

### 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.)

- **Informal conferences often work and are often done without the veteran's knowledge:** While reviewing a VA decision proposing to reduce a veteran's 100% compensation rating for a heart condition from 100% to 10%, Department Service Officer, Stephen Hicks found a technical error in the examination report used in justifying the lower rating. The examiner cited that the left ventricle ejection fraction measurement was the "best method" for describing the veteran's heart condition versus the Metabolic Equivalent Test (MET) method used in the prior rating decisions. The examiner, however, also noted that the METs had not changed since the last rating. Steve convinced the local rating official during an informal conference that the METS measurement was the best method for rating purposes based upon previous compensation examinations. The rating official agreed to lower the rating to only 60% instead of the proposed 10%. The proposed reduction would have reduced the veteran's monthly compensation benefit to only \$263. The negotiated rating resulted in a continuing monthly benefit of \$1,334. A difference of \$1,071 per month will allow the veteran to receive approximately \$12,852 more per year than he would have likely received without qualified representation. This rating also placed the veteran in a higher VA healthcare priority group for fee health care. (V:42746)
- **Asking for reconsideration with new evidence is often better than filing a Notice of Disagreement:** An August 17, 2015 VA rating decision denied a veteran's claim for entitlement to a 100% Individual Unemployability (IU) rating. The veteran filed a notice of disagreement, but also supplied additional medical evidence. It has been taking VA two or more years to respond to a Notice of Disagreement. Department Service Officer David Wilson reviewed the new evidence and was convinced that it could allow VA to grant the 100% IU rating without going through a lengthy appeal process. David also convinced VA of the same. VA, however, could not make an immediate decision because the veteran had filed the notice of disagreement and the "appeal" had to wait its turn in the appeals process. David therefore advised VA that the veteran would withdraw his appeal if VA would grant the benefits. VA agreed, David withdrew the Notice of Disagreement, and VA granted the 100% Individual rating retroactive from June 9, 2011. This resulted in the veteran receiving a monthly compensation benefit of \$2,906 and a

retroactive payment of \$71,089. Without representation, at the best, the veteran would have likely had to wait more than two more years for the VA decision, and, at the worse, would had his claim denied on appeal. (V:41743)

- **Vietnam Veteran Establishes Service Connection for Condition Resulting from Benzene Exposure:** VA established a list of various medical conditions, such as, respiratory cancers, prostate cancer, and diabetes type 2 that VA can presume associated with Agent Orange Exposure and grant service connection if the veteran served in Vietnam. Myelodysplastic Syndrome is a rare condition caused by poorly formed or dysfunctional blood cells. It is not on the Agent Orange presumptive list. With the help of Department Service Officer Richard Boye, the veteran appeal and won entitlement to service connection of the myelodysplastic syndrome by supplying independent convincing medical evidence. That evidence consisted of a statement from the veteran's private oncologist noting he had reviewed the veteran's service records and believes the veteran's exposure to benzene (an ingredient in diesel fuel) likely as not caused the veteran's myelodysplastic syndrome. The veteran had given a history that while fueling trucks in Vietnam, diesel fuel often soaked this uniform. He also stated he used diesel fuel to ignite human waste burn pits in Vietnam. The veteran's history of events were consistent with his service duties in Vietnam, and that history, combined with confirming medical opinions from both the veteran's private oncologist and a VA compensation examiner warranted direct service connection for the veteran's myelodysplastic syndrome. The grant of benefits allowed VA to pay the veteran a retroactive benefit of \$90,921, and ongoing monthly benefits of \$3,415. (V:44071)
- **Knowledgeable Representation Wins Benefits:** If a veteran files an informal claim (now an Intent to File Claim) and then files a formal claim within one year, VA must use the date of the informal claim as the effective date for benefits purposes when granting the claim. Also: for claims filed between August 6, 2013 and August 15, 2015, VA can pay a one year retroactive benefit from the date of an originally filed Fully Developed Claim if granted. While reviewing a VA rating decision, Department Service Officer Steve Hicks found that VA had failed to apply the proper effective date rule. This was brought to VA's attention even before the veteran was notified of the decision. As a result, VA granted an effective date one year earlier than it had originally done and awarded the veteran an additional \$4,893 retroactive benefit. Some laws are almost impossible for veterans to know, such as, these effective date laws. Without knowledgeable representation, this veteran would have likely never paid the one year retroactive benefit. (V:60427)