

# Lawyers Serving Warriors®

A Project of the National Veterans Legal Services Program

## Should You “Opt-In” to RAMP?

### What are the new reforms in the VA appeals process?

- On August 23, 2017, the President signed into law the Veterans Appeals Improvement and Modernization Act, designed to streamline the claims and appeals process for pursuing disability compensation benefits. The earliest the law is expected to take effect is February 2019.
- In the meantime, the VA has introduced the temporary Rapid Appeals Modernization Program (“RAMP”), which offers certain eligible veterans the option of having their claim reviewed in a “Higher-Level Review Lane” or a “Supplemental Claim Lane.”
- Participation in RAMP is voluntary, but if you choose to “opt-in” to RAMP, you will be required to withdraw your pending compensation benefit appeals and cannot opt back into the current “traditional” appeals system.
- Choosing to “opt-in” to RAMP may lead to an earlier resolution of your appeal.
- If you choose not to participate in RAMP, you may continue your appeal under the current process.

### What are the two review options under RAMP?

#### Option 1: Supplemental Claim

- This option may be appropriate if you have NEW AND RELEVANT evidence to support your claim. However, if you choose this option when you *initially* opt into RAMP, VA will re-adjudicate your claim even if there is no new evidence since the last VA denial of your claim.
- The VA will provide assistance in developing and gathering NEW AND RELEVANT evidence.
- If you receive an unfavorable decision, you can continue to submit Supplemental Claims with NEW AND RELEVANT evidence, use the Higher-Level Review Lane, or get in line for review by the Board of Veterans’ Appeals (Board) under the rules of the new appeals system, by making an election for further review within one year of the date on your decision notice.

#### Option 2: Higher-Level Review

- This option may be appropriate if you have NO additional evidence in support of a claim, but you believe the initial decision was made in error.
- This is a new review of your claim by an experienced claim adjudicator.
- The reviewer will only consider evidence that was in the VA’s possession at the time you opt-in (i.e., new evidence will not be considered).
- The VA CANNOT assist you in developing new evidence. But if the reviewer finds that the VA did not fulfill its duty to assist in the original claim process, the reviewer should return the claim for correction of this error and a new rating decision.
- You can request an informal telephonic conference with the Higher Level Reviewer to explain why the previous decision was erroneous.
- If you receive an unfavorable decision, you can submit a Supplemental Claim with NEW AND RELEVANT evidence, or get in line for review by the Board under the rules of the new appeals system, by making an election for further review within one year of the date on your decision notice.

### What does it mean to get in line for Board review under the rules of the new appeals system?

- You can appeal to the Board of Veterans' Appeals if the VA denies your claim in the Supplemental Claim Lane or Higher-Level Review Lane, but the Board will decide your appeal no earlier than October 2018.
- The duty to assist will not apply to the Board when reviewing unfavorable RAMP decisions.
- When requesting review of a RAMP decision by the Board, you must choose one of the following review options:
  - **Direct Review:** The Board will not consider new evidence and not allow a hearing.
  - **Evidence Submission:** The Board will not permit a hearing, but will consider additional evidence you submit within 90 days of the date that the Board receives your request.
  - **Hearing:** You will be able to testify before a Veterans Law Judge and submit additional evidence (within 90 days of the hearing date).

### What are the advantages of "opting-in" to RAMP?

- Potentially faster decisions and early resolution process—VA aims to complete the reviews under the Higher-Level Review and Supplemental Claim lanes in an average of 125 days.
- Veterans can keep their original claim date as their effective date for benefits, if ultimately granted, as long as they keep that claim alive by seeking further review under RAMP or the new appeals process within a year of a denial.
- Findings favorable to you will be binding in subsequent proceedings unless there is clear and unmistakable evidence that would overcome such favorable findings

### What are the disadvantages of "opting-in" to RAMP?

- In the Higher-Level Review Lane, the reviewer will not consider new evidence. The reviewer will only consider evidence of record at the time of initial opt-in or, for subsequent Higher Level Reviews, at the time of the previous decision.
- The duty to assist (helping veterans obtain evidence, such as medical records and medical opinions) does not apply in the Higher Level Review Lane or to future review by the Board.
- Once a veteran opts into RAMP, any covered claims cannot return to the current appeals system.
- Prior Board remand orders are not binding on the VA.

### Where can I get help with my request for review?

- This flyer is informational only and is NOT a substitute for legal advice. **We strongly recommend that you seek professional advice for your decision.**
- You can have a Veterans Service Organization representative help you with your review free of charge. An attorney or agent can also represent you, but may require you to pay for their services.
- You can find more information on accredited representatives (VSOs, attorneys, and agents) and fee agreements at: <https://www.va.gov/ogc/accreditation.asp>.

You can find more information on the available review options at: <https://benefits.va.gov/benefits/appeals.asp>



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