

### Highlights of Benefits Recently Won with American Legion Representation

(The American Legion Department of Indiana Veterans Service Office employees a staff of seven full time employees responsible for ensuring veterans received their earned benefits. The following are a few examples of benefits won that veterans might not have otherwise received if not for our department service office staff.)

- **VA will expedite the processing of a claim if the veteran has a terminal illness:** VA deducts military retirement benefit pay from VA disability compensation benefits unless the veteran has a VA disability compensation rating of 50% or more. A military retiree was granted a 100% compensation rating, but VA had withheld retroactive benefits since he had already received his full military retirement pay. VA withholds the retroactive pay until it coordinates with the Defense Finance and Accounting Service (DFAS) for calculating the amount due. VA had received the DFAS figures, but had neglected to calculate and pay the veteran's retroactive benefits for several months. The veteran contacted American Legion Department Service Officers John Hickey and Richard Boye for help. Richard talked with a VA official concerning this issue, and John asked the VA Service Center Manager to help. They explained to VA that the veteran's medical records show he has malignant genitourinary system cancer, bone cancer, and leukemia and he is in receipt of hospice care. Richard and John both asked that VA expedited the processing of this claim on a disability hardship basis. Within a matter of several days, VA mailed the veteran an award letter notifying him that he will soon receive a retroactive benefit of \$60,532.24. (V:47969)
- **A request for reconsideration with new and material evidence is often a better option than an appeal:** A December 2015 VA decision granted service connection for several of the veteran's medical conditions, but also reduced one of the compensation ratings from 40% to 20% for a disability that VA had previously established as service connected. The veteran filed a notice of disagreement with the reduction issue. The veteran did not understand that VA would take anywhere from 2 to 2 ½ years to respond to the notice of disagreement. After discussing this with an American Legion Department Service Officer and Grant County Veterans Service Officer Bob Kelly, the veteran withdrew his notice of disagreement, and, instead, asked VA to make another decision (reconsideration) based upon new medical evidence. As a result, VA made another decision within approximately two months. That decision not only reinstated the 40% rating for the veteran's diabetes, but caused his combined disability compensation rating to increase to 100%. The difference between the lower combined rating and the higher 100% combined rating is \$1,163 per month that the veteran would have not likely have received (at least as quickly as he did) without the assistance of knowledgeable veterans' service officers. In addition, VA established

“permanency” to the 100% ratings so the veteran will not have to undergo routine compensation examinations, and, therefore, will likely keep the 100% rating for the rest of his life. (VJH: 11188)

- **Department Service Officers and VA Employees Prevent Veteran’s Suicide (VA and American Legion Working Relationships Become Life Saving):** Department Service Officer David Wilson received a veteran’s call concerned about how VA evaluated his compensation benefits. The veteran expressed extreme disappointment and a belief that the VA system had turned against him. David and the veteran discussed the facts of the decision as usual until the veteran abruptly announced his plan to kill himself. David continued the conversation for quite some time, but David asked his co-workers for help when he found he alone could not prevent a possible suicide. Department Service Officer Bryce Hullett then took over the call while Department Service Officer Steve Hicks sought help from VA regional office personnel. VA employee Kyle Morris then talked with the veteran while VA regional office employee Leonard Wallace contacted Tammy Hendricks at the Indianapolis VA Medical Center. Tammy helped obtain additional guidance from VA Suicide Prevention Specialist Travis Field. Federal and local police were contacted, and Tammy reported the veteran was “successfully rescued, found to be in crisis, and taken to the hospital for care.” The VA healthcare system, of course, plans follow-up services. Without quick and coordinated action of all involved, the outcome could have been tragic. VA employee Kyle Morris said David deserves a lot of credit for talking with the veteran as long as possible and seeking help from others when he found it necessary. (V:1992)
- **VA medical opinions, although important, are not always the determining factor for VA claims:** A VA compensation examiner opined that the etiology of the veteran’s hearing loss could not be determined without resorting to mere speculation. A subsequent June 2015 VA decision denied service connection based upon that medical opinion. Department Service Office Stephen Hicks notified VA that it had made a mistake for accepting the medical opinion for rating decision purposes without first considering all the evidence of record and properly applying the appropriate VA regulation. Steve reminded VA that the level of hearing loss reported on the veteran’s service separation examination report meets the requirement for service connection under VA regulation 38 CFR 3.385, and a medical opinion was not necessary before granting service connection. VA first rejected Steve’s argument and once again denied service connection in October 2015. Mr. Hicks then argued with VA that the second decision was also erroneous. VA ultimately agreed, declared the previous decisions clear and unmistakable errors, and issued another rating decision. That November 2015 decision granted service connection for the veteran’s hearing difficulties and assigning a 40% compensation rating retroactively from March 21, 2013. This resulted in the veteran receiving a retroactive benefit of \$17,943.44, and continued monthly compensation benefits of \$587.36. Without the assistance of a well-qualified American Legion representative, the

veteran would have likely accepted VA's first decisions and lost entitlement to thousands of dollars in benefits now and throughout his lifetime. (V51317)

- **Extra effort allows veteran's family to keep their home and help child in need:** Department Service Officer Bryce Hullett conducted a hearing with a veteran in September 2014. The veteran had appealed a claim for a higher compensation rating and secondary service connection for several musculoskeletal conditions. He was also applying for a 100% compensation rating due to his service connected disabilities making it impossible for him to work. While a decision was pending, Bryce contacted several sources. This assistance prevented the veteran from losing his home, and helped obtain former employer work information in support of the pending 100% Individual Unemployability claim. As a result of Bryce's work, VA subsequently granted the veteran's appeal for higher compensation benefits including the 100% Individual Unemployability claim. The veteran received a total of \$78,391.48 in retroactive benefits, and was found entitled to continued monthly compensation benefits of \$3,612.91. Not only did the grant of benefits allow the veteran to keep his home, but also provided his wife entitlement to CHAMPVA medical benefits. The grant of the claim also allowed the veteran's dependent children entitlement to VA education assistance benefits. In addition, the veteran and his wife were able to follow through with adopting another child. Without the service of a knowledgeable and compassionate American Legion representative, the veteran and his family may have lost their home, been denied VA benefits, and been placed in a position where they could not have helped a child through adoption. (VBH:21903)