



New York City
Veteran's
Legal Guide

Fourth Edition
2019 New York Legal Assistance Group

Welcome

New York City is home to more than 225,000 veterans, many of whom face legal challenges. The New York City Veteran's Legal Guide provides information about the most common legal problems facing veterans living in New York City. The guide is intended for use by both veterans and their advocates, and contains information that is specific to the New York State and New York City legal systems.

We designed the New York City Veteran's Legal Guide to be easy to use. First, turn to the Table of Contents and find your legal issue. Then turn to the appropriate page; nearly all of the legal issues in this guide are covered in just one page. For example, if your neighbor is playing loud music day and night, and the loud music disrupts your sleep and work, turn to the Table of Contents and find the "Housing Law" heading. Under "Housing Law," you will find the "Neighbor Nuisance" subheading along with the page number where you can find information about this legal issue. Many veterans face a variety of legal problems that this short guide cannot cover, and these veterans should seek legal assistance as soon as possible to promptly resolve their legal matters.

The New York City Veteran's Legal Guide was prepared on behalf of the LegalHealth Division of the New York Legal Assistance Group by Samantha Kubek, with help from Andreas Adler, Nicholas Baer, Amanda Beltz, Jennifer Cao, Regina Chessari, John Conlin, Joseph D'Amato, Michael Danna, David Falcon, Ryan Foley, Mary Fox, Adam Goldberg, P. Keegan Henry, Adam Herron, Michelle Kelban, Kevin Kenneally, Jeffrey Kiffel, Erin Kim, Jesse Levitsky, Alexandra Lewis-Reisen, Michela Mancini, Nina Martinez, David McElhoe, James McGuire, Simone Meyers, Glenn Newman, Megan O'Byrne, Katie Ocampo, Nina Pejoves, Ashley Peltier, Pallav Raghuvanshi, Rosenthal Herman & Notaro, P.C., Anamaria Segura, Aaron Singer, Howard Sherwin, Michelle Spadafore, Pandora Strasler, Ruth Stein, Naji'a Tameez, Norma Tinubu, David Titus, Kimberly Warner, Debra Wolf, Zoey Xuan Wu, and Rachel Zacharias. This edition of The New York City Veteran's Legal Guide would not be possible without the work of Keith Hoffmann, who prepared the first two editions. We are grateful to Randye Retkin and Julie Brandfield for their insights and revisions to this guide, and Maya Martin-Udry for the cover design. We also thank Greenberg Traurig, LLP for publishing and printing copies of this guide and for their steadfast support of veterans and organizations that advocate for veterans.

DISCLAIMER: This legal guide is intended as an informational tool for non-lawyers and advocates. This guide does not purport to provide legal advice or to give an opinion as to the appropriate course of action in a particular case. Veterans and their advocates should always conduct their own research on the best course of action for their particular case and should always check any information contained in this guide against the relevant statute or regulation to ensure its accuracy.

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Advance Planning

In this section, you will find information on the following topics:

- Healthcare Proxy and Living Will
- Power of Attorney
- Wills

Healthcare Proxy, Living Will, and Organ Donation

Both healthcare proxies and living wills are important legal documents that ensure that health care providers will follow your wishes. Read this page for more information.

What is a Healthcare Proxy?

A healthcare proxy is a document that allows you to name someone you trust—for example, a family member or close friend—as an “agent” to make healthcare decisions on your behalf if you are unable to make or communicate decisions yourself. In this situation, hospitals, doctors, and other healthcare providers must follow your agent’s decisions as if they were your own. You may give your agent a lot of authority or a little authority, allowing them to make all healthcare decisions or just certain ones. The healthcare proxy only becomes active and the agent is only able to make your healthcare decisions on your behalf if you are unable to make or communicate decisions to healthcare providers.

What is a Living Will?

A living will is a document in which you can state your wishes with respect to one or a number of potential medical decisions. It only becomes active when you can no longer participate in your own medical decisions and are terminally ill, in a permanently unconscious condition, or in a minimally conscious condition in which you are permanently unable to make decisions or express your wishes. A living will should not be used as a substitute for a healthcare proxy, which is the preferred method for expressing your medical wishes in New York State, but if you do not have anyone to appoint as a healthcare agent then you should complete a living will. You may also complete a living will in addition to a healthcare proxy.

More Important Information

While healthcare proxies and living wills both relate to medical treatment and end-of-life planning, they are different. The healthcare proxy names a person you trust—who you have informed of your end-of-life healthcare wishes, and who you believe would make the right decision for you on your behalf—to make healthcare decisions for you. The living will, on the other hand, specifically lays out specific end-of-life healthcare treatments and requires you to decide in advance whether you would accept or reject them if you did not have the power to communicate or make the decisions later.

If executed properly, living wills and healthcare proxies are both legally valid documents. It is important that they contain all of the important choices that people should think about when making end-of-life decisions. Thus you should visit an attorney, healthcare provider, or end-of-life planning expert in order to create a healthcare proxy and/or living will and for more information.

Organ Donation

While planning your living will and/or healthcare proxy, you may also consider becoming an organ donor. Every year, organ donation saves thousands of lives in the United States. You can indicate your wishes regarding organ donation on your healthcare proxy, or alternatively, on your driver’s license.

Power of Attorney

A power of attorney is a legal document that gives someone that you choose—the “agent”—the power to act in your place. Powers of attorney are important advance planning documents for those who, due to age or illness, may lose the ability to carry out necessary legal and financial actions. The powers granted usually allow the agent to make financial decisions for you, the “principal”. The powers can be very specific—for example, limited to the power to pay your rent on your behalf or withdraw money from an account to pay bills—or very broad—like the power to make all of your financial decisions; the agent cannot act outside of the powers that you give them and must always act in your best interests. Only a principal with legal capacity to make decisions may create a power of attorney.

A durable power of attorney remains effective even if the principal loses the capacity to make decisions. It is best to choose someone you trust to be your agent for a durable power of attorney because if you do not have capacity, you will not be able to monitor their actions.

Why Should I Get a Power of Attorney?

If you have difficulty making decisions or taking necessary financial or legal actions, or expect that at some point in the future you may have difficulty doing these things, a power of attorney enables your chosen agent to manage your affairs.

How to Cancel or Revoke a Power of Attorney

There are two ways to cancel or revoke a power of attorney. The first way is to create a new power of attorney that expressly revokes prior powers of attorney (a new power of attorney may also extend powers to a new person without revoking previous powers of attorney). You may also write a written revocation of a power of attorney. You may wish to see an attorney for help with this process. After creating the document that revokes the prior power of attorney, you must notify anyone who holds copies of any old power of attorney. These people may include your landlord, banks, or insurance companies.

How to Use a Power of Attorney

A power of attorney can be useful to allow your agent to make financial decisions or payments on your behalf. Most parties request to see copies of your power of attorney in order to accept the agent’s authority. Always save the original power of attorney in a safe place, but you may wish to give copies to parties who will accept payment or other communications on your behalf from the agent, like your landlord or banks.

See a Lawyer

Naming an agent in a power of attorney is an important decision. **You should seek a lawyer to properly execute the power of attorney.**

Wills

What Is a Will, and When Do You Need One?

