claimant disagrees with the decision whether he/she wishes to appear before a Decision Review Officer, or whether they would like the claim to be referred to Washington.

5. What constitutes a “perfected”/ completed appeal? 17-2
 - a. A N.O.D., and a Statement of the Case.
 - b. A written N.O.D., a Statement of the Case, Supplemental Statement of the Case and a substantive appeal.
 - c. A timely filed written N.O.D., a Statement of the Case, and a timely filed written substantive appeal.
 - d. A decision has been made by BVA and the appeal has been completed

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6. The DRO is limited. 17-4
 - a. To making decisions that are in keeping with a previous VARO decision or one that is favorable to the claimant.
 - b. Reviewing only what is in the claims folder at the time the DRO review is conducted
 - c. Reviewing only new evidence that was submitted with the request for appeal
 - d. Conducting a review of the claims folder and may obtain testimony from the claimant.

7. Following an unfavorable BVA final decision, an appellant may file an appeal to: 17-3
 - a. The U.S. Court of Appeals for Veterans Benefits (CAVB)
 - b. The U.S. Court of Appeals for Veterans Claims (CAVC)
 - c. The U.S. Veterans Court of Appeals (VCA)
 - d. The U.S. Veterans Claims Court of Appeals (VCCA)

8. An appeal from a BVA decision must be filed with the Court within: 17-3
 - a. 60 days after the date of the BVA decision.
 - b. 120 days after the date of the BVA decision.
 - c. Six months after the date of the BVA decision.
 - d. One year after the date of the BVA decision.

9. Following receipt of a Statement of the Case, the claimant must return the substantive appeal (VA Form 9) within what time period to complete the appeal? 17-2
 - a. 30 days
 - b. 60 days
 - c. 60 days or the remainder of the one-year appeal period, whichever is later
 - d. Within one year of the last rating decision.

10. When a BVA decision is appealed to the Court, the claimant will be given the opportunity to submit any additional evidence desired and to raise any new issues that may have arisen since the BVA made its decision. The new information should be sent to: 17-4
 - a. To the Regional Office having the veteran's claims file.
 - b. To the Board of Veterans' Appeals.
 - c. To the Court of Appeals for Veterans Claims.
 - d. No new issues/information/evidence can be submitted

11. Where should an appeal to the Court be sent? 17-3
 - a. To the Regional Office having the veteran's claims file.
 - b. To the Board of Veterans' Appeals.
 - c. To the Court of Appeals for Veterans Claims.
 - d. To the Federal Court for the veteran's state.

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12. On receipt of a valid Notice of Disagreement, the responsible VA activity (called the Agency of Original Jurisdiction) is obliged to do what? 17-1,17-2
- a. to review the decision for correctness and to determine if any further development is necessary, and if so, to do it.
 - b. not obliged to do anything
 - c. send out a VCAA letter advising the claimant what the evidence must show
 - d. change the original decision if there is evidence submitted with the NOD that proves the claimed condition.
13. A request for DRO review may be filed with the VARO of original jurisdiction 17-1
- a. On a VA Form 1-9
 - b. With a written NOD
 - c. On a VA Form 21-4138 in response to a SOC
 - d. VA Form 21-22
14. When a DRO is appointed to review a decision, the DRO will. 17-4
- a. look at all the evidence on record, ignore any new evidence submitted with the request for DRO review, and decide if further development or a personal hearing would be in order.
 - b. look at all the evidence on record and deny any previous approvals that were not warranted, and decide if further development or a personal hearing would be in order.
 - c. look at all the evidence on record, give no deference to the previous decision, and decide if further development or a personal hearing would be in order.
 - d. Remand the case back to the Service officer if more evidence is needed.

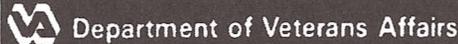
FORMS

APPEALS

VA Form 21-22 - In favor of The American Legion.

VA Form 21-4138 - Notice of Disagreement.

VA Form 9 - Appeal to the Board of Veterans' Appeals.



**APPOINTMENT OF VETERANS SERVICE ORGANIZATION
AS CLAIMANT'S REPRESENTATIVE**

Note - If you would prefer to have an individual assist you with your claim, you may use VA Form 21-22a, "Appointment of Individual As Claimant's Representative."

IMPORTANT - PLEASE READ THE PRIVACY ACT AND RESPONDENT BURDEN ON REVERSE BEFORE COMPLETING THE FORM

1. LAST-FIRST-MIDDLE NAME OF VETERAN Doe, John Ellis	2. VA FILE NUMBER (Include prefix) CSS 123-45-6789
3A. NAME OF SERVICE ORGANIZATION RECOGNIZED BY THE DEPARTMENT OF VETERANS AFFAIRS (See list on reverse side before selecting organization) The American Legion	
3B. JOB TITLE OF OFFICIAL REPRESENTATIVE AUTHORIZED TO ACT ON VETERAN'S BEHALF Veterans Service Officer	

