

Highlights of Benefits Recently Won with American Legion Representation

(The American Legion Department of Indiana Veterans Service Office employs 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.)

- A surviving spouse filed for service connected survivor's benefits on October 25, 2011 following her husband's death on September 21, 2011. VA had first denied the claim, but The American Legion assisted her in an appeal resulting in a June 9, 2015 VA decision granting service connection for the cause of her husband's death. VA initiated payment of her monthly Dependency Indemnity Compensation (DIC) benefits, but VA failed to pay her benefits retroactively from the date of her husband's death. Several attempts were made through normal channels without success in an attempt to have VA review the account and pay the retroactive benefits. Department Service Officer John Hickey then brought this issue to the attention of the VA Service Center Manager who immediately authorized a review of the claim. This resulted in the surviving spouse receiving a lump sum retroactive payment of \$58,729.61 in addition to her monthly DIC benefits. Without qualified representation, the surviving spouse may have never known to pursue the retroactive payment after VA ignored the first few inquiries. (V:46601)
- **Private Medical Opinions Can Help Win Benefits:** Department Service Officer Bryce Hullett assisted a veteran with an appeal of a VA decision denying service connection for bladder and prostate cancer. Bryce's help included assistance at a Board of Veterans Affairs hearing in November 2015. VA regulations had authorized treatment for bladder cancer for veterans exposed to contaminated water while serving at Camp Lejeune between January 1, 1957 and December 31, 1987, but had stopped short of granting compensation benefits for bladder cancer associated with Camp Lejeune contaminated water. In addition, a VA compensation doctor provided an opinion that the veteran's cancers were more likely due to his smoking of tobacco. At Bryce's recommendation, the veteran obtained and submitted a private doctor's opinion. The private doctor noted that after thoroughly reviewing the medical history and literature with respect to the water contamination at Camp Lejeune, it was his opinion, based on the veteran's history and progression of the disease, that the veterans' bladder cancer was "more likely than not" related to his ingestion and exposure to toxic chemicals in the water at Camp Lejeune, and, that while tobacco can be a significant factor in causing bladder cancer, it was not the only causative factor. The Board accepted the private doctor's opinions as least as persuasive as the VA opinion, resolved reasonable doubt in the

veteran's favor, and granted service connection for bladder cancer and secondary service connection for prostate cancer. This action resulted in the veteran receiving a monthly compensation benefit of \$3,371 and a retroactive compensation payment of \$107,707 plus medical and college education benefits for his wife and children. (V:50474)

- **Knowledge Wins Otherwise "Hidden" Benefits:** Department Service Officer Stephen Hicks found an error in a VA rating decision that failed to grant a special monthly compensation rating based upon the veteran having a service connected disability rated 100% disabling and other service connected disabilities rated at least 60% disabling. Steve brought this to the attention of VA rating officials resulting in correction of the error before VA had notified the veteran of its original decision. The veteran then received \$346 more on his retroactive benefit payment, and VA will add \$346 more to his \$3,068 monthly award. Without the services of a qualified veterans service officer, VA may never have found its mistake and the veteran would have never known to ask about the additional special monthly compensation benefits. (V: 50381)
- **Knowing when to switch between compensation and pension can maximize benefits:** Department Service Officer Bryce Hullett helped a veteran appeal and win a decision for service connection of a mental health condition retroactive from July 30, 2007. In September 2015, Bryce also helped the veteran file a non-service connected pension claim. As a result, VA owed and paid the veteran's retroactive compensation benefits from August 1, 2007, and granted his election to switch to pension in October 2015. The veteran subsequently received an \$84,488 retroactive compensation benefit award, and monthly non-service connected pension benefits of \$1,121 (\$204 more a month than the monthly compensation benefit). The veteran will also receive other benefits, such as, entitlement to VA healthcare for all medical conditions, property tax exemption benefits, dependency allowances, etc. In addition, Bryce helped the veteran file additional claims for service connection. Without the help of a qualified service officer, the veteran may not have won his compensation claim, would have likely not have known to switch to pension as the higher benefit, and may not have known to file for other benefits that have been or likely will be granted. (V 27133)
- **VA Has an Obligation to Assist:** VA has an obligation to assist a veteran with the development of facts pertinent to the claim and to schedule a compensation examination when medical evidence is not adequate for rating purposes. While reviewing a VA rating decision denying service connection for defective hearing, Department Service Officer Steve Hicks found that VA failed in its duty to assist. VA had failed to consider the veteran's statement about being exposed to noise trauma during service when it was consistent with the evidence of record, and denied the veteran's claim without first authorizing a compensation examination and medical opinion

concerning if the veteran's defective hearing is likely as not associated with the veteran's history of service noise trauma. As a result, VA authorized the scheduling of the compensation examination, obtained a professional medical opinion, and granted service connection for this Korean War Veteran's hearing loss and tinnitus. The veteran received a one-time retroactive compensation payment of \$2,530, and will receive monthly compensation payments of \$133 plus free medical care at VA for any condition, and entitlement to other benefits, such as, a property tax exemption benefit. The veteran would have likely missed out on all of this if not for having qualified and knowledgeable representation. (V: 57764)