

# ANXIETY DISABILITY CLAIMS

An Essential Guide for U.S. Veterans



**GANG & ASSOCIATES LLC**

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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 anxiety, PTSD, and other psychiatric illnesses. Eric's diligence, legal acumen, and understanding of the interrelationship between psychological and physical illness continues to help U.S. military veterans maximize the benefits they deserve.

If you or a family member is experiencing anxiety 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 anxiety, (2) familiarize yourself with the VA anxiety claims and appeals process, and (3) understand your options under the law.

A quick and easy reference for:

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

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## Anxiety Among U.S. Veterans

Both combat and non-combat experiences during military service can be traumatic enough to change the brain chemistry, resulting in mental impairments such as generalized anxiety disorder (GAD). GAD is a common and debilitating condition for military veterans. Studies have found that 12% of those receiving care at Veterans Affairs Medical Center (VAMC) met diagnostic criteria for GAD. Rates of GAD are even higher (40%) for veterans diagnosed with post-traumatic stress disorder (PTSD).

In addition to problems concentrating, restlessness, and irritability, anxiety disorders can lead to numerous physical health conditions, including insomnia, digestive disorders, and cardiovascular conditions. Individuals with severe GAD exhibit significantly higher rates of substance abuse disorders, homelessness, and suicide.

Anxiety has also been shown to aggravate chronic medical conditions, hampering treatment. Those with GAD and heart disease are more likely to suffer from stroke or heart attack. Those with an anxiety disorder are three to five times more likely to seek treatment for physical illness and six times more likely to be hospitalized for psychiatric care.

Anxiety disorders can seriously impair social relationships, employment, and physical health. Fortunately, GAD is recognized as a disability by the Department of Veterans Affairs (VA). Veterans with anxiety disorders due to military service are therefore eligible for benefits.

Obtaining VA disability benefits for anxiety can be challenging for those who aren't familiar with the process. This guide is designed to help

veterans understand how the VA rates disability benefits for anxiety, how to prepare a successful claim, and what to do if VA has denied your claim.

## Symptoms of Anxiety Disorder in Veterans

Every individual experiences anxiety as a normal response to stress. Anxiety is a beneficial biological response, motivating us to improve performance, increase focus, and remain vigilant and safe in dangerous situations. However, serious trauma or repeated exposure to traumatic situations can modify the anxiety response, resulting in ongoing and worsening symptoms of anxiety that can impair your ability to concentrate, socialize, and perform even simple daily tasks.

### **Symptoms of Generalized Anxiety Disorder (GAD)**

According to the DSM-5-TR (*Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition, Text Revision*), an individual may be diagnosed with GAD if they experience all three of the following:

1. Excessive worry that shifts around multiple past, present, or future events or topics for at least 6 months. “Excessive worry” means worry over things that present little threat (the worry does not match up with the risk).
2. Difficulty controlling the worrying thoughts.
3. At least three of the following symptoms:
  - Difficulty concentrating
  - Fatigue
  - Insomnia
  - Irritability



- Muscle aches
- Restlessness

Most individuals experience normal worries over challenging life experiences like speaking in public, overdue bills, a job interview, or a loved one's health. This normal level of worry is focused on a single topic. It is a reasonable level of worry compared to the risk (worry over a job interview is less distressing than worry over a car accident). A person with normal anxiety will be able to control the worry and turn down the intensity enough to be able to prepare, focus, and perform tasks. With normal anxiety, the person understands that they are feeling anxious and that the feeling will pass.

In contrast, individuals with generalized anxiety disorder experience worry that is generalized (not focused), excessive (not reasonable), uncontrollable, and distressing. GAD patients have difficulty functioning in moments of worry. Rather than putting the worried thoughts aside to prepare for a job interview, the worry may prevent them from searching for job postings, updating their resume, or attending the interview. Without treatment, GAD can be a disabling mental condition that impacts the veteran's ability to sleep, perform daily tasks, concentrate, form relationships, and earn an income.