A will is a written document that directs how you want your property to be distributed after your death. New York State has specific laws that you must comply with in order for your will to be legally valid.

In order to make a valid will in New York, you have to be at least 18-years-old, of sound mind and memory, and you must be making the will out of your own free will. There are also rules about witnesses, signing the will, and important legal language requirements. To make sure that a will is properly executed and therefore will be honored by a probate court after your death, you should consult an attorney who will execute the will in accordance with New York State laws.

What to Think about When Planning a Will

You should make an inventory of all of your property and decide to whom you would like it to go when you die. Examples of property include any money you have, personal property like jewelry, artwork, and automobiles, and real estate like your home, condo or co-op. You should decide which property should go to which family member, friend, or charity.

You can also state in your will who you would want to care for your minor children after your death. While the courts are not bound by this aspect of your will, and are therefore not required to follow your wishes, who you state will be considered by the court when appointing a guardian.

Finally, you should think about who you will name as executor of your estate. An executor is a person who you choose to carry out the terms of your will and administer your estate through the probate court. When choosing the executor, the most important thing is that you pick someone who is financially responsible, trustworthy, and stable.

Dying Without a Will

When a New York State resident dies with no will (what is called “intestate”), the estate is distributed in accordance with state laws. For example, if you are survived by a spouse and no children, your spouse will inherit the entire estate. However, if you have a child or children as well as a spouse, your spouse will inherit the first \$50,000 and half of the rest of your property, and the remaining property will be divided among your child or children. If you have neither spouse nor children, your estate will go to other relatives in order of their relationship to you. If no relatives can be located, everything will become the property of New York State.

Trusts

New York State law allows for various kinds of trusts to be set up through a will. For example, you can set up a trust and appoint a trustee to manage property and money on behalf of minor children or adult children with disabilities. In these cases, the trustee is often a close family member or trustworthy friend who can be compensated from the money held in trust.

See a Lawyer

After thinking about your will and forming a plan, **visit a lawyer to write the will and execute it in accordance with New York State laws.**

Consumer Law

In this section, you will find information on the following topics:

- Debt Collection
- Personal Bankruptcy
- Federal Student Loan Discharges
- How to File a Claim in Small Claims Court

Debt Collection

Owing money to creditors can be a serious legal and financial burden. You should contact an attorney or financial counselor for assistance if you feel that you are unable to pay your debts as they become due (see page 7 for information about personal bankruptcy).

Owing Money to a Creditor

When you owe money to a creditor, which may include individuals, banks, credit card companies, or corporations, they may repeatedly contact you to try to make you pay them back. You can write a letter to the creditor and ask them to verify your debts or to stop contacting you. You can find the sample letters on the Consumer Financial Protection Bureau (CFPB)'s website at www.consumerfinance.gov, along with other information on your rights against creditors.

Eventually your creditor, or another entity that has purchased your debt from the original creditor, may serve you with court papers that seek to force you to pay your debt. If you receive a court notice (called a summons), you must go to court to defend yourself against the creditor's claims. If you fail to appear or to otherwise defend yourself, the court may enter a default judgment against you so that you automatically lose the case. If that happens, the creditor may be able to freeze your bank account, garnish your wages, or put a lien on your property. Therefore, it is important to show up in court for your case and not ignore any court papers you receive.

You may consider consulting with an attorney, or if you are sued in the five boroughs of New York City, you can seek free legal assistance through CLARO and Volunteer Lawyers for the Day Project (VLFD). CLARO assists with court papers, such as the answer you will have to file in court when you get a court notice. They can provide advice on the possible defenses you may have in your case. For more information, go to www.claronyc.org. The VLFD program assists clients on their day of court for unrepresented litigants and are located in the courtroom where your case is heard. To get assistance from a volunteer lawyer, you should get to the court before your appearance time. They assist people on a first come, first serve basis on your court date. You can also visit www.lawhelpny.org to find organizations which provide free legal help.

Collection on Judgments

In the event that creditors win a judgment against you, they may be able to collect on the debt. Collection can include, among other actions, garnishing your bank accounts/earnings or putting a lien on your property. However, certain sources of income are "exempt" and cannot be taken to satisfy the debt you owe to your creditors. Such sources of income include, but are not limited to: SSI, SSDI, VA Benefits, Workers' Compensation, Public Assistance, Unemployment Insurance, child support, and alimony payments. The best way to protect these benefits is to receive them through direct deposit and keep your bank balance below \$2,850. If you have income or assets that are not exempt, your creditors can try to seize them, provided they have a court order allowing them to do so. The best way to protect your earned income is to keep your bank balance below \$3,600. See **here** for more information. Sometimes debt collectors may claim that they can garnish "exempt" sources of income or try to collect on debts that you have previously settled. If you believe that a debt collector is improperly threatening you, consult an attorney and/or submit a complaint at www.consumerfinance.gov/complaint/ or by telephone at (855) 411-2372. You may have a right to sue the debt collector for improper collection practices.

Personal Bankruptcy

If you cannot afford to make payments on your debt with your current income, you may consider filing for personal bankruptcy.

Two Different Types of Bankruptcy

There are two types of individual bankruptcy proceedings. In Chapter 7 proceedings, your assets may be surrendered or liquidated in order to satisfy the debts owed to creditors, and your debts are completely forgiven; there are many assets, however, that you may be able to keep, such as jewelry, money in retirement and savings accounts, and your home equity, up to certain amounts. In Chapter 13 bankruptcy proceedings, you get to keep your property, but must propose a plan to repay all or part of the debt in the three to five years following the bankruptcy proceeding. The Bankruptcy Court must approve of the plan. To be permitted to file Chapter 7 proceedings, you may need to pass a “means test” that requires you to prove that your monthly income (and, if you are married, your spouse’s monthly income) is below a certain amount. There are required court filing fees, but you may apply for a fee waiver which may be approved depending on your income, assets, and expenses.

Bankruptcy proceedings are complex and can have long-term consequences. You can only file for Chapter 7 bankruptcy every 8 years. It can be more challenging to get affordable credit after filing for bankruptcy, and the bankruptcy may remain on your credit report for as long as 10 years. While your credit score is certainly affected when you file for bankruptcy, this does not mean that you will never be able to get a car, house, or other loan again. With careful planning, you can earn a good credit record after bankruptcy. Note that while many debts will be discharged through bankruptcy, some debts, like student loans, child support arrears (back child support that you owe), and taxes, will usually not be forgiven.

How to File for Bankruptcy

To file for bankruptcy, you must file a petition in the appropriate Bankruptcy Court. If you live in Manhattan or the Bronx you will file petitions at the U.S. Bankruptcy Court for the Southern District of New York, located at One Bowling Green, New York, NY 10004; the Court’s Help Line can be reached at **(212) 284-4040**. If you live in Queens, Brooklyn or Staten Island, you will file petitions at the U.S. Bankruptcy Court for the Eastern District of New York, located at 271-C Cadman Plaza East, Suite 1595, Brooklyn, NY 11201; the Court’s Help Line can be reached at **(347) 394-1700 (press 6)**. **In order to file for bankruptcy, you must usually take a credit counselling course that is approved by your district’s bankruptcy court with 180 days before the case is filed. A list of approved credit counselling agencies can be found online at www.justice.gov/ust/ or by calling (202) 514-4100.**

See an Attorney

It is strongly advised that you seek the advice of an attorney before you file for bankruptcy. You should also be cautious of advisors or advertisements promoting the benefits of bankruptcy. Such “advisors” are often not licensed attorneys, and they may offer bad advice, be unable to represent you, and may even attempt to use your vulnerable financial position to extract unwarranted fees from you. For assistance, visit <https://www.legalservicesnyc.org/what-we-do/practice-areas-and-projects/bankruptcy> and/or <http://brooklynvlp.org/clients/#PracticeAreas>.

