Additional Evidence to Support Service-Connected Disability Claims

By Tod M. Leaven

Some of the best advice a veteran representative or attorney can give to a veteran, who is filing a claim for a new disability or a claim to increase the rating of a current service-connected disability, is to journal. Journaling will (1) help the veteran remember his or her conditions, the severity of his or her conditions, and the limitations his or her conditions set; (2) help the veteran record and remember dates of flare-ups; (3) help the veteran accurately record sleep; (4) help the veteran precisely and efficiently convey this information to his or her primary care provider so that this information makes it into the veteran's health records; and (5) help the veteran's representative or attorney better understand the complete picture and look for potentially compensable secondary disabilities.

Most veterans suffer from a common malady – their disabilities are hardly ever at their worse during the 5 minutes the veteran is in front of his or her primary care provider. If the veteran has more than one condition, he or she usually only focuses on either the most persistent complaint or the one that has inflicted him or her most recently. When the doctor asks the veteran how he or she is doing, the usual response is something like “well, right now I am not too bad.” Accordingly, the doctor puts in the veterans medical records “The veteran has no complaints.” When the veteran applies for a service-connected disability a year down the road, he or she gets denied because the veteran's medical records do not show a continuous or chronic condition. Despite the veteran's insistence that he or she has had continuous back pain since service, the VA responds that the proof is just not in his or her medical records. The best way around this is a veteran's journal.

Every time the veteran visits his or her primary care provider, he or she should quickly review with the doctor all of the veteran's conditions, the severity of each condition, the frequency of each condition, whether the condition affects the veteran's sleep, and any limitations that the condition places upon the veteran's livelihood. The more detailed and comprehensive the journal is, the better it will serve the veteran. If the veteran is on My HealthVet, which he or she should be, then the veteran needs to send via secure messaging a status update to his or her primary care provider every 6 months through the secure messaging function of My HealthVet. These updates will become part of the veteran's medical records. Before any appointments with the veteran's primary care provider, the veteran should summarize as briefly as possible all of the conditions since his or her last update and review this summary with the doctor.

Additional ways a journal can serve the veteran include recording potential future witnesses. If a veteran's knee gives out and he or she requires the restaurant's hostess to assist him or her in order to sit down or stand up, the veteran should record the hostess's name, the name of the restaurant, and the time and date of the incident in case the veteran may need to come back in the future and request a lay statement from the hostess regarding the facts of the incident. Likewise, if a veteran has a seizure while in a taxicab, the veteran or his or her companion should take down the driver's name, the name of the cab company, the cab number, the license plate, the date and time of the seizure, and any potential future witnesses. If a veteran's knee gives out and he or she requires the restaurant's hostess to assist him or her in order to sit down or stand up, the veteran should record the hostess's name, the name of the restaurant, and the time and date of the incident so he or she can potentially obtain a lay statement in the future. A journal can also help the veteran or his or her representative or attorney help link seemingly non-related conditions to a service-connected condition.

It would be difficult to find a claim that could not be helped by the addition of a veteran's journal. With its relatively low burden upon the veteran, a journal can help by delivering a wealth of additional and often necessary evidence to help substantiate a veteran's claim for service-connected disability.

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