

# SLEEP APNEA CLAIMS

An Essential Guide for U.S. Veterans



**GANG & ASSOCIATES LLC**

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for U.S. Veterans**

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Gang & Associates

## About This Guide

Prominent former New York City litigator, author, and founding partner of one of the nation's leading veterans' disability law firms, Eric A. Gang, has litigated over 1,000 appeals at the U.S. Court of Appeals for Veterans Claims, winning some of the largest VA awards on record. With a long-standing reputation as an aggressive and tenacious veteran's advocate, Eric is renowned for his calculated approach to complex VA claims and appeals involving sleep apnea, PTSD, and other service-related conditions. Eric's diligence, legal acumen, and understanding of the interrelationship between psychological and physical illness continue to help U.S. military veterans maximize the benefits they deserve.

If you or a family member is experiencing sleep apnea due to service in the U.S. Army, Air Force, Marine Corps, Navy, Coast Guard, or Reserves, you have the right to collect benefits from the Department of Veterans Affairs (VA). To maximize these benefits, it is important to (1) recognize your rights as a veteran with sleep apnea, (2) familiarize yourself with the VA sleep apnea claims and appeals process, and (3) understand your options under the law.

Sleep apnea is a sleep-related breathing disorder that can severely impact individuals. Veterans who develop sleep apnea can experience chronic health challenges that may exacerbate over time. The condition can hamper the patient's ability to maintain employment, and ongoing treatment can exceed \$3,000 annually. If left untreated, the disorder can be life-threatening.

Obtaining VA benefits for sleep apnea treatment is imperative. However, securing these benefits can be a challenge. This concise and comprehen-

sive guide aims to assist veterans in successfully navigating the process of claiming VA benefits for sleep apnea. By leveraging this guide's resources and strategies, you will be better equipped to prepare a compelling sleep apnea claim and appeal effectively denied claims.

A quick and easy reference for:

- VA disability ratings for sleep apnea
- VA sleep apnea disability claim filing process
- How to prepare a compelling sleep apnea disability claim
- How to maximize your VA sleep apnea disability rating

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## Sleep Apnea Among U.S. Veterans

Sleep apnea poses a significant health challenge for millions globally, with military veterans being particularly affected. Research indicates that between 34% and 47% of military veterans are at high risk for obstructive sleep apnea, compared to just 12% of the general U.S. population.

The rigorous demands of military service—including strenuous physical activities, heightened vigilance, irregular schedules, and elevated stress levels—contribute to this disparity. Such conditions often lead to unhealthy coping mechanisms like smoking and excessive alcohol consumption, both known to elevate the risk of sleep apnea.

Veterans are notably more vulnerable due to the strong correlation between sleep apnea and post-traumatic stress disorder (PTSD). Veterans face a threefold increased likelihood of receiving a PTSD diagnosis compared to civilians. Those with combat experience or mental health disorders exhibit even higher incidences of sleep disorders. Studies conducted by the VA San Diego Healthcare System and the National Center for PTSD reveal that over 69% of veterans suffering from PTSD are at substantial risk for sleep apnea; this risk amplifies in direct relation to the severity of PTSD symptoms.

Moreover, exposure to military-related air pollutants is another contributing factor in developing sleep apnea among veterans. Military operations frequently involve contact with hazardous chemicals, fuels, and other pollutants that may initiate or worsen cases of sleep apnea within this population segment.



The prevalence of sleep apnea among veterans can also be attributed to the lifestyle changes that typically follow military service. Veterans often encounter significant shifts in dietary habits, physical activity levels, and environmental conditions. These alterations can directly result in weight gain—a well-recognized risk factor for sleep apnea.

While the incidence of sleep apnea tends to increase with age within the general population, age appears to be a less significant factor among veterans. Approximately [70% of Vietnam War veterans diagnosed with PTSD](#) also suffer from sleep apnea. Studies indicate that [69% of younger Iraq and Afghanistan war veterans test positive](#) for this condition.

There has been a marked rise in sleep apnea claims among younger veterans. Since 2009, such [claims have surged by 150%](#), with more than 94% stemming from Gulf War I or Iraq and Afghanistan war veterans. The Department of Veterans Affairs' Fiscal Year 2014 Annual Benefits Report identified [sleep apnea as the most prevalent service-connected respiratory disability](#), accounting for more than 22% of all body system disabilities reported by veterans.