Other symptoms that veterans with GAD may experience include:

- Abdominal pain
- Aggravation
- Diarrhea
- Disorientation
- Dizziness
- Drug or alcohol abuse
- Dry mouth
- Frequent nightmares
- Headaches
- Hypervigilance
- Indecisiveness
- Isolation or avoidance behaviors
- Muscle tension
- Nausea
- Nervousness
- Numbness in extremities
- Rapid heartbeat
- Recurrent panic attacks
- Ritualistic behaviors
- Shortness of breath
- Sweating
- Trembling / twitching

## **Types of VA-Recognized Anxiety Conditions**

Regarding VA benefits, the VA has established six separate diagnostic codes (DC) for anxiety disorders.

### **DC 9400: Generalized Anxiety Disorder**

Anxiety that is generalized, excessive, distressing, and uncontrollable. Differs from other anxiety disorders in that the anxiety is constant and caused by multiple triggers at any given time.

### **DC 9404: Obsessive-Compulsive Disorder**

Anxiety produces repetitive behaviors in response to specific triggers to lessen often irrational fears.

### **DC 9412: Panic Disorder / Agoraphobia**

Anxiety that results in severe panic attacks in specific stressful environments or situations (including public places for those with agoraphobia).

### **DC 9403: Specific Phobia / Social Phobia**

Severe and irrational anxiety over specific objects, activities, or social situations. Avoidance behaviors are common.

### **DC 9410: Other Specified Anxiety Disorder**

Covers other specific and defined anxiety disorders that do not have their own diagnostic code.

### **DC 9413: Anxiety Disorder NOS (not otherwise specified)**

Covers unspecified and undefined anxiety disorders.

The VA considers all the above anxiety disorders for a disability rating. If you experience symptoms of an anxiety disorder that impact your ability to perform everyday tasks or responsibilities, you may meet the criteria for a diagnosis and VA disability benefits covering treatment and living expenses.

## Effective Treatments for Anxiety Disorder

Due to the stigma and misinformation surrounding mental health issues, many veterans fail to seek the many available and effective treatment options. Anxiety disorders respond well to treatments that help “re-wire” the brain to better evaluate threats and behavioral responses to perceived threats. Without treatment, anxiety disorders tend to worsen, contributing to further physical and mental illness.

Several effective treatment options are available for individuals experiencing anxiety disorders. Depending on your symptoms, your doctor may suggest one or a combination of several treatment protocols.

### Medications

Several classes of medications are effective in treating anxiety disorders. Examples include:

- Selective serotonin reuptake inhibitors (SSRIs) (sertraline, fluoxetine, paroxetine, citalopram, escitalopram)
- Serotonin-norepinephrine reuptake inhibitors (SNRIs) (duloxetine, venlafaxine)
- Pregabalin

- Tricyclic antidepressants (imipramine, nortriptyline, amitriptyline)
- Benzodiazepines (clonazepam, lorazepam, alprazolam, diazepam)
- Beta-blockers (atenolol, propranolol)
- Monoamine oxidase inhibitors (MAOIs)
- Buspirone

Each class of medication targets a different chemical pathway involved in anxiety. Your doctor may try various medications and adjust doses several times to meet your specific needs or reduce any unwanted side effects.

### **Cognitive Behavioral Therapy (CBT)**

Cognitive behavioral therapy is a psychotherapy that aims to help patients identify distorted thought patterns, modify those thought patterns, and change the emotional and behavioral responses to the thought patterns.

Learning to practice mindfulness is commonly incorporated in treating anxiety disorders with cognitive behavioral therapy. Mindfulness – an active awareness of one’s physical surroundings and internal sensations, feelings, and emotions has been shown to be effective in controlling anxious thoughts and corresponding behaviors. Therapy sessions may be scheduled once a week or more or less frequently, depending on your preference and the therapist’s recommendations.

### **Lifestyle Changes**

Anxiety symptoms may be alleviated by incorporating new habits at home. Studies show that the following all have the potential to reduce symptoms of anxiety:

- Adjusting your sleep schedule
- Daily exercise
- Daily journaling
- Developing a routine
- Eating a healthy diet
- Getting outdoors
- Music therapy
- Reading
- Reducing alcohol intake
- Reducing caffeine and tobacco intake
- Regular meditation
- Trying new hobbies

Your doctor may suggest one or more of these self-help approaches in combination with medication or therapy.