Federal Student Loan Discharges

The U.S. Department of Education allows Family Federal Education Loans (“FFEL”), Direct loans, and Perkins loans to be discharged because of a borrower’s disability, among other reasons. Parents with PLUS loans may apply for discharge based on their own disabilities, not those of their children. If two parents have a PLUS loan and one becomes disabled, the non-disabled parent still must repay the loan. If you have a defaulted student loan, the government can garnish your VA and Social Security benefits (but not SSI) without taking you to court.

Federal Disability Discharges

Who is eligible for a disability-based student loan discharge?

1. Submit documentation from the VA showing that you have a service-connected disability rating of 100% or that you are unemployable due to a service-connected disability; or
2. If you receive Social Security Disability Insurance (“SSD” or “SSDI”) or Supplemental Security Income (“SSI”) benefits, submit the Social Security notice of award for benefits. You can request a copy of this notice from your local Social Security office; call (800) 772-1213 to find a local office near you. To be eligible, the notice of award for benefits must state that your scheduled disability review is within the next five to seven years. If your award notice does not contain a recertification date, contact your local office and request a benefit planning query; or
3. If you do not meet the above criteria, you may submit certification from a doctor that you are totally and permanently disabled. You must follow this certification process even if you receive VA non-service-connected disability benefits (“VA Pension”). Your doctor must certify that you are not able to take part in any significant gainful activity because of a medically diagnosed physical or mental impairment that: 1) can be expected to result in death; 2) has lasted for a continuous period of not less than 60 months; or 3) can be expected to last for a continuous period of not less than 60 months.

How do I apply?

For more information, visit www.disabilitydischarge.com and click on apply now, or call (888) 303-7818. You can then choose to either submit your application by mail or online. After you have submitted the initial application, you should submit all required documents (doctor’s certification, SSD/SSI award letter, or VA compensation letter) to the loan servicer. There are sometimes consequences of loan discharges, so applicants should research the pros and cons or seek legal advice before applying.

Private Loan Discharges

Certain private loans are also eligible for discharge due to disability, including Sallie Mae, the New York Higher Education Services Corporation, Wells Fargo and Discover. Student loan borrowers may also be eligible for discharges under other circumstances, including if their schools closed, refused to pay refunds, or falsely certified certain information. Additionally, defrauded students may be eligible for a discharge and students and alumni of Corinthian Colleges may be preemptively eligible for this discharge as well. For more information, call (855) 279-6207. Current or former students of for-profit post-secondary college or trade schools who feel they have been defrauded by their educational institutions should contact NYLAG’s For-Profit Schools Project at (212) 946-0354.

How to File a Claim in Small Claims Court

General

The Small Claims Court is an informal court where individuals can sue for money only, up to \$5,000 in City Courts, without a lawyer. Claims for more than \$5,000 may not be brought in Small Claims Court, but they can be started in the Civil Part of the court. A claim for damages for more than \$5,000 cannot be “split” into two or more claims to meet the \$5,000 limit. You cannot sue in Small Claims Court to force a person or business to perform a task, such as to fix a damaged item, or to fulfill a promise made in an advertisement. The court may not order the return of a personal item. If the Defendant lives, works, or has a place of business in New York City, you may file your “Statement of Claim” in either the Small Claims Court located in the borough you live in, or in the Small Claims Court in the borough where the Defendant lives, works, or has a place of business.

How to Initiate Small Claims Proceeding

You can go to the Small Claims Court to file a “Statement of Claim” form. You may also file your claim by mail. Contact the Small Claims Court Clerk’s office in the relevant county to obtain the necessary form (see below for telephone numbers). When you file your small claim, you must provide the name and place of residence or place of business or employment of the person or business you want to sue.

Fees & Filing

You will be required to pay a filing fee: \$15 for claims \$1000 or less and \$20 for claims between \$1000 and \$5000. You must pay the fee by cash, certified check, money order or bank check made out to the “Clerk of the Civil Court.” The court does not accept personal checks. Additional fees for certain court actions may be applicable throughout the course of litigation.

What to Bring to the Court

Before you appear in court, you should gather all the evidence necessary to prove your claim or your defense. Anything that will help prove the facts in dispute should be brought to court. Testimony, including your own, is evidence. Any witness whose testimony is important to your case may testify. If you are unable to get a witness to appear voluntarily, you may apply for issuance of a subpoena (an order to appear for a court proceeding) to the clerk of the Small Claims Court.

After Judgment

The winning party, or judgment creditor, will receive a “notice of judgment.” Winning a judgment does not guarantee payment; however, it does give you the right to collect it. If the Judgment Debtor, the party who lost during the trial, does not pay you voluntarily, you may contact an enforcement officer. The enforcement officer will either be a Sheriff who works for the County, or a City Marshal, who is independent. Tell the enforcement officer that you are the Judgment Creditor (the Claimant in the trial who has won money, or the Defendant who successfully countersued and won money), and that you would like the officer to request an execution from the Court. Also be aware that you will have to pay certain fees for the enforcement officer’s services.

New York City Small Claims Court Telephone Numbers (call for hours and addresses):

Bronx County (718) 618-2517	Harlem Community Justice Center (212) 360-4113	New York County (646) 386-5484
Kings County (347) 404-9021	Queens County (718) 262-7123 or (718) 262-7122	Richmond County (718) 675-8460

Criminal Justice-Involved Veterans

If you are charged with a crime, you are entitled to an attorney. If you prove that you cannot afford an attorney, a public defense attorney will be provided for you. When you have been charged, you should begin looking for an attorney. You may also reach out to a Veterans Justice Outreach (VJO) program near you. You may be eligible to have your case heard in Veterans Court, a collaborative process that includes the prosecutor, defense counsel, judge, the VA, and other community-based organizations.

If you later plead guilty or are found guilty—whether through a regular criminal court or Veterans Court—and are then incarcerated, your ability to receive VA benefits, Social Security Disability Insurance (SSDI), and Supplemental Security Income (SSI) benefits may change.

Veterans Justice Outreach

All VA Medical Centers have a VJO coordinator whose job is to liaise with veterans involved in the criminal justice system. See page 99 for contact information.

Important VA Benefits Information

Incarceration for a felony for more than 60 days post-conviction incarceration reduces your compensation entitlement (though VA may pay some of these benefits to your dependents if they have a demonstrated financial need). Incarceration for a felony *or misdemeanor* for more than 60 days post-conviction incarceration suspends your eligibility for a VA non-service connected pension. Failure to report incarceration may create an overpayment (see page 72).