## Dangers Of Sleep Apnea

Actress [Carrie Fisher](#), renowned for her role in the *Star Wars* franchise, tragically passed away in December 2016 due to “sleep apnea and other causes” following a heart attack during an international flight. Similarly, esteemed Bollywood singer [Bappi Lahiri](#) succumbed to complications related to obstructive sleep apnea in February 2022.

While the failure to breathe is clearly dangerous, untreated sleep apnea itself has not been directly linked to suffocation or death. In cases of Obstructive Sleep Apnea, the body instinctively adjusts its position when oxygen levels drop sufficiently low, thereby clearing the airway obstruction. For Central Sleep Apnea, a comparable reflex mechanism awakens the individual at critical low oxygen levels, prompting them to resume breathing.

Still, sleep apnea can significantly decrease lifespan by elevating the risk of severe health conditions. Each year, thousands of deaths are associated with untreated sleep apnea. Prolonged periods of interrupted sleep and reduced oxygen intake severely impair vital organs over time.

Patients diagnosed with sleep apnea often present higher incidences of hypertension and diabetes. Common fatal outcomes attributable to sleep apnea include irregular heart rhythms, hypertension, pulmonary hypertension, myocardial infarction (heart attack), diabetes mellitus, and cerebrovascular accidents (stroke).

Statistics indicate that approximately 42% of individuals with sleep apnea succumb either to stroke or cardiovascular diseases compared with just 26% among those without this condition. Without appropriate intervention or treatment for sleep apnea sufferers, the mortality risk nearly doubles.

## Types of Sleep Apnea

There are three primary categories of sleep apnea: obstructive sleep apnea (OSA), central sleep apnea, and complex sleep apnea.

### 1. Obstructive Sleep Apnea

Obstructive Sleep Apnea (OSA) is the most prevalent form, affecting 50% of women and 37% of men. Approximately 84% of all sleep apnea patients are diagnosed with OSA. This condition arises from a physical blockage in the airway; during sleep, the tongue, soft palate, and uvula relax and collapse over the throat, impeding airflow. Common symptoms include daytime lethargy, insomnia, snoring, dry mouth upon waking, confusion, and frequent headaches.

### 2. Central Sleep Apnea

Central Sleep Apnea is a rarer neurological disorder—affecting only about 0.4% of those diagnosed with sleep apnea. Overall, impacted individuals exhibit no physical obstruction akin to OSA. Instead, the nervous system fails to send appropriate signals for breathing during sleep, often caused by drug use, congestive heart failure, high-altitude exposure, or other underlying conditions. Symptoms may remain imperceptible in some cases. Others experience issues, including insomnia, fatigue, or difficulty concentrating.

### 3. Complex Sleep Apnea

A combination of both Obstructive Sleep Apnea and Central Sleep Apnea characterizes Complex Sleep Apnea. Approximately 15% of individuals diagnosed with sleep apnea exhibit this form. Diagnosing the presence of both types can pose significant challenges. Typically,

there is an initial diagnosis of OSA. Complex sleep apnea may subsequently be identified when patients show no improvement with standard OSA treatments. Symptoms are similar to those experienced in OSA, including daytime lethargy, insomnia, snoring, dry mouth, confusion, and frequent headaches.

Several factors can contribute to the development and worsening of sleep apnea, such as weight gain and obesity, advanced age, alcohol abuse, the use of sedatives, and preexisting conditions like type II diabetes mellitus (T2DM), hypertension (HTN), gastroesophageal reflux disease (GERD), and cardiovascular disease.

## Symptoms of Sleep Apnea

The symptoms of sleep apnea can manifest in various ways. Common indicators include:

- Morning headaches
- Loud snoring, gasping, or choking during sleep
- Irritability
- Insomnia or difficulty sleeping
- Hypersomnia, or excessive daytime fatigue
- Fatigue
- Difficulty concentrating
- Changes in appetite and sleep patterns

Sleep apnea symptoms may be exacerbated by certain secondary health issues such as:

- The use of sedatives or tranquilizers, which can relax throat muscles and contribute to Obstructive Sleep Apnea
- Excess weight, potentially caused by medications, disabling conditions, or other service-related factors
- Narrowed airways due to congenital defects or other causes
- Medical conditions including type 2 diabetes, high blood pressure, and various other diseases

## Effective Treatments for Sleep Apnea

Although no permanent cure for sleep apnea exists, various treatments can significantly mitigate its symptoms and health impacts. These treatments range from breathing devices to surgical interventions and lifestyle adjustments.