### **Other Treatments**

Medication and psychotherapy are often the first modes of treatment for anxiety disorders. If you don't see improvement after trying these options, your doctor may prescribe other treatments. Alternative treatments that have been shown effective in treating anxiety disorders include inpatient treatment, eye movement desensitization and reprocessing (EMDR) therapy, bilateral cingulotomy surgery, and transcranial magnetic stimulation.

It is important for veterans experiencing anxiety disorders to seek treatment and communicate with doctors and therapists about any changes in symptoms. Securing VA disability benefits for anxiety can further help alleviate stressors and improve quality of life.

## VA Disability Ratings for Anxiety

Because the degree of mental disability can be difficult to measure, VA uses a different set of criteria when rating mental disabilities versus physical disabilities. Under 38 CFR §4.130, VA assigns disability ratings for anxiety disorders based on occupational and social impairment and the duration, frequency, and severity of symptoms as described in the DSM-5.

The VA considers anxiety disorders as serious health conditions and therefore offers disability ratings ranging from 0% to 100% total disability, depending on the amount of occupational and social impairment.

<b>VA Disability Ratings Schedule for Anxiety</b>	
<b>0%</b>	Formal diagnosis, but symptoms are not severe enough to interfere with occupational and social functioning or to require continuous medication.
<b>10%</b>	Occupational and social impairment due to mild or transient symptoms which decrease work efficiency and ability to perform occupational tasks only during periods of significant stress, or symptoms controlled by continuous medication.
<b>30%</b>	Occupational and social impairment with occasional decrease in work efficiency and intermittent periods of inability to perform occupational tasks (although generally functioning satisfactorily, with routine behavior, self-care, and conversation normal). Due to such symptoms as depressed mood, anxiety, suspiciousness, panic attacks (weekly or less often), chronic sleep impairment, or mild memory loss (such as forgetting names, directions, and recent events).
<b>50%</b>	Occupational and social impairment with reduced reliability and productivity. Due to such symptoms as flattened affect, circumstantial, circumlocutory, or stereotyped speech, panic attacks more than once a week, impaired judgment, impaired abstract thinking, disturbances of motivation and mood, difficulty in establishing and maintaining effective work and social relationships, difficulty in understanding complex commands, impairment of short- and long-term memory (e.g., retention of only highly learned material, forgetting to complete tasks).
<b>70%</b>	Occupational and social impairment, with deficiencies in most areas, such as work, school, family relations, judgment, thinking, or mood. Due to such symptoms as suicidal ideation, obsessional rituals that interfere with routine activities, speech intermittently illogical, obscure, or irrelevant, spatial disorientation, near-continuous panic or depression affecting the ability to function independently, appropriately and effectively, impaired impulse control (such as unprovoked irritability with periods of violence), neglect of personal appearance/hygiene, difficulty in adapting to stressful circumstances (including work or a worklike setting), inability to establish and maintain effective relationships.
<b>100%</b>	Total occupational and social impairment. Due to such symptoms as gross impairment in thought process or communication, persistent delusions/hallucinations, grossly inappropriate behavior, disorientation to time or place; memory loss for names of close relatives, own occupation, or own name; persistent danger of hurting self or others, intermittent inability to perform activities of daily living (including maintenance of minimal personal hygiene).



Remember, you do not have to meet every symptom described in the rating to receive that rating. The VA determines your rating by looking at the whole picture, considering all of the evidence presented in your disability claim, and estimating which rating best fits your level of impairment.

For instance, if you have three symptoms listed in the 50% rating criteria and five symptoms listed in the 70% rating criteria, VA will lean toward assigning the 70% rating (as long as the level of impairment is a good match with that rating). In general, occupational impairment weighs more heavily than social impairment.

Because the VA looks at all the evidence you present in your claim when assigning your rating, how you prepare your claim and what you include as evidence is critical. A well-prepared claim can mean the difference between a 50% and 100% disability rating.

Higher disability ratings can also come with other benefits. For example, Veterans with generalized anxiety disorder may qualify for Permanent and Total Disability (P&T). Veterans may also qualify for Special Monthly Compensation (SMC) for GAD if at least one condition is rated 100% and they are either permanently housebound or have a separate, unrelated condition(s) rated at least 60%. An experienced veterans disability lawyer specializing in anxiety disorder claims can help you prepare your VA claim to maximize your outcome.