To avoid an overpayment, all veterans receiving VA benefits who are to be incarcerated must notify the VA through a letter (mailed return receipt requested) to the Regional Benefit Office at: 245 West Houston Street, New York, NY 10014. You must have a prison official fill out and submit VA Form 21-4193 (“Report of Incarceration”) once your incarceration begins. Contact a Veterans Service Officer or attorney for help during this process. Once released from prison, you may receive VA benefits again, so you should contact the Regional Benefit Office.

Important SSDI/SSI Information

SSDI and SSI generally aren’t payable for months that you’re incarcerated for committing a crime. If you receive SSDI and you’re convicted of a criminal offense and incarcerated for more than 30 continuous days, your benefits will be suspended, but can be reinstated the month after the month of your release. Benefits to spouses/children continue as long as they remain eligible.

If you receive SSI, your payments are suspended while you’re in prison, but can be reinstated in the month you’re released. To re-instate your benefits following your incarceration for less than 12 consecutive months, you’ll need to contact Social Security and provide a copy of your release documents. However, if your confinement lasts for 12 consecutive months or longer, your eligibility for benefits will terminate and you must re-file for benefits.

It is important to notify Social Security promptly if you are convicted of a crime. You must report a change within 10 days after the month it happens. You should report even if you’re late. You can report changes by calling (800) 772-1213, by mail, or in person.

Discharge Upgrades and Character of Service Determinations

In this section, you will find information on the following topics:

- Character of Service Determinations
- Discharge Upgrades & Corrections of Military Records

Character of Service Determinations

If you left the military with a discharge that was less than fully Honorable, you may still be able to get VA benefits, even if your discharge has not been upgraded (see page 13 for more information on discharge upgrades).

If you have a discharge that was neither Honorable nor General, you can ask the VA for a Character of Service Determination (“CSD”). If the VA rules in your favor, you will still have your prior discharge, but you will be eligible for most VA benefits, such as disability compensation, pension, and VA health benefits. A CSD is an alternative to a discharge upgrade. CSD requests are usually processed more quickly than discharge upgrade applications.

Not everyone is eligible for a CSD. In some cases, the VA can’t even consider the request. Among those who are ineligible are:

- Veterans discharged following a conviction at a General Court-Martial
- Veterans who accept an Undesirable discharge to avoid a court-martial
- Veterans discharged for an offense involving moral turpitude
- Veterans discharged for “homosexual acts involving aggravating circumstances”
- Veterans discharged for mutiny or spying; desertion; conscientious objectors; and officers who resigned for the good of the service

In some other cases, the VA has more leeway. When you ask the VA to make a CSD, you are asking it to consider the complete history of your military service, such as length of service, periods of creditable service, and possible undiagnosed medical issues you had prior to discharge. The VA will not grant a favorable CSD ruling if it decides it is fair to deny benefits based upon all the facts.

How do I apply for a CSD?

The simplest way to trigger a CSD is to apply for VA disability compensation or pension. The VA will respond to your application with a letter telling you what information you should submit in support of your request for a favorable CSD. To respond to the letter, you will need a copy of your Official Military Personnel File which you can request with VA form SF-180. You may also need a court-martial transcript or military investigative records; letters or affidavits from members of your former military unit could also be helpful. An attorney or a Veterans Service Organization can provide further assistance.

Discharge Upgrades & Corrections of Military Records

A veteran with a discharge status that is less than Honorable may apply for a discharge upgrade or correction of military records. There are two types of boards that can consider a discharge upgrade—Discharge Review Boards (“DRB”) and Boards of Correction of Military Records (“BCMR”). If your discharge was General (Under Honorable Conditions), you are eligible for most VA benefits, including health benefits, but you are not eligible for education benefits under the G.I. Bill. Upgrading or correcting a discharge can make you eligible for VA health benefits, G.I. Bill, and other benefits. Note, however, that veterans with other than dishonorable discharges can gain access to VA benefits even without a discharge upgrade or correction of military records through a character of service determination (see page 12).

On August 25, 2017, the Department of Defense released guidance which may increase the likelihood of success in discharge upgrade cases for veterans who received a bad paper discharge as a result of mental health problems or military sexual trauma.

How to Apply

If the discharge is less than 15 years old, apply for a discharge upgrade using DD Form 293. If the discharge is more than 15 years old, request a correction of records using DD Form 149.

A discharge upgrade or correction of military records will be granted if a veteran convinces the DRB that the discharge reason or characterization was “inequitable or improper.”

- For example, an “inequity” would be: “My discharge was inequitable because it was based on one isolated incident in 36 months of service.”
- An “improper” discharge might be: “The discharge is improper because the applicant’s pre-service civilian conviction, properly listed on enlistment documents, was used in the discharge proceedings.”

The BCMR looks to whether the discharge was due to an “error or injustice.” “Inequity” is about unfairness, and “error” is concerned with illegality.

These cases are difficult to win. To improve your chances of success, you may include:

- A personal statement;
- Affidavits from persons in chain of command, chaplain, or anyone else with direct knowledge of your military service;
- Healthcare providers’ letters, especially if you are claiming that you were influenced by an undiagnosed medical condition that caused problems during service;
- Evidence of improper procedure during the discharge process;
- Evidence of good conduct after leaving the military.

To request Official Military Personnel Records that may help your case, use VA form SF-180.

You should consult a lawyer or Veterans Service Organization if you are considering an application for a discharge upgrade or correction of military records. Veterans who are represented in their applications have a significantly higher rate of success than those that apply without guidance.

Elder Abuse, Neglect, & Financial Exploitation

Elder abuse is an intentional act or failure to act that causes or creates a risk of harm to an older adult. For these purposes, an older adult is someone 60 years of age or older. Perpetrators of elder abuse can be caregivers, family members, trusted individuals, or strangers. Some frequent types of elder abuse include:

- **Physical**—An older adult experiences illness, pain, or injury as a result of the intentional use of physical force and includes acts such as hitting, shoving, kicking, pushing, slapping, and burning.
- **Sexual**—Forced or unwanted sexual interaction of any kind with an older adult. This may include rape, unwanted sexual contact, forced nudity, indecent exposure, indecent speech, or forced nude pictures.
- **Emotional or Psychological**—Verbal or nonverbal behaviors that inflict anguish, mental pain, fear, or distress on an older adult. Examples include purposely causing anxiety, humiliation, intimidation, destroying property, isolation, or threats of abandonment.
- **Neglect**—Failure to meet an older adult’s basic needs willfully or because of an inability to fulfill caregiving responsibilities. These needs include food, water, shelter, clothing, hygiene, medication, appropriate healthcare, and allowing bed sores to occur and not treating them.
- **Financial**—Illegally or improperly using an elder’s money, benefits, belongings, property, or assets for the benefit of someone other than the older adult. Examples include taking money from an older adult’s account without proper authority, abuse of a power of attorney, identity theft, unauthorized credit card use, scams, coerced property transfers, and changing a will without permission.

What can you do if you or a loved one is a victim of Elder Abuse? Report it!

- Report Identity Theft to the Federal Trade Commission (FTC), (877) 438-4338 OR <https://www.identitytheft.gov/>
- Call the NYC Department for the Aging Elderly Crime Victims Unit at (212) 442-3103
- Call JASA LEAP (Legal Social Work Elder Abuse Program) at (212) 273-5272
- Call the New York County District Attorney's Office Elder Abuse Unit at (212) 335-9007

What can you do to prevent Elder Abuse?