### Breathing Devices

The Continuous Positive Airway Pressure (CPAP) machine is the most effective treatment for sleep apnea. The CPAP device functions as an air pump. Prior to sleeping, the patient wears a mask over their nose and/or mouth. Pressurized air continuously flows through this mask during sleep, maintaining an open airway and preventing obstruction.

Alternative breathing devices include:

- **Expiratory Positive Airway Pressure (EPAP) Device:** This nasal apparatus uses valves to generate air pressure during exhalation.
- **Auto-adjusting Positive Airway Pressure (APAP) Machine:**

Also known as auto-CPAP, it automatically adjusts airflow based on the patient's breathing patterns.

- **Bilevel Positive Airway Pressure (BPAP/BiPAP) Machine:** Provides adjustable pressure settings for enhanced comfort.

## Oral Devices

Sleep apnea can also be managed with oral appliances as an alternative to CPAP machines. These custom-fitted devices are worn during sleep to keep the tongue away from the soft palate and airway.

For example:

- **Tongue Retaining Devices:** Hold the tongue forward during sleep to prevent upper airway blockage.
- **Mandibular Repositioning Mouthpieces:** Fit over the teeth and hold the jaw open slightly, preventing airway obstruction.

The eXciteOSA device offers a viable intervention for patients with mild obstructive sleep apnea. This mouthpiece, worn during daytime hours, employs electrodes to stimulate the tongue, thereby enhancing muscle function and reducing the risk of airway obstruction during sleep.

## Pharmacological Interventions

While medications exist to manage side effects associated with sleep apnea—such as [modafinil](#), which is FDA-approved for treating daytime lethargy in CPAP users—there are currently no pharmacological treatments that address the root causes of sleep apnea itself.

## Surgical Options

Surgical interventions have proven effective for patients unresponsive

to CPAP therapy. These procedures aim either to open the airway or to implant an electrical device designed to stimulate breathing during sleep.

Common surgical treatments include:

- **Adenotonsillectomy:** Surgical removal of the tonsils and adenoids.
- **Hypoglossal Nerve Implant:** Insertion of a nerve stimulator, such as Inspire implants, which prevent tongue-induced airway blockage.
- **Uvulopalatopharyngoplasty (UPPP):** Repositioning or removing tissue around the upper airway.
- **Hyoid Suspension:** Repositioning of the hyoid bone through procedures like [AIRLIFT](#) hyoid suspension to enhance airflow.
- **Maxillomandibular Advancement:** Surgical repositioning of the jaw to create more space in the airway.

## Lifestyle Modifications

Veterans may potentially mitigate symptoms of sleep apnea independently through several lifestyle adjustments. These include altering sleeping positions to the side or stomach, achieving weight loss, increasing physical activity, quitting smoking, and moderating alcohol consumption.

## Costs Associated with Sleep Apnea Treatments

The [American Academy of Sleep Medicine](#) indicates that managing sleep apnea can incur significant expenses for patients. An essential component in diagnosing this condition is the sleep study (polysomnogram), which can cost up to \$5,000 per night.

Continuous Positive Airway Pressure (CPAP) machines are typically

priced around \$1,000 or more. Bi-level Positive Airway Pressure (BiPAP) machines often exceed \$6,000 in cost. Both types of equipment require ongoing maintenance and replacement parts such as filters (~\$30 each), tubing (~\$50), and masks (~\$100).

Oral appliances designed to treat sleep apnea generally cost more than \$2,000. The AIRLIFT procedure may cost upwards of \$10,000, while the Inspire implant could cost approximately \$40,000.

Furthermore, sleep apnea significantly impacts productivity levels. Veterans suffering from this condition frequently struggle with maintaining employment due to impaired concentration levels, pronounced fatigue, insomnia, and related health issues.

Securing VA benefits for veterans with sleep apnea is vital, given the expense and potential disabling effects.