### **Payment Amounts for VA Disability Ratings**

Once you have received your disability rating, you can calculate your monthly payment amount for the current year. Each year, the VA adjusts the monthly disability payment amounts to account for cost-of-living

increases set by the Social Security Administration's Cost of Living Adjustment (COLA).

Monthly payment amounts increase with a disability rating. For example, 2024 VA disability rates for single veterans without dependents are as follows:

VA 2024 Pay Rates (single - no dependents)	
0%	\$0.00
10%	\$171.23
30%	\$524.31
50%	\$1,075.16
70%	\$1,716.28
100%	\$3,737.85

The monthly payment amount is increased further for veterans who are married, have children, or have dependent parents.

### **100% VA Anxiety Ratings and TDIU**

Veterans whose symptoms do not meet the 100% rating criteria can still qualify for payment at the 100% disability rate if their anxiety disorder is severe enough to render them unemployable and eligible for Total Disability Based on Individual Unemployability (TDIU).

Veterans may also qualify for a temporary rating of 100% if they are hospitalized in a VA-approved treatment center for a period of at least 21 days. Here, the effective date would be the first day of hospitalization. Payments will stop on the last day of the month of the veteran's stay.

In claims of anxiety, the VA cannot deny benefits by claiming that you have the physical ability to maintain employment or the mental capacity to hold a sedentary job. Anxiety is debilitating. This means that even if you are physically able, have a college education, or have a strong work history, you cannot be expected to perform in a work environment.

On the other hand, veterans eligible for TDIU or a 100% rating (single or combined) can still work if they want to. As long as the veteran doesn't have "substantially gainful employment," they can still work and receive benefits. Such work may include marginal employment, selling products online, helping out a local business, or earning any amount at or below the poverty line for the veteran's area.

### **Anxiety Claims vs. PTSD Claims**

PTSD symptoms are very similar to symptoms of GAD. In addition, the VA uses the same rating schedule to assign disability ratings for both PTSD and anxiety. Does it matter whether you file a PTSD claim or an anxiety claim? Do you need to file separate claims for each if you feel you meet the criteria for both conditions?

You don't have to worry about filing a claim for the "right" mental disorder. Veterans typically do not receive separate ratings for mental health conditions (unless the condition has its own rating criteria, such as eating disorders). There is generally no need to file separate claims for similar mental disorders since VA disability claims for mental disorders are based on symptoms, not diagnoses. Once you file a claim, that same claim can be amended later down the line if needed as long as it is still within the general intent of their original claim. No need to start the process over again.

As a general rule, file a claim for the condition you are currently diagnosed with. If you are currently diagnosed with both PTSD and an anxiety disorder, filing a PTSD claim may be the best option. Always speak with an experienced veterans disability benefits attorney if you have any questions regarding which type of claim to file.

## How To Win VA Benefits for Anxiety

Getting a VA disability rating for anxiety disorder is not easy. Anxiety is not a cut-and-dry diagnosis like diabetes or cardiovascular disease. There are no lab results, x-rays, or blood chemistry profiles to help support your claim. Technically, anyone could report to a doctor that they have ongoing anxiety and cannot work. VA, therefore, evaluates anxiety disorder claims with a high level of scrutiny.

To simplify things and ensure you receive the highest VA rating possible, it is helpful to break up the VA claims preparation process into three important steps:

1. Obtain a Diagnosis
2. Establish Service Connection
3. Maximize Your Rating

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### STEP 1: OBTAIN A DIAGNOSIS

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As part of filing a VA claim for anxiety, veterans need to supply proof of a diagnosis of GAD or related anxiety disorder. This diagnosis can come from a private doctor, VA C&P examiner, or other qualified medical professional.

A diagnosis of anxiety disorder is subjective. Rather than basing the diagnosis on lab tests or blood work, a diagnosis of anxiety is based on the patient's description of their symptoms.

The diagnostic criteria are different for each anxiety disorder. Typically, your doctor will have you answer questions verbally or complete a written questionnaire designed to help the doctor objectify the degree of anxiety severity and evaluate your physical, mental, and emotional symptoms.

