

# Veterans Disability Benefits

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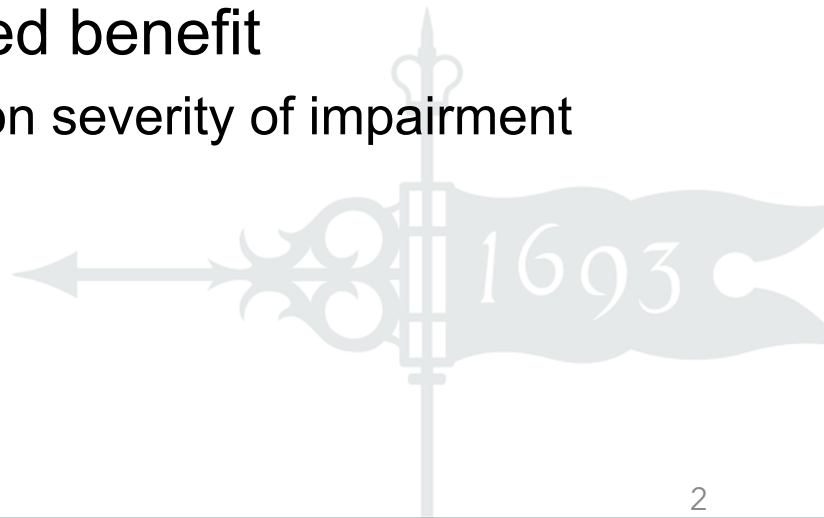


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# Veterans Benefits

- Various benefits provided by VA – health care, insurance, mortgage assistance, education, etc.
- Disability compensation = favored benefit
  - tax-free monthly payments based on severity of impairment

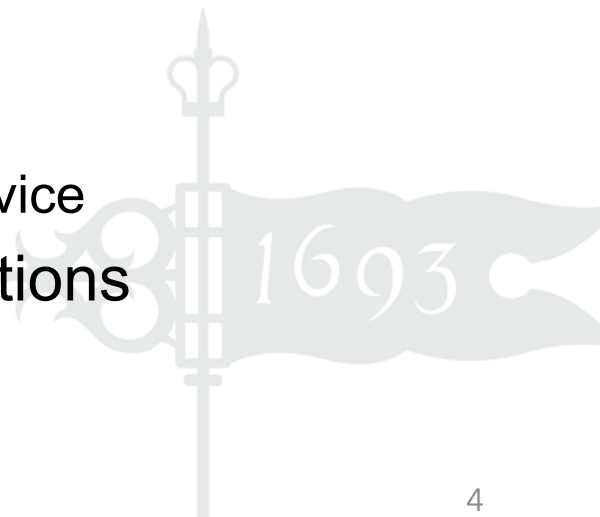


# Veterans Benefits – historical note

- Original benefits were “pension” payments, i.e. cash paid as inducement or reward for military service
- Because of widespread corruption, Congress, during the Civil War, cracked down, severely restricting payment to agents and attorneys helping veterans with claims
- Result was evolution of system where veterans are not represented by counsel

# Disability Benefits

- After World War I and during the Great Depression, cash benefits for veterans were not popular
- Congress decided to link to disability
- Requires adjudication
  - Of existence of current disability
  - Of causal nexus with an event in military service
- Enormous task: medico-legal determinations



# Disability Benefits Claims Process

- Some odd aspects:
  - Initial decisions by VA are made by people who are not lawyers or doctors, clerks working from a Manual
  - Lawyers are barred from being paid to help at initial stage
  - In theory, process is non-adversarial, veteran-friendly application review. In reality ...

# Disability Benefits Claims Process

- VA's duty to assist
  - Because no legal counsel at early stage, VA must help develop certain kinds of evidence
    - Records from federal agencies
    - Records from private sources
    - Medical examinations and opinions



# Disability Benefits Claim Process

- Claim submitted to regional office (RO)
- Evidentiary development
- Decision by RO
  - If service connection granted, evaluation or rating of disability will determine payment amount
  - If claim is denied, veteran may appeal within agency – three avenues or “lanes”
    - Higher Level Review – senior reviewer at RO, no new evidence considered
    - Board of Veterans’ Appeals – lawyer judge, not new evidence considered
    - Supplemental Claim – second bite at the appeal with new and relevant evidence
  - Can jump to another lane if disappointed in outcome
- From final Board decision can appeal outside agency to courts

# Disability Benefits Claim Process

- Court review
  - U.S. Court of Appeals for Veterans Claims
    - Sole jurisdiction over appeals from BVA
    - Usual result is remand for further work
  - Court of Appeals for the Federal Circuit
    - Limited jurisdiction over veterans claims
  - Supreme Court of the United States
    - Via petition for certiorari