## VA Disability Ratings for Sleep Apnea

If you are experiencing sleep apnea due to qualifying service in the U.S. military, or if it has developed due to an already diagnosed service-connected condition, you may be entitled to medical coverage and tax-free disability payments.

To secure benefits for sleep apnea, you must obtain a VA disability rating. This rating determines the amount of payment you will receive—the higher the rating, the higher the compensation. Your sleep apnea VA rating is assessed based on medical evidence supporting your condition and how it aligns with the criteria specified in the VA Rating Schedule.



Under Diagnostic Code 6847, sleep apnea ratings provided by the VA range from 0% to 100%, detailed as follows:

**0% Rating**

Documented sleep disorder, no symptoms of sleep apnea

**30% Rating**

Overtired during the day (hypersomnolence), does not improve with extended sleep

**50% Rating**

Require sleeping device—CPAP, BiPAP, NIPPV, NIV, MAD, APAP, nasopharyngeal stent, nasal dilator, tongue-retaining mouthpiece, genioglossal nerve stimulation implant—or other device to assist breathing during sleep due to sleep apnea

**100% Rating**

Chronic respiratory failure, including carbon dioxide retention, cor pulmonale, or tracheostomy.

The VA's rating scale jumps directly from 0% to 30%, with no intermediate percentages. The majority of individuals diagnosed with sleep apnea receive a 50% rating. However, it should be noted that as of the publication of this guidebook, VA has a proposal pending to amend the rating code for sleep apnea, which could take away the automatic 50% rating for use of a sleeping device.

Total Disability Individual Unemployability (TDIU) benefits are also available for veterans suffering from sleep apnea. By combining your

sleep apnea rating with other disability ratings, you may achieve a 100% total disability rating or elevate your combined rating to at least 70%. If you cannot maintain gainful employment due to service-connected disabilities, you would qualify for TDIU benefits with a 70% combined rating that includes a 50% rating for sleep apnea.

To be eligible for a 50% disability rating for sleep apnea, the following criteria must be met:

1. Utilization of a qualifying breathing device.
2. Evidence confirming the necessity of using the qualifying device.

### **Sleep Apnea Rating Determines Coverage Amount**

The VA rating assigned to your sleep apnea condition will dictate your eligibility for VA-covered medical care and any corresponding tax-free monthly disability compensation.

With an appropriate diagnosis, you will automatically receive a minimum VA rating of 0%. As your condition's severity increases, so does your eligibility for interventions such as CPAP devices or corrective surgeries.

While a 0% disability rating for sleep apnea does not render you eligible for tax-free monthly compensation, the Veterans Health Administration (VHA) will still cover your medical expenses. Upon reaching a 30% or higher disability rating for sleep apnea, entitlement to monthly tax-free payments is established. The amount of these payments depends on the VA rating, the number of dependents, and other factors the VA considers.

A veteran with a 100 percent disability rating qualifies for the maximum level of monthly tax-free compensation. However, additional factors, such as the requirement for aid or special monthly compensation and any dependents, can increase this amount.

### **Proposed Update to Sleep Apnea Rating Schedule**

As noted previously, be advised that as of this Guide's publication date, the VA is proposing changes to the rating criteria for sleep apnea. These adjustments may make obtaining an automatic 50 percent rating through CPAP machine use more challenging.

The proposed revised sleep apnea rating schedule would rate sleep apnea as follows:

**0% Rating:** Patient has no symptoms with or without treatment.

**10% Rating:** Sleep apnea with incomplete relief despite treatment (as determined by a sleep study).

**50% Rating:** Sleep apnea with ineffective treatment (as determined by a sleep study), inability to use treatment due to comorbid conditions, and no end-organ damage.

**100% Rating:** Sleep apnea with ineffective treatment (as determined by a sleep study), inability to use treatment due to comorbid conditions, and presence of end-organ damage.

While a new rating schedule is not yet in effect, veterans should file a claim for sleep apnea as soon as possible to avoid a lower potential rating.

## How To Win VA Benefits for Sleep Apnea

Obtaining a disability rating and receiving VA disability benefits for sleep apnea follows the same criteria as applying for compensation from the VA for any condition attributable to active service.