Several diagnostic tests are in use today that can help identify anxiety disorders and the specific type of disorder. These diagnostic tests include:

- Penn State Worry Questionnaire (PSWQ)
- Generalized Anxiety Disorder Scale (GAD-2 or GAD-7)
- Social Phobia Inventory (SPIN)
- Zung Self-Rating Anxiety Scale (SAS)
- Yale-Brown Obsessive-Compulsive Scale (YBOCS)
- Beck Anxiety Inventory (BAI)
- Hamilton Anxiety Scale (HAM-A)

Your doctor may also request certain lab tests to help rule out potential physical issues like hormone or thyroid disorders. Your doctor will also need to know what medications you are currently taking to help rule out anxiety as a side effect. If your symptoms meet the duration, frequency, and severity of symptoms for anxiety listed in the DSM-5, you may receive a diagnosis of anxiety.

Note that you do not need a diagnosis to begin the VA claims process. You can move forward and develop other areas of your claim before

obtaining an official diagnosis, then amend the claim later with this new information.

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## STEP 2: ESTABLISH SERVICE CONNECTION

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Anxiety disorder is not a presumptive health condition for the purposes of VA benefits. This means veterans must prove that their condition is connected to military service. This connection can be a direct link to some service-related event (direct service connection) or a link to some other service-connected health condition (secondary service connection).

Unlike PTSD, which can result from a single in-service event, anxiety disorders typically result from exposure to a combination of traumatic or stressful events. Therefore, you do not have to identify one specific event from service that caused your anxiety. Instead, you merely need to show the following:

1. A current diagnosis of anxiety disorder
2. Military service (inactive duty training, active duty training, or active duty military)
3. Current diagnosis did not exist prior to service
4. Symptoms developed during service or after diagnosis with some other service-connected health problem

### **Direct Service Connection**

Veterans can demonstrate a direct service connection for anxiety disorder by showing that their mental health and behavior changed after enlistment in a way that suggests the early stages of anxiety disorder.

Strong evidence of direct service connection for anxiety disorder may include:

- No psychiatric illness on military enlistment mental health screening
- No evidence of mental illness prior to service
- In-service record of anxiety symptoms
- In-service record of behavioral problems
- In-service record of drug or alcohol abuse

Note that having in-service records of anxiety symptoms or treatment is extremely rare. A person can develop anxiety during military service with no service record of their symptoms. In fact, most service members will strive to mask their symptoms, acting strong and capable and never reporting mental health concerns or seeking treatment.

While records of in-service substance abuse or behavioral problems can help to suggest early stages of anxiety disorder—especially when such activities did not occur before enlistment—the VA will still try to argue that these behaviors come with the territory and are not indicative of anxiety disorder without military records of mental health treatment or diagnosis during service.

Without clear evidence of anxiety disorder developing during service that did not exist before, veterans should consider the more common route of winning a VA rating for anxiety--secondary service connection.

### **Secondary Service Connection**

Most veterans get VA disability ratings for anxiety disorder through

secondary service connection. Veterans can demonstrate secondary service connection by showing that their symptoms developed after the diagnosis of some other service-connected health condition.

Scientific literature associates numerous health conditions with the development of anxiety disorders. Many of these health conditions are very common among veterans who have trained or served in the military.

Such health conditions include, but are not limited to, the following:

- Chronic Pain
- Diabetes
- Erectile Dysfunction
- Foot Pain
- Hearing Loss
- Heart Disease
- Hepatitis
- Incontinence
- Insomnia
- Irritable Bowel Syndrome (IBS)
- Knee Pain
- Migraines
- Mobility Loss
- Neck Pain
- Neurologic Problems
- Obesity
- Paralysis
- Sleep Apnea
- Tinnitus



- Traumatic Brain Injury (TBI)
- Vision Loss

For example, studies estimate that up to 44% of combat-deployed service members suffer from chronic pain compared to just 20% of the general U.S. population. GAD is commonly diagnosed in individuals experiencing chronic pain. Studies have found that people with chronic pain have twice the rate of anxiety disorders when compared to those without chronic pain.

Veterans with service-connected injuries or other sources of chronic pain should, therefore, file a claim for anxiety disorder secondary to the service-connected cause of the chronic pain.