INSTRUCTIONS - TYPE OR PRINT ALL ENTRIES

4. SOCIAL SECURITY NUMBER 123-45-6789	5. INSURANCE NUMBER(S) (Include letter prefix)	
6A. SERVICE NUMBER(S) 123-45-6789	6B. BRANCH OF SERVICE Army	
7. NAME OF CLAIMANT (If other than veteran)	8. RELATIONSHIP (If other than veteran)	
9. ADDRESS OF CLAIMANT (No. and street or rural route, city or P.O., State and ZIP Code) 100 Veteran Avenue Raleigh, NC 27999	10. CLAIMANT'S TELEPHONE NUMBER (Include Area Code)	
	A. DAYTIME (919) 777-4321	B. EVENING (919) 777-1234
	11. DATE OF THIS APPOINTMENT 4/15/2009	

12. AUTHORIZATION FOR REPRESENTATIVE'S ACCESS TO RECORDS PROTECTED BY SECTION 7332, TITLE 38, U.S.C.

Unless I check the box below, I do not authorize VA to disclose to the service organization named on this appointment form any records that may be in my file relating to treatment for drug abuse, alcoholism or alcohol abuse, infection with the human immunodeficiency virus (HIV), or sickle cell anemia.

I authorize the VA facility having custody of my VA claimant records to disclose to the service organization named in Item 3A all treatment records relating to drug abuse, alcoholism or alcohol abuse, infection with the human immunodeficiency virus (HIV), or sickle cell anemia. Rediscovery of these records by my service organization representative, other than to VA or the Court of Appeals for Veterans Claims, is not authorized without my further written consent. This authorization will remain in effect until the earlier of the following events: (1) I revoke this authorization by filing a written revocation with VA; or (2) I revoke the appointment of the service organization named above, either by explicit revocation or the appointment of another representative.

13. LIMITATION OF CONSENT - My consent in Item 12 for the disclosure of records relating to treatment for drug abuse, alcoholism or alcohol abuse, infection with the human immunodeficiency virus (HIV), or sickle cell anemia is limited as follows:

I authorize the service organization listed in Block 3A to release information to the North Carolina Division of Veterans Affairs and the County Veterans Service Officer in the county of my residence concerning my VA affairs.

I, the claimant named in Items 1 or 7, hereby appoint the service organization named in Item 3A as my representative to prepare, present and prosecute my claim for any and all benefits from the Department of Veterans Affairs based on the service of the veteran named in Item 1. I authorize the Department of Veterans Affairs to release any and all of my records, to include disclosure of my Federal tax information (other than as provided in Items 12 and 13), to that service organization appointed as my representative. It is understood that no fee or compensation of whatsoever nature will be charged me for service rendered pursuant to this power of attorney. I understand that the service organization I have appointed as my representative may revoke this power of attorney at any time, subject to 38 CFR 20.608. *Additionally, in those cases where a veteran's income is being developed because of an income verification necessitated by an Internal Revenue Service verification match, the assignment of the service organization as the veteran's representative is only valid for five years from the date this form is signed for purposes restricted to the verification match.* Signed and accepted subject to the foregoing conditions.

THIS POWER OF ATTORNEY DOES NOT REQUIRE EXECUTION BEFORE A NOTARY PUBLIC

14. SIGNATURE OF CLAIMANT (Do Not Print) <i>John E. Doe</i>	15. DATE SIGNED <i>04/15/2009</i>
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VA USE ONLY	VA FORM 21-22-1 SENT TO:	DATE SENT	ACKNOWLEDGED (Date)	REVOKED (Reason and date)
	<input type="checkbox"/> CER FILE <input type="checkbox"/> EDU FILE <input type="checkbox"/> INSURANCE FILE <input type="checkbox"/> CH. 30 <input type="checkbox"/> DEA FILE <input type="checkbox"/> LG FILE			

NOTE: As long as this appointment is in effect the organization named herein will be recognized as the sole agent for presentation of your claim before the Department of Veterans Affairs in connection with your claim or any portion thereof.



STATEMENT IN SUPPORT OF CLAIM

PRIVACY ACT INFORMATION: The law authorizes us to request the information we are asking you to provide on this form (38 U.S.C. 501(a) and (b)). The responses you submit are considered confidential (38 U.S.C. 5701). They may be disclosed outside the Department of Veterans Affairs (VA) only if the disclosure is authorized under the Privacy Act, including the routine uses identified in the VA system of records, 58VA21/22, Compensation, Pension, Education and Rehabilitation Records - VA, published in the Federal Register. The requested information is considered relevant and necessary to determine maximum benefits under the law. Information submitted is subject to verification through computer matching programs with other agencies.

RESPONDENT BURDEN: VA may not conduct or sponsor, and respondent is not required to respond to this collection of information unless it displays a valid OMB Control Number. Public reporting burden for this collection of information is estimated to average 15 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. If you have comments regarding this burden estimate or any other aspect of this collection of information, call 1-800-827-1000 for mailing information on where to send your comments.