To be eligible for VA disability compensation due to sleep apnea, veterans must show that they satisfy the following two requirements:

1. A current diagnosis of sleep apnea.
2. Documentation of an event, injury, or illness incurred during qualifying active duty that precipitated the onset of sleep apnea.

### Obtain A Sleep Apnea Diagnosis

Diagnosis of sleep apnea is most accurately achieved through a sleep study, as the condition's symptoms may not always be evident to those affected. The Department of Veterans Affairs mandates that the results of a sleep study must substantiate any diagnosis of sleep apnea. Therefore, including these results with your application, appeal, or supplemental claim is essential.

According to the National Institutes of Health, a sleep study—also known as polysomnography—is a non-invasive test designed to:

- Evaluate your quality of sleep,
- Assess your body's response to sleeping issues,
- Aid physicians in diagnosing specific sleeping disorders.

Typically conducted in a specialized facility, this study monitors brain

waves, heart rate, breathing patterns, and blood oxygen levels throughout an entire night. These comprehensive data enable healthcare professionals to diagnose conditions such as sleep apnea or other related disorders and determine their severity.

The Department of Veterans Affairs offers Compensation & Pension (C&P) examinations for sleep apnea, which can be conducted either in a specialized sleep laboratory or via equipment provided for home use. Additionally, veterans can receive a sleep apnea diagnosis from their private physician.

It is important to ensure that your test meets VA approval standards. A VA-approved sleep study provides critical evidence for validating your condition and ensures that any prescribed medical devices comply with VA regulations.

### **Establish Sleep Apnea Service Connection**

To qualify for sleep apnea benefits, veterans must establish a connection between the condition and military service. Veterans must demonstrate either:

1. That sleep apnea originated during their period of service, OR
2. That sleep apnea developed post-service due to an event or condition that occurred during service (or due to an already established service-connected issue).

In sum, veterans secure sleep apnea benefits through either a direct or [secondary service connection](#).

Establishing a direct service connection can be relatively straightforward. Veterans can show that their sleep apnea developed during active duty by providing military medical records, performance evaluations, and other documentation.

However, the majority of sleep apnea claims are won through secondary service connections. This method poses greater difficulty as veterans need to illustrate that their sleep apnea resulted from another health condition that is already recognized as being related to their military service.

Sleep apnea has been linked with several conditions commonly experienced by veterans, including:

- [Adjustment Disorder](#)
- [Allergic rhinitis](#)
- [Asthma](#)
- [Depression](#)
- [Generalized Anxiety Disorder](#)
- [Obesity](#)
- [Post-Traumatic Stress Disorder \(PTSD\)](#)
- [Sinusitis](#)
- [Tinnitus](#)

For instance, a veteran may have established a [service connection for obesity](#) due to mental health disorders or physical injuries incurred during military service. Obesity has been associated with the development of obstructive sleep apnea. Therefore, a veteran with service-connected obesity may secure a secondary service connection for sleep apnea.

Commonly, obesity stems from another service-connected issue, which subsequently leads to sleep apnea. For example, psychiatric conditions and medications prescribed for these issues often result in weight gain and then the onset of sleep apnea.

The most prevalent method by which veterans obtain benefits for sleep apnea is through a secondary service connection to PTSD. Numerous studies have substantiated a causal relationship between PTSD and the onset of sleep apnea among veterans.

To obtain a secondary service connection regarding sleep apnea, it is generally necessary to provide a [nexus letter](#)—an expert medical opinion demonstrating how your sleep apnea either directly results from (or was aggravated by) an event, injury, or illness sustained during qualifying active duty.

Nexus letters are critical in securing approval for [VA benefits related to sleep apnea](#). A lack of robust documentation connecting your condition to military service can lead to denied claims, lengthy appeals processes, and substantial out-of-pocket expenses for treatment related to unmanaged sleep apnea.

Veterans are generally not permitted to draft their own nexus letters. Instead, a certified medical expert must author the nexus letter (also known as an Independent Medical Opinion or IMO) to establish a legitimate connection between sleep apnea and another service-connected condition for VA benefits. Securing such experts can be challenging since you must select a [provider who is experienced with the VA system](#).

When drafting a nexus letter for sleep apnea, its contents must be specifically tailored to the individual veteran. The letter should reference peer-reviewed scientific literature demonstrating a link between sleep apnea and another service-connected condition. It must also include a medical expert opinion connecting these findings to the veteran's particular conditions.