Veterans can demonstrate secondary service connection for anxiety disorders by showing that their symptoms developed after diagnosis with another service-connected health condition. Strong evidence of secondary service connection for anxiety disorder may include:

- Absence of anxiety disorder symptoms prior to diagnosis of service-connected condition
- Evidence that anxiety disorder symptoms began or worsened after diagnosis with service-connected condition
- Written medical expert opinion (medical nexus letter) showing that your service-connected health condition (or the treatment protocol for that condition) is scientifically linked to the development of your anxiety disorder.

Evidence showing timelines is important in establishing secondary service connection. For example, military records, medical records, witness statements from family, friends, coworkers, or neighbors, police records, or substance abuse treatment records can all be helpful in proving that your anxiety symptoms began or worsened after diagnosis with your service-connected condition.

The most crucial form of evidence necessary to win secondary-service connection for anxiety disorder is the medical nexus letter. Remember, do not use your personal doctor or a VA doctor to write a medical nexus letter. Nexus letters must be prepared by a medical expert with experience in analyzing VA claims and writing legal opinions supporting medical claims.

Most veterans get medical nexus letters by going through their veterans disability attorney. An experienced veterans disability attorney will help you gather all necessary evidence and connect you with a doctor who is skilled at writing compelling medical nexus letters for the purposes of VA benefits.

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### **STEP 3: MAXIMIZE YOUR VA RATING**

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Once the VA grants service-connection for your anxiety disorder, it will assign the VA disability rating that determines your monthly payments. The VA will base your disability rating on the evidence you include in your claim showing how severely your symptoms impact your ability to perform normal tasks and responsibilities. This portion of your claim is very important. The greater the impact, the higher the rating.

It is important to note that anxiety can also *cause* numerous health conditions. Veterans who secure service-connection for anxiety may be able to tack on other health conditions to get a higher combined VA rating.

For example, say a veteran has repeatedly failed to get their irritable bowel syndrome (IBS) service-connected. But they are able to service-connect their anxiety diagnosis. At this point, the veteran could seek service connection for their IBS secondary to anxiety.

This is because anxiety can be scientifically linked to IBS. Anxiety disorders cause the body to remain in “fight or flight” mode for extended periods of time, causing physical stress on the digestive, cardiovascular, respiratory, and immune systems.

Many individuals diagnosed with anxiety disorders develop a range of physical illnesses. Anxiety disorders can also aggravate the symptoms of other illnesses such as chronic obstructive pulmonary disease (COPD), diabetes, cataracts, hepatitis, asthma, kidney disease, arthritis, and cardiovascular disease, rendering treatment less effective and lengthening recovery times. Medications used to treat anxiety disorders can also cause various health conditions.

Health conditions that are caused by or aggravated by anxiety disorders include, but are not limited to:

- Arthritis
- Asthma
- Bone Disorders
- Cardiovascular Disease

- Cataracts
- Chronic obstructive pulmonary disease (COPD)
- Diabetes
- Erectile Dysfunction
- Gastroesophageal Reflux Disease (GERD)
- Hypertension
- Insomnia
- Irritable Bowel Syndrome (IBS)
- Kidney Disease
- Liver Disease
- Migraines
- Obesity
- Osteoporosis
- Restless Leg Syndrome (RLS)
- Seizures
- Sleep Apnea

These conditions would, therefore, qualify as secondary to anxiety for the purposes of service connection, allowing you to further increase your VA disability rating.

A skilled veterans disability attorney will be well-versed in the interconnections between a veteran's mental and physical health and will be able to identify all possible opportunities to maximize your VA disability rating. In addition, these advocates will help you gather the necessary evidence and medical nexus letters to support your VA claim.

## Filing A VA Claim for Anxiety

VA Form 21-0960P-1 called the *Mental Disorders (Other Than PTSD And Eating Disorders) Disability Benefits Questionnaire*, is used by veterans who are seeking a VA disability rating for anxiety.

You can get a copy of VA form 21-0781 online, pick one up at your regional VA office, or call the VA to request one at 800-827-1000.

In Section I of the form, you will need to record information about your diagnosis or multiple mental health diagnoses, and your occupational and social impairment. Section II contains the clinical evidence of your condition and relevant history. In Sections III through VI, you will answer questions about your symptoms, competency to handle financial affairs, and additional remarks. You can attach pages if needed.

Finally, you need to have the form signed by your psychiatrist, psychologist, or doctor.

There are three ways to submit your form:

1. Mail the completed form to the VA regional office,
2. Take the completed form to your VA regional office in person, or
3. Fax the completed form to your VA regional office.

If you need help filling out VA Form 21-0960P-1 or gathering and submitting evidence, a veterans' disability attorney can assist you.

## Can You Dispute the VA Decision?

Yes! As a veterans' disability lawyer, I've helped numerous veterans fight for previously-denied VA compensation for mental health conditions – and win. Typically, the Department of Veterans' Affairs denies anxiety disorder claims for two reasons:

1. Absence of an anxiety disorder diagnosis
2. Lack of evidence linking anxiety disorder to service

Denials based on a lack of evidence linking anxiety disorders to service are common when the veteran doesn't have a record of mental health issues manifesting during service. Since many mental health events during service are never reported, veterans can have a hard time verifying direct service connection for anxiety.

If the veteran can link their symptoms to service, the VA may then try to deny the claim for the absence of a bona fide anxiety disorder diagnosis. They may argue that the veteran's symptoms do not equate to an official diagnosis of anxiety disorder or that the symptoms do not impact the veteran's life in a significant way. The VA may also claim a veteran is exaggerating their symptoms to seek a higher disability rating.

Even if a veteran has an official diagnosis of anxiety disorder, the VA may try to say a veteran lacks consistent mental health treatment during the time between discharge from the service and their official diagnosis.

But remember, reports show that over 70% of people with mental illness never receive treatment. In fact, few mental health patients are treated. Many

take years to admit they are struggling. Others simply don't have access to treatment. This treatment gap illustrates the difference between "true prevalence" and "treated prevalence," – concepts the VA tends to confuse.

True prevalence means the condition exists, but healthcare professionals don't document it because veterans aren't reporting problems. When the VA sees the absence of treatment, it wrongly assumes the absence of the illness altogether. They fail to understand the concept of true prevalence, and they fail to consider the data regarding mental health treatment rates versus mental illness rates.

There is extensive research that explains why we have such a significant treatment gap and the principle factors behind it. For example, people suffering from mental illness don't want to admit they have a problem due to the negative stigma around mental illness. Indeed, a very negative stigma surrounds mental health therapy in the military population. Many military personnel view seeking therapy as weak and contrary to the ubiquitous machismo culture.

Some patients even have extreme paranoia and distrust of mental health professionals – often as part of the mental illness itself. Yet the VA universally fails to recognize that it is quite common for veterans with anxiety disorders to go years without formal treatment. The VA wrongly concludes that if veterans aren't getting treatment, they don't have an anxiety disorder.

## **Filing An Appeal**

Do not give up if your anxiety claim is denied. Unfortunately, many claims of anxiety 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 along with 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).
4. If you file your appeal to the Board of Veterans Appeals, you also have three options:
5. **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).
6. **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.
7. **Board Hearing** – 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 feel the VA simply erred in its decision, you can request a direct review using the same evidence as you presented before. But if you are concerned that your claim was not compelling enough to secure service-connection, you will need to 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 appeals consecutively 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, along with 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 you list 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.

If you need help filling out VA Form 10182 or preparing evidence for a decision review, a veterans' disability attorney can assist you.

### **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 anxiety disability rating should be 70%, 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 difficulty maintaining employment or performing daily tasks.

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 in order 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, and select the issues you want reviewed AND have additional evidence for. 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 VA to gather non-federal records for you (like 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 veterans' disability attorney can assist you.

## Helpful Resources for Veterans with Anxiety Disorder

### **The National Suicide Prevention Lifeline**

A 24/7, 365-day-a-year emergency mental health hotline

- Online chat
- 800-273-8255

### **The Substance Abuse and Mental Health Services Administration (SAMHSA)**

A 24/7, 365-day-a-year free, confidential help with treatment referral and information services for individuals and families with mental health and/or substance use disorders.

- 800-662-4357

### **National Call Center for Homeless Veterans**

A 24/7, 365-day-a-year free service for veterans who are homeless or at risk of becoming homeless.

- Online chat
- 877-424-3838

### **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 an anxiety disability benefits claim, your rights as a veteran, medical nexus letters, or other concerns, please call 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 premiere VA benefits firms.

- 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**  
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**VETERANS** **DISABILITY INFO**