FIRST NAME - MIDDLE NAME - LAST NAME OF VETERAN <i>(Type or print)</i> John Ellis Doe	SOCIAL SECURITY NO. 123-45-6789	VA FILE NO. C/CSS - 123456789
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The following statement is made in connection with a claim for benefits in the case of the above-named veteran:

NOTICE OF DISAGREEMENT (Type One)

I disagree with your April 4, 2009 Rating Decision in not granting service connection for my right leg injury. I wish to appeal this issue; therefore, please issue a "Statement of the Case" so I may prepare a substantive appeal.

NOTICE OF DISAGREEMENT (Type Two)

I disagree with your April 4, 2009 decision in not granting service connection for my right leg injury.

I am submitting additional evidence from Dr. Jones which indicates treatment while serving on active duty. I am also submitting evidence from Dr. Shultz indicating treatment since discharge from service.

Please use this evidence to reverse your decision.

If your decision remains the same, please issue a "Statement of the Case" so I may prepare a substantive appeal.

(CONTINUE ON REVERSE)

I CERTIFY THAT the statements on this form are true and correct to the best of my knowledge and belief.		
SIGNATURE <i>John E. Doe</i>	DATE SIGNED <i>04/15/2009</i>	
ADDRESS 100 Veteran Avenue Raleigh, NC 27999	TELEPHONE NUMBERS <i>(Include Area Code)</i>	
	DAYTIME (919) 777-1234	EVENING (919) 777-4321

PENALTY: The law provides severe penalties which include fine or imprisonment, or both, for the willful submission of any statement or evidence of a material fact, knowing it to be false.



Department of Veterans Affairs

APPEAL TO BOARD OF VETERANS' APPEALS

IMPORTANT: Read the attached instructions before you fill out this form. VA also encourages you to get assistance from your representative in filling out this form.

1. NAME OF VETERAN (Last Name, First Name, Middle Initial) Doe, John Ellis	2. CLAIM FILE NO. (Include prefix) CSS 123-45-6789	3. INSURANCE FILE NO., OR LOAN NO.
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4. I AM THE:

VETERAN VETERAN'S WIDOW/ER VETERAN'S CHILD VETERAN'S PARENT

OTHER (Specify)

5. TELEPHONE NUMBERS		6. MY ADDRESS IS: (Number & Street or Post Office Box, City, State & ZIP Code) 100 Veteran Avenue Raleigh, NC 27999
A. HOME (Include Area Code) (919) 777-4321	B. WORK (Include Area Code) (919) 777-1234	
7. IF I AM NOT THE VETERAN, MY NAME IS: (Last Name, First Name, Middle Initial)		

8. HEARING

IMPORTANT: Read the information about this block in paragraph 6 of the attached instructions. This block is used to request a Board of Veterans' Appeals hearing. DO NOT USE THIS FORM TO REQUEST A HEARING BEFORE VA REGIONAL OFFICE PERSONNEL.

Check one (and only one) of the following boxes:

A. I DO NOT WANT A BVA HEARING.

B. I WANT A BVA HEARING IN WASHINGTON, DC.

C. I WANT A BVA HEARING AT A LOCAL VA OFFICE BEFORE A MEMBER, OR MEMBERS, OF THE BVA.
(Not available at Washington, DC, or Baltimore, MD, Regional Offices.)

9. THESE ARE THE ISSUES I WANT TO APPEAL TO THE BVA: (Be sure to read the information about this block in paragraph 6 of the attached instructions.)

A. I WANT TO APPEAL ALL OF THE ISSUES LISTED ON THE STATEMENT OF THE CASE AND ANY SUPPLEMENTAL STATEMENTS OF THE CASE THAT MY LOCAL VA OFFICE SENT TO ME.

B. I HAVE READ THE STATEMENT OF THE CASE AND ANY SUPPLEMENTAL STATEMENT OF THE CASE I RECEIVED. I AM ONLY APPEALING THESE ISSUES:
(List below.)
Service Connection for right leg injury

10. HERE IS WHY I THINK THAT VA DECIDED MY CASE INCORRECTLY: (Be sure to read the information about this block in paragraph 6 of the attached instructions.)

I am filling this substantive appeal seeking service connection for the following:
Service Connection for my right leg injury.

*State the reasons that you disagree with the VA's decision.
*Always remember the VA Form 9 is a written appeal to a specific statement of the case, supplemental statement of the case and address only the issues that are listed on that statement of the case and/or supplemental statement of the case.
*Can not use a VA Form 9 as a Notice of Disagreement
*Once the issues are identified, stick to the issues, be specific, make sure all your argument references that issue; use any type of reference materials that will support your argument, continue to stick with the issues being appealed.
*The appeal can be very short, it can be lengthy, it can have attachments, but it should be in a format that is easy to read, easy to understand.
*The appeal does not have to be typed; however, that is the preferred method because of ease of reading.
*Claimant or Accredited Representative must sign/date Form 9.

(Continue on the back, or attach sheets of paper, if you need more space.)

11. SIGNATURE OF PERSON MAKING THIS APPEAL John E. Doe	12. DATE (MM/DD/YYYY) 04/15/2009	13. SIGNATURE OF APPOINTED REPRESENTATIVE, IF ANY (Not required if signed by appellant. See paragraph 6 of the instructions.)	14. DATE (MM/DD/YYYY)
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