- Never give out your personal information over the phone and always be on guard for telephone, mail, and email scams.
- Create a plan to age safely by using advance directives to appoint trusted individuals as agents before crises or a decline in decision making capacity occurs (see page 1).
- When investing, call FINRA Securities Helpline for Seniors for free advice (844) 574-3577.
- Regularly request and review your FREE Annual Credit Report to guard against financial exploitation, (877) 322-8228 OR annualcreditreport.com.

Employment Law

In this section, you will find information on the following topics:

- Reasonable Accommodations for Employees with Disabilities
- Discrimination and Sexual Harassment in the Workplace
- Family and Medical Leave
- USERRA and SCRA: Civil Protections for Veterans and Servicemembers
- Wage and Hour Law
- Employment Opportunities and Programs
- Veterans' Preference in Employment
- Service Dogs at Work

Reasonable Accommodations for Employees with Disabilities

What is a “reasonable accommodation”? A reasonable accommodation is a modification or adjustment to work duties, a work schedule, or the work environment that would enable the employee to perform the essential job duties without imposing an “undue hardship on the operation of the business.” For example, a reasonable accommodation may include: providing or modifying equipment; modified work schedules; reassignment; modifying training materials or policies; providing readers or interpreters; and making the workplace readily accessible to/usable by people with disabilities.

What is a “disability”? The term “disability” is defined in general terms. The definition of disability under federal law includes: 1) a person who has a physical or mental impairment that substantially limits one or more major life activities; 2) a person with a record of a physical or mental impairment that substantially limits one or more major life activities; or 3) a person who is regarded by others as having a physical or mental impairment that substantially limits one or more major life activities. This definition is broader under New York State and City law. Under New York City law, disability includes any physical, medical, mental, or psychological impairment, and does not require the condition substantially limit a major life activity.

When does the employer have to provide an accommodation for a disability? An employer is required to provide a reasonable accommodation to a qualified applicant or employee with a disability unless the employer can show that the accommodation would be an undue hardship—that is, that it would require significant difficulty or expense. Employers are generally obligated to engage in an interactive process with an employee to determine what would constitute a reasonable accommodation. In New York City, employers are required to engage in a “cooperative dialogue”, which requires that the employer provide the employee with a written final determination of their decision.

Which employers must comply with the federal or New York law? Only “covered entities” must comply with Title I of the American with Disabilities Act (“ADA”), the federal employment disability law. “Covered entities” include private employers with 15 or more employees, employment agencies, labor organizations, joint labor-management committees, and state and local employers. Federal agencies are exempt from the ADA, but must comply with the Rehabilitation Act, which is almost identical to the ADA. Under New York State and City law, which is similar to the federal law, all employers that have four or more employees must comply.

You may request a reasonable accommodation from your employer or union at any time. To do so, you will have to disclose information regarding your health condition and submit a letter from your physician. If your employer fails to comply with the request, discrimination charges based on the ADA may be brought to the EEOC at (800) 669-4000. Complaints based on similar state law can be brought to the SDHR by calling (888) 392-3644, or by using the form found at <https://dhr.ny.gov/sites/default/files/pdf/complaint-form-fill-in.pdf>. Complaints based on violation of similar New York City law can be brought to the NYC Commission on Human Rights at (718) 722-3131 or online at <http://www1.nyc.gov/site/cchr/about/report-discrimination.page>. Contact an attorney for more information about reasonable accommodation requests and complaints.

Discrimination and Sexual Harassment in the Workplace

Prohibited Discrimination in the Workplace

Federal laws prohibit discrimination in employment based on veteran status, race, color, religion, age, national origin, gender (including gender identity, sexual orientation and sex harassment), alienage or citizenship status and disability. State laws cover the above as well as predisposing genetic characteristics, marital status, arrest or conviction record, and status as a victim of domestic violence, stalking, or sex offenses. City law covers the above categories as well as unemployment status, hairstyle, veteran or active military status, credit history, salary history, familial status, caregiver status and sexual and reproductive health decisions.

Sexual Harassment: One Form of Discrimination

Sexual harassment involves unwelcome sexual conduct that creates an intimidating, hostile or offensive work environment; submission or rejection of the conduct may be used as the basis for hiring or other employment decisions, such as promotions, raises or job assignments. The harasser can be a supervisor, a co-worker, or someone who is not an employee, such as a customer. Harassment is illegal when it is so severe or frequent that it creates a hostile or offensive work environment or if it results in an adverse employment decision, like termination.

Addressing Discrimination in the Workplace

You should first contact the person/ office designated by your employer to receive discrimination complaints. If you have received an employment handbook, check this for complaint procedures.

You should contact a lawyer and/or one or more of the following agencies listed below for advice. Do so immediately because the amount of time that you have to bring a discrimination claim varies. If an employer has more than four employees, complaints may be filed with the NYS Division of Human Rights (“SDHR”) or the New York City Commission on Human Rights (“NYCCHR”) within a year of the discriminatory action(s). For sexual harassment claims filed at the NYCCHR, you have 3 years to file a complaint regardless of employer size. These agencies can investigate complaints and conduct hearings before an administrative judge. To file a complaint, contact the SDHR at (888) 392-3644 or use the form available at <https://dhr.ny.gov/sites/default/files/pdf/complaint-form-fill-in.pdf>; and/or the NYCCHR at 311 or online at <http://www1.nyc.gov/site/cchr/about/report-discrimination.page>.

- If an employer has more than 15 employees, you may file a complaint with the U.S. Equal Employment Opportunity Commission (“EEOC”) within 300 days of the discriminatory action(s) by calling (800) 669-4000.

Other Options: Court and the Police

You may also wish to retain an attorney and file a lawsuit against your employer in either state or federal court. Filing in federal court requires that you first file a complaint with the EEOC before bringing a lawsuit. No such requirement applies in New York State courts.

If the harassment involves physical touching, coerced physical confinement or coerced sex acts, the conduct may constitute a crime. If you believe you have been the victim of a crime, you should file a report at your local police department. However, the conduct need not be criminal in nature to constitute unlawful discrimination.

Family and Medical Leave

The Family and Medical Leave Act (“FMLA”) is a federal law that protects the jobs of employees who need time off from work to care for themselves or a sick relative. While on FMLA leave, your employer is obligated to continue health insurance coverage, but you are not entitled to pay.. Eligible employees are entitled to 12 workweeks of FMLA leave in a 12-month period, which do not have to be taken all at once. FMLA leave can be taken for:

- The birth of a child or placement of a child for adoption or foster care and to care for the new child within one year of birth or placement
- To care for a spouse, child, or parent who has a serious health condition
- A health problem that makes you unable to do the essential functions of your job
- Any qualifying exigency due to your spouse, child, or parent being a covered military member on covered active duty (<https://www.dol.gov/whd/regs/compliance/whdfs28mc.pdf>)

What is a “covered employer” under the FMLA, and which employees are eligible? The FMLA is available to employees who work at public agencies, elementary or secondary schools, and companies with 50 or more employees within 75 miles of where the employee requesting leave works. Employees are eligible for FMLA leave if they have worked for the employer for at least 12 months and for at least 1,250 hours in the 12-month period preceding the leave.