For example, a [nexus letter linking sleep apnea to service-connected PTSD](#) should include:

- Proof of qualifications or licensure pertinent to evaluating sleep apnea
- Indication that the claims file was reviewed
- Detailed rationale for this conclusion based on presented evidence
- Confirmation of current sleep apnea (active pathology)
- Confirmation of PTSD diagnosis
- An objective discussion addressing any factors that do not support a link between PTSD and sleep apnea
- An exhaustive examination of medical documents from before, during, and after service
- A thorough review of the veteran's VA claims files
- A conclusion that it is "at least as likely as not" that PTSD causes the sleep apnea

[Medical professionals who serve as experts in legal proceedings](#), especially those involving Veterans Affairs (VA), understand how to address every criterion required by the VA to substantiate a veteran's claim for sleep apnea secondary to a service-connected health condition.



The most economical and efficient method to obtain a nexus letter for sleep apnea related to a service-related condition is through consultation with a [VA disability attorney](#). These attorneys possess the ability and resources necessary to support your claim.

### **Maximize Your VA Rating**

The amount of VA benefits you receive for sleep apnea is determined by your VA disability rating. This rating is based on the treatments you are undergoing for sleep apnea, your capacity to sustain gainful employment, and the number of dependents in your household, including a spouse, minor children, or dependent parents.

Providing comprehensive evidence through detailed medical records and a well-documented nexus letter can significantly enhance your chances of securing a higher rating. Furthermore, service connection for sleep apnea may open avenues to claim additional health conditions as secondary to sleep apnea, thereby increasing your overall VA benefits.

### **Service Connecting Other Conditions Secondary to Sleep Apnea**

Chronic oxygen deprivation and disrupted sleep resulting from sleep apnea can precipitate other severe health issues that veterans might be eligible to claim as secondary conditions.

These conditions include:

- Insomnia
- Hypertension
- Diabetes
- Depression

- Chronic Migraines
- Atrial Fibrillation
- Acid Reflux (GERD)

For instance, veterans could qualify for VA disability benefits for depression secondary to their service-connected sleep apnea. Scientific research indicates a possible correlation between obstructive sleep apnea (OSA) and depression.

To secure a separate VA rating for depression secondary to sleep apnea, it is imperative to obtain distinct diagnoses for each condition. This differentiation can be challenging due to shared symptoms such as fatigue, disrupted sleep patterns, and mood disturbances. Thorough clinical evaluations considering the specific factors related to each condition enable healthcare providers to make these distinctions effectively.

For example, physicians are likely to consider sleep apnea when symptoms predominantly occur during sleep. Conversely, when emotional disruptions and mood disturbances are prominent, a depression diagnosis may be appropriate. Of course, individuals with both conditions can experience concurrent symptoms of both sleep apnea and depression, complicating separate diagnoses.

For veterans seeking a VA rating for any health condition secondary to sleep apnea, obtaining a medical nexus letter is essential. Additionally, gathering supporting medical records—such as diagnostic reports and results from sleep studies—is crucial. Your healthcare providers should provide these documents.

Veterans can receive assistance in preparing these complex claims by consulting with a [VA disability lawyer](#) who specializes in handling cases related to conditions secondary to sleep apnea.

## Filing A VA Claim for Sleep Apnea

Veterans seeking disability benefits for sleep apnea will need to submit the following documents to the Department of Veterans Affairs:

- [Sleep Apnea Disability Benefits Questionnaire \(DBQ\)](#)
- [VA Form 21-526EZ](#)
- [Nexus Letter](#)

The DBQ organizes the severity of the patient's condition, listing symptoms and potential correlations with existing disabilities.

The VA requires precise language and substantiative evidence in both the DBQ and the Nexus letter. Most veterans will consult with an [experienced VA disability attorney](#) when preparing their sleep apnea claims.

## Can You Dispute the VA Decision?

Despite extensive medical research and statistically significant correlations between sleep apnea and conditions such as [PTSD](#), weight gain, type 2 diabetes, and cardiovascular disease, obtaining Veterans Affairs (VA) approval for sleep apnea claims remains challenging.

The VA frequently denies these claims without considering the medical

importance of sleep apnea and its detrimental effects on physical health. Statistical data indicate that up to 38% of all claims are erroneously denied, often because the initial application is weak, lacking adequate medical evidence, or failing to clearly establish a service connection.

However, many denials based on sleep apnea have a strong potential for a successful appeal.

To prevail in an appeal for sleep apnea-related disability benefits, veterans need to utilize relevant medical literature and scientific research to support the presence of in-service risk factors. All pertinent conditions must be highlighted in the appeal.

An experienced VA disability attorney with access to medical experts and investigative resources can significantly enhance your chances of preparing a winning appeal.

## **Filing An Appeal**

Do not give up if your sleep apnea claim is denied. Unfortunately, many claims of sleep apnea are not won without an appeal. If it didn't work the first time around, you have three options:

1. **Higher Level Review** – A review of the claim as it is, with no additional evidence and. This is the fastest option (you should obtain a review decision within 1 year).
2. **Supplemental Claim** – A review of the claim and additional evidence (new and relevant) to support your argument.

- 3. Board Appeal** – A review of the claim along with additional evidence (if you want but are not required) and a chance to speak with the Judge about your disagreement (either in person or virtually).

If you file your appeal to the Board of Veterans Appeals, you also have three options:

- 4. Direct Review** – A review of the claim as it is, with no additional evidence and no hearing. This is the fastest option (you should obtain a review decision within 1 year).
- 5. Evidence Submission** – A review of the claim along with additional evidence to support your argument. You have 90 days to submit your new evidence after you submit VA Form 10182.
- 6. Board Hearing** – A review of the claim, additional evidence (if you want but are not required), and a chance to speak with the Judge about your disagreement (either in person or virtually).

If you feel the VA erred in its decision, you can request a direct review using the evidence you presented before. But if you are concerned that your claim was not compelling enough to secure service-connection, you must submit new evidence for review.

Once you decide how you want to proceed, you will need to fill out VA Form 10182 to request a review of the decision on your claim.

You can get a copy of VA Form 10182 online, pick one up at your regional

VA office, or call the VA to request one at 800-827-1000.

In general, Form 10182 must be submitted within 1 year of the date the VA mailed your decision notice. Since you cannot request two consecutive appeals for the same claim, filling out this form properly the first time is important.

In Part II of the Decision Review Request form, you'll need to select which type of review you want: direct review, evidence submission, or Board hearing.

In Part III, you need to list the issues in the VA decision that you disagree with, and the date of that decision. You can list just one or several issues. For example, you may disagree with your effective date, service connection, or disability evaluation. List it and add the date of that decision.

Note that while you don't have to appeal every single issue to the Board, you cannot add an issue later. Only the issues listed on Form 10182 will be considered in your appeal.

Finally, you need to sign and submit Form 10182. There are three ways to submit your form:

1. Mail the completed form to the Board of Veterans' Appeals at PO Box 27063, Washington, D.C. 20038, or
2. Take the completed form to your VA regional office in person, or
3. Fax the completed form to 844-678-8979.

A veterans' disability attorney can help you complete VA Form 10182 or prepare evidence for a decision review.

## Submitting New Evidence

If you choose the evidence submission at the Board or the supplemental claim option, you will need to provide additional evidence to support your claim (in addition to what you provided in the original claim that was denied). VA will review the new evidence and decide whether it changes their decision.

The evidence in a supplemental claim must be both new and relevant. This means:

- (1) the VA did not have this evidence for its prior decision, and
- (2) the evidence is related to the issue being disputed.

For example, if you feel your sleep apnea disability rating should be 50%, not 30%, you will need to provide additional evidence (medical records, physician opinion, or witness statements) that you have not given the VA before and that shows your level of treatment.

To submit new evidence, you will need to fill out VA form 20-0995. You can get a copy of [VA form 20-0995 online](#), pick one up at your [regional VA office](#), or call the VA at 800-827-1000 to request a form.

In general, Form 20-0995 can be submitted at any time. There is no deadline. However, the VA recommends that you submit it within 1 year of the date the VA mailed your decision notice to preserve the earliest possible effective date.

In Part II of the Supplemental Claim form, you'll need to list each issue in your VA decision that you want to have reviewed in your supplemental

claim. The easiest way to do this is to look at your decision notices, read the list of adjudicated issues, select the issues you want reviewed, AND have additional evidence for them. Then, list the date of the decision notice for each issue.

In Part III, you need to supply your new and relevant evidence.

1. If you have this evidence with you, write your name and file number on each page and attach it to form 20-0995.
2. If you want the VA to gather non-federal records for you (such as non-VA medical records or other private provider records), you must print, fill out, and attach the proper authorization forms to form 20-0995.
3. If you want VA to gather any federal records (like VA medical centers, federal agencies, VA treatment facilities), you will need to list the names, locations, and dates of those federal records in Part III of form 20-0995.

Finally, you need to sign and submit form 20-0995. There are three ways to submit your form:

1. Mail the completed form to the [VA regional office](#) that handles the type of benefit you selected in Part I, line 12, or
2. Take the completed form to your VA regional office in person, or
3. Fax the completed form to your VA regional office.



VA aims to deliver a decision on your supplemental claim within 5 months (averaging around 125 days).

If you need help filling out VA form 20-0995 or preparing additional evidence, a [VA disability attorney](#) can assist you.

## Helpful Resources for Veterans with Sleep Apnea

### **Sleep Disorder Assessment Fact Sheet**

[Veteran Training – VA.gov](#)

### **Continuous Positive Airway Pressure (CPAP) Fact Sheet**

[Veteran Training – VA.gov](#)

### **Veterans Crisis Line**

A 24/7, 365-day-a-year free service that connects veterans in crisis with VA responders through a confidential online chat, text, or toll-free hotline.

- Call **1-800-273-8255**, then **Press 1**
- [Online chat](#)
- Text **838255**

### **Veterans Disability Info Attorneys**

If you have further questions about filing a sleep apnea disability benefits claim, your rights as a veteran, medical Nexus Letters, or other concerns, please call attorney Eric Gang and his team at 888.878.9350 or visit [www.VeteransDisabilityInfo.com](http://www.VeteransDisabilityInfo.com). We are happy to help and work diligently to protect your privacy.

## About Gang & Associates, LLC

### **Maximizing VA Disability Benefits for U.S. Military Veterans Nationwide**

Gang & Associates is a leading U.S. veterans' disability law firm specializing in highly complex VA disability claims and appeals. Founded by prominent former New York City litigator and author Eric Gang, the firm has litigated over 1,000 appeals at the U.S. Court of Appeals for Veterans Claims, achieving some of the largest VA awards on record.

Where most disability law firms assign paralegals or legal assistants to handle veterans' cases, our veteran clients receive one-on-one guidance from dedicated, highly qualified veterans' benefits attorneys, optimizing VA benefits for a broad spectrum of claims and appeals. Our team of experienced professionals includes skilled veterans, world-class medical experts, trained mental health professionals, a former chief judge of the Board of Veterans Appeals, an in-house medical doctor, and attorneys hand-picked from the nation's prominent VA benefits firms.

## **VETERANS**DISABILITY INFO

- Traumatic Brain Injury (TBI)
- Toxin Exposure (Agent Orange, Camp Lejeune, Burn Pits, Red Hill)
- Total Disability Individual Unemployability (TDIU)
- Substance Abuse Disorder
- Sleep Disorders and Sleep Apnea
- Skin Conditions
- Post-Traumatic Stress Disorder (PTSD)
- Military Sexual Trauma (MST)
- Medical Nexus Letters
- Heart Disease and Cardiovascular
- Hearing Loss and Meniere's Disease
- Gastrointestinal and Digestive
- Diabetes, Endocrine, and Metabolic
- Chronic Pain
- Cause Of Death and Dependency and Indemnity Compensation (DIC)
- Cancers

# More Questions About Your Depression Disability Claim?

If you or a loved one has been denied VA disability benefits or is seeking to file a claim, our team of veterans disability attorneys will work diligently to achieve the best possible outcome for your case.

Attorney Eric Gang's veterans' disability law firm represents veterans and family members located across the United States. If you are filing a claim or appeal for VA disability benefits, call us now for a free, confidential, no-obligation discussion of your case.

**GANG & ASSOCIATES, LLC**  
**EXPERIENCED AND AGGRESSIVE**  
**VETERANS DISABILITY LAWYERS**

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