Requesting FMLA Leave: Employees must comply with their employer’s requirements for requesting leave and provide enough information for their employer to determine whether the FMLA may apply. Employees generally must request leave 30 days in advance. When the need is not foreseeable 30 days in advance, employees must provide notice as soon as is possible.

Military Caregiver Leave under the FMLA: Eligible employees are entitled to 26 weeks of leave during a single 12-month period to care for a covered servicemember or veteran with a qualifying serious injury or illness if the eligible employee is the servicemember or veteran’s spouse, child, parent, or next of kin. The 26 workweeks do not have to be taken all at once.

For more information about FMLA or Military Caregiver Leave, visit www.dol.gov/whd/fmla, call the Department of Labor at (866) 487-2365, or contact an attorney.

Paid Family Leave in New York State: Employers in New York State are required to provide paid family leave for most of the same situations covered under the FMLA, except to take care of a personal health problem. For more information, visit <https://www.ny.gov/programs/new-york-state-paid-family-leave> or call (844) 337-6303.

Paid Sick Leave for New York City Employees: New York City employers with 5 or more employees are required to provide paid sick leave for employees who work more than 80 hours per calendar year. For those with fewer than 5 employees, employers must provide unpaid sick leave. Employers with one or more domestic workers who have worked for at least one year and work more than 80 hours a calendar year must also provide paid safe and sick leave. New York’s Paid Sick Leave law now includes “safe” leave, which allows covered employees to use accrued leave for the care/treatment of themselves or a family member and to seek assistance or take other safety measures if they are the victim of any act or threat of domestic violence, unwanted sexual contact, stalking, or human trafficking. For more information, visit <http://www1.nyc.gov/site/dca/about/paid-sick-leave-law.page>, call 311, or contact an attorney.

USERRA and SCRA: Civil Protections for Veterans and Servicemembers

Congress has enacted a number of laws specifically designed to protect the civil rights of servicemembers, both while they are on active duty and after they return to civilian life. These laws ensure that servicemembers will be able to return to their civilian employment after completing their service and have certain civil financial protections while on active duty.

USERRA and Employment Rights: The Uniformed Services Employment and Reemployment Rights Act (“USERRA”) protects the civilian employment rights of servicemembers and veterans. Among other things, under certain conditions, USERRA requires employers to put individuals back to work in their civilian jobs after military service. If you are eligible for reemployment, you must be restored to the position and seniority-based benefits that you would have attained had you not been absent from work to perform your military service or, in some cases, a comparable job. USERRA also protects your private health insurance for up to two years while in the military and your health insurance and pension benefits upon re-employment. Visit <https://www.dol.gov/vets/programs/userra/index.html> for more information.

USERRA also protects servicemembers from discrimination in the workplace based on past, present, or future military service. An employer may not terminate you or deny you initial employment, retention in employment, promotion, or any other benefit of employment because of your status as a servicemember. An employer also may not retaliate against you or any other person for asserting, or assisting with the assertion of, USERRA rights.

Servicemembers who believe that their rights under USERRA have been violated should contact an attorney or file a complaint with the Department of Labor (“DOL”). Call DOL at (866) 487-2365, or the New York Veterans’ Employment and Training Service at (718) 613-3676, or visit the DOL website at <https://www.dol.gov/vets/programs/userra/fileaclaim.html>.

SCRA and Financial Protection for Active Duty Servicemembers: The Servicemembers Civil Relief Act (“SCRA”) is a federal law that provides a range of civil legal rights to active duty servicemembers. The law’s purpose is to postpone or suspend certain obligations so that active servicemembers can focus their full attention on their military career responsibilities without adverse consequences for them or their families. It covers issues such as rental agreements, security deposits, prepaid rent, eviction, installment contracts, credit card interest rates, mortgage interest rates, mortgage foreclosure, civil judicial proceedings, automobile leases, life insurance, health insurance and income tax payments.

The types of relief provided under the law include:

- Capping rate of interest for debts incurred before entering active duty to 6 percent
- Protecting servicemembers against default judgments, evictions, mortgage foreclosures, and repossessions of property
- Giving servicemembers the ability to terminate residential and automobile leases

If you think your rights under the USERRA or SCRA may have been violated, contact an attorney.

Wage and Hour Law

Both state and federal laws require employers to pay minimum wage and overtime. In states like New York, where the state minimum wage is higher than the federal minimum wage, the employee is entitled to the state minimum wage.

The Fair Labor Standards Act (“FLSA”): The FLSA is the federal law that requires employers to pay covered employees at least the minimum wage of \$7.25/hour and overtime pay of time and a half for all hours worked over 40 in a workweek. The FLSA applies regardless of immigration status. Compensable hours generally include work performed at home, waiting time, training, and probationary periods. The minimum wage and overtime requirement may not be waived by agreement between the employer and employees or by an announcement by the employer. Some types of employees are not covered by the FLSA.

For additional information about the FLSA: Visit the Department of Labor’s Wage and Hour Division Website at <http://www.wagehour.dol.gov>, call (866) 487-9243, or contact an attorney.

New York State Minimum Wage Requirements: Minimum wage in New York State will be increasing to \$15/hour throughout the state at different rates depending on location and industry, as set forth below. In New York City, the minimum wage for Big Employers (11 or more workers) and Fast Food Industry Employers were both increased to \$15 as of December 31, 2018.

Location & Industry	Date That New Minimum Wage Goes Into Effect		
	12/31/19	12/31/20	12/31/21
NYC – Small Employers (10 or fewer workers)	\$15.00		
Long Island & Westchester	\$13.00	\$14.00	\$15.00
Remainder of state	\$11.80	\$12.50	
Fast Food Industry outside of NYC	\$13.75	\$14.50	\$15.00 (7/1/21)

Tipped Employees in New York: The minimum wage for tipped workers in New York depends on location, industry, and employer size. Many employers may meet the minimum wage requirement by paying the worker a basic “cash wage” and applying a “tip credit” for tips the employee receives from customers. For example, for food service workers who work for large employers (11 or more employees) in New York City, employers can satisfy the minimum wage of \$15/hour by paying a cash wage of at least \$10 with a tip credit of no more than \$5/hour.

For more information or to file a complaint: For New York State minimum wage, visit <https://www.ny.gov/programs/new-york-states-minimum-wage> or call (888) 469-7365. For more information about New York State overtime requirements, visit <https://labor.ny.gov/legal/counsel/pdf/overtime-frequently-asked-questions.pdf>.

Employment Opportunities and Programs

The following are job training and work placement programs in the New York City area.

VA's Vocational Rehabilitation and Employment provides rehabilitation and employment services to help with job training, employment accommodations, and job seeking skills coaching. For eligibility information and to apply, visit <http://www.benefits.va.gov/vocrehab/> and follow the instructions to apply through your eBenefits account. You may also consult and fill out VA Form 28-8832 and send it to the Regional Office at 245 West Houston Street, New York, NY 10014. If eligible, you will be invited to an orientation session at the Regional Office.

VA's Compensated Work Therapy ("CWT") program has successfully employed veterans in various competitive positions including, but not limited to, healthcare, information technology, and manufacturing. CWT programs develop an individual rehabilitation plan for each veteran. VA benefits cannot be reduced, denied, or discontinued based on participation in CWT. For more information, visit <https://www.va.gov/HEALTH/cwt/veterans.asp>, or contact one of the CWT programs in New York City:

- James J. Peters VA Medical Center (Bronx): (718) 584-9000 ext. 5154
- Manhattan and Brooklyn VA Campuses: (212) 686-7500 ext. 7247 or (718) 439-4314

Madison Strategies provides free job training and work placement. Participants in their Career Directions program must be over 18, work-authorized, and must speak working English. The Career Directions program consists of one morning orientation, which is offered twice a week, followed by a 4-day training program in basic job preparedness. All participants are matched up with a case manager who aids them through Career Directions, job search, job placement, and follow-up. For more information, speak with a NYLAG attorney or call (646) 358-4748.

STRIVE New York is a free job training and job placement organization. Participants in STRIVE must have a high school diploma or GED, as well as proper documentation (State ID, birth certificate, or social security card) and proof of residence. STRIVE's Attitudinal and Job Readiness program consists of a 4-6 week training program. Participants may choose to participate in the construction and maintenance program or the office operations and healthcare program. STRIVE also provides fatherhood training and women's empowerment programs. For more information, visit <http://striveinternational.org/strive-new-york/> or call (212) 360-1100.

Other resources include Brooklyn Workforce Innovations, available at <http://bwiny.org/> or (718) 237-2017; Workforce1, a NYC government workforce development program, available at <http://www1.nyc.gov/site/sbs/careers/careers.page>; Project Renewal's Culinary Arts Training Program, available at <http://www.projectrenewal.org/catp> or 917.494.4548 or 718.784.5690 ext. 24015; Per Scholas, an intensive, selective IT training program, available at <https://perscholas.org/> or (718) 991-8400; NPower, a 22-week, selective IT training and internship program for young adults, available at <http://www.npower.org/Locations/New-York.aspx>; Easter Seals, available at <http://www.easterseals.com/newyork/our-programs/military-veteran-services/> or (212) 943-4364 (participating veterans must be homeless or at risk of homelessness, have one day of active duty outside of training, not have a dishonorable discharge, and seek to work for 20+ hours a week); and Nontraditional Employment for Women, which trains and places women in construction, utility, and maintenance careers, available at <http://www.new-nyc.org/> or (212) 627-6252.

Veterans' Preference in Employment

What is Veterans' Preference?

Veterans' preference laws give eligible veterans preference in federal hiring practices and in retention during reductions in force. Veterans' preference laws do not guarantee veterans a job or give preference in internal actions such as promotion, transfer, reassignment, and reinstatement.

What jobs are eligible for preference?

Preference for veterans applies to most jobs within the federal government.

Who qualifies for preference?

To qualify for preference, a veteran must have been separated from the armed forces under honorable conditions (includes both Honorable and General discharges) after serving on active duty. Eligibility for preference is based on dates of active duty service, receipt of a campaign badge, receipt of a Purple Heart, or existence of a service-connected disability. Please know that not all active duty service qualifies for preference.

Certain non-veterans with close relationships to a veteran who cannot work are also eligible for preference.

What does preference mean?

- A veteran who receives a passing grade in a job examination is entitled to 5 or 10 additional points above their earned rating, depending on whether they have a disability
- If no examination is administered, a qualified veteran is placed higher on the referral list than non-veteran applicants
- If experience is an element of qualification for the job, a veteran must be given credit for service in the armed forces and for all other relevant experience, whether paid or unpaid
- The employer must waive age, height, and weight requirements for the position being applied for, unless the requirement is essential to the performance of the position
- The employer must waive physical requirements for the position if the veteran is physically able to efficiently perform the duties of the position

How do I apply for preference?

A veteran should claim preference on their job application and provide documentation of eligibility, usually a form DD-214. Veterans who are claiming preference based on disability should submit Standard Form (SF) 15, *Application for 10-Point Veteran Preference*, which can be found online at <https://www.fedshirevets.gov/job/vetpref/>.

For additional information

Visit the Veterans Employment Program Office online at <https://www.fedshirevets.gov/> or by phone at (202) 606-7304, or the Veterans Employment and Training Service (VETS) online at <http://webapps.dol.gov/elaws/vetspref.html> or by phone at (718) 613-3676. If you think your rights to preference in employment have been violated, call the New York VETS office at (718) 613-3676, file a complaint directly with the Department of Labor following the instructions at <http://webapps.dol.gov/elaws/vets/vetpref/1010.html>, or contact an attorney. Note that complaints must be filed within 60 days of the date of the violation of your right.

Service Dogs at Work

A service dog is one that is individually trained to do work or perform tasks for the benefit of an individual with a disability. A disability is a mental or physical condition that substantially limits a major life activity, which includes seeing, hearing, walking, eating, breathing, sleeping and other activities central to daily life.

How do I obtain a tag for my service dog?

All dogs in New York City, including service dogs, must have a valid dog license attached to the collar when in public. You can apply online at <https://a816-healthpsi.nyc.gov/DogLicense/>, download the application from <http://www1.nyc.gov/assets/doh/downloads/pdf/vet/vet-doglicense-form.pdf> and apply by mail, or call 311 to have an application mailed to you. You should have information regarding your dog's breed, color, vaccination, and neutering on hand. You should also obtain a check or money order for the license fees due. You may also call 311 to request a free and optional tag that identifies your dog as a service dog.

Can I bring my service dog to work?

Under New York State Civil Rights Law, employers may not discriminate against an otherwise qualified employee or prospective employee with a disability who is accompanied by a guide, hearing, or service dog. The employer must permit you to have such dog in your immediate custody at all times. A request from an employee to bring a service animal to work can be processed like any other request for "reasonable accommodation". You need to show that the service animal is needed for disability-related reasons and that it is trained to be in a work environment without disrupting the workplace or behaving inappropriately.

What if the employer refuses my request?

For employment related incidences, you may file a complaint with the Equal Employment Opportunity Commission (EEOC) within 300 days after the alleged discrimination, or you may file suit in federal or state court, within three years of the alleged discrimination. To do so, contact an attorney who specializes in this area of law.

Where can I find more information?

- The New York State and City Bar's "Guide to the Use of Service Animals in New York State", found at <http://documents.nycbar.org/files/guide-to-the-use-of-service-animals-in-new-york-state.html>
- The U.S. Department of Justice's frequently asked question page, found at https://www.ada.gov/regs2010/service_animal_qa.pdf

Family Law

In this section, you will find information on the following topics:

- Divorce
- How to File for Custody or Visitation of Your Child
- How to File for Child Support
- Child Support Debt and Modifications
- Domestic Violence and Safety Planning
- Orders of Protection
- Child Protective Proceedings
- NYC Family Court Addresses and Telephone Numbers
- NYC Supreme Court Addresses and Telephone Numbers
- NYC Family Justice Center Addresses and Telephone Numbers
- NYC Safe Horizon Addresses and Telephone Numbers

Divorce

In New York, only the Supreme Court can handle a divorce; Family Court cannot issue divorces. Go to page 32 for the address of each borough's Supreme Court. There are two ways to obtain a divorce: uncontested and contested (see explanations below).

Before a divorce can be granted, the following issues must be resolved either by a court or by agreement between the parties: (1) child custody, if there are children under 18; (2) paternity for children born during but not of the marriage; and (3) financial issues, which include (a) child support for children under 21, (b) maintenance (also known as alimony), and (c) division of marital assets and marital debts. In New York, consent of both spouses to the divorce is not necessary once custody and financial issues are resolved.

If you were married in New York State, you may start your divorce as long as one of the spouses has lived in New York State for at least one year, and still lives here. If you were married outside of New York State, then you may file for divorce after one of the spouses lives in New York State for two or more years, and still lives here. You need to have been married for six months before you can file for a "no-fault" divorce based on irreconcilable differences.

New York requires personal service in divorce cases: somebody (not you) will need to hand deliver the documents to your spouse. If you cannot locate your spouse after a diligent search, you can file a court motion for permission to serve by publication. You must document your efforts to locate your spouse, including visiting their last known address, internet searches, requests to friends and relatives, and written requests to the United States Military, NYC Board of Elections in each borough, DMV, Post Office, and telephone directories.

Uncontested Divorce: A divorce is "uncontested" if there are no "ancillary" issues to be resolved by the court, either because 1) child support and custody orders are already in place and the spouses have agreed to the division of any property, including pensions; or 2) there are no child support, custody, or property issues to consider. Matrimonial Clerks in each borough's Supreme Court have free copies of the Uncontested Divorce Packet with fill-in forms and scheduled free clinics to assist you. It usually takes 8-12 months to obtain a final judgment in an uncontested divorce after all the papers are served and filed. Find court forms and instructions at the Supreme Court in your borough or at www.nycourts.gov/divorce/info_faqs.shtml.

Contested Divorce: A divorce is "contested" if the court's assistance is required to decide issues of custody or finances. Courts offer mediation programs in contested divorce cases if the parties agree to mediate, and there is no domestic violence. If you cannot afford an attorney, you may ask the judge for a court-appointed attorney, but only for issues of child custody or orders of protection, not financial issues. **If your divorce is contested, you will likely need a lawyer.**

Filing Fees: An uncontested divorce will cost at least \$335 in filing fees. You may file a poor person motion to have these court fees waived if you cannot afford them. Attach information about your income and any public benefits you receive to the form.

How to File for Custody or Visitation of Your Child

How do I get a court order for custody or visitation?

If your child lives in New York State, then New York courts can decide custody and visitation. Courts will usually look to where the child has lived for the last six months to decide which state's courts have jurisdiction. To file, go to Family Court in the borough where the child lives. You do not have to be married or divorced in order to file for custody or visitation.

To get a custody or visitation order from Family Court, you have to file a petition. A petition is a form that tells both the Court and the other parent what you want. Family Court has the forms to fill out. In Family Court, it does not cost any money to start a case.

The judge will assess what is in the best interests of the child to determine custody and visitation. The court will likely appoint an attorney for the child, who will meet with the child outside of court and represent the child. The child does not usually go to court.

What is the difference between legal and physical custody?

“Legal custody” refers to who makes important decisions, such as medical treatment or educational decisions. “Physical custody” refers to who the child lives with most of the time. Custody can be shared; for example, parents can have joint legal custody when only one parent has physical custody; alternatively, parents can have joint legal and physical custody.

What if I cannot afford a lawyer?

It can be helpful to have a lawyer in a custody or visitation proceeding. A parent has the right to a lawyer in a custody or visitation case in either the Family Court, or Supreme Court as part of a divorce. The judge can appoint an attorney if you cannot afford one. Bring proof of income and any information about government benefits, such as VA benefits, SSI, SSD, SNAP, etc. when you ask for a court-appointed attorney. Only a judge, not a clerk, can assign a free custody/visitation attorney; ask the judge at the hearing if you'd like a free attorney.

Does a mother have more right to custody or visitation than a father?

No. The court's standard is “best interests of the child,” which includes many factors including but not limited to: (a) keeping siblings together; (b) keeping children with the parent who has been their primary caretaker; (c) exposure to domestic violence or child abuse; (d) keeping the child's life as similar as possible to before the break-up, such as keeping the same school and friends; (e) the child's wishes; (f) maintaining access to both parents; and (g) a parent's emotional or mental capacity, or psychological well-being. Almost anything is relevant in a custody determination. Custody and visitation are determined separately from child support.

Courts typically find that most parents are entitled to visitation. Visitation may be supervised by an agency or family member if the court believes the child's safety is at risk.

What if I want to change the current custody arrangement?

If you want to change the custody and/or visitation order, you can start a case to “modify” the order. Custody and visitation orders may be changed if the court decides that things have changed and that changing the original order would be in the child's best interests.

How to File for Child Support

In New York, a parent is obligated to support his/her child until the child is 21. However, if the child is under 21 years of age, and is married, or self-supporting, or in the military, the child is considered to be “emancipated” and the parent is no longer obligated to provide support. If a child support order already exists, only a court can determine that the child is now emancipated, so the payor parent should file a modification to stop the child support, rather than ceasing payment (see Child Support Debt and Modifications, page 28).

If the parents weren’t married to each other when the child was born, the legal father must be established before a child support case starts, by Acknowledgment of Paternity, consent, etc.

Who can file for child support?

When parents live apart and the child lives 50%+ of the time with one parent, that parent is considered to have “custody for child support purposes” even if there are no custody orders. That parent may file a petition in Family Court asking the court to order the “non-custodial parent” to pay child support. The petition must be served upon (delivered to) the non-custodial parent, together with a summons with the date of the court hearing. Both parties have the right to hire their own lawyers. If a party can’t afford to hire a lawyer, the court cannot assign a free attorney for child support (other than for questions of incarceration for willful nonpayment of arrears).

Child Support Standards Act

The NY Child Support Standards Act states that the basic child support obligation is to be set at a fixed percentage of parental income, depending on the number of children included in the support order. These standards are applied in most cases where parental income does not exceed \$148,000. Above \$148,000 the court can choose whether or not to apply the set percentages to incomes over \$148,000 (those families’ first \$148,000 are still subject to the below percentages).

Number of Children	Percentage
1	17%
2	25%
3	29%
4	31%
5+	at least 35%

Note: If the non-custodial parent's income is below the NY Self-Support Reserve (\$16,862 for 2019), the child support order may be set at \$25 per month. The court can also award percentage shares to be paid by the parents of “mandatory add-ons” (unreimbursed medical expenses, such as co-pays, and work-related childcare expenses). If you receive cash public assistance, however, child support usually goes to HRA other than for a pass-through amount paid to you, unless child support is greater than your cash assistance.

How do I file for support?

Child support cases are usually started in Family Court in the county where the child lives (see Family Court Locations, page 32). There is no filing fee in Family Court.

Child Support Debt and Modifications

Child Support Debts

If you fail to pay court-ordered child support, you can lose your driver's license, passport, and professional licenses. Your income, including wages and VA and Social Security benefits, may be garnished. Your property may be seized. You could be found in contempt of court and incarcerated (but not without first giving you a hearing in court, where you may be eligible for an assigned attorney, but only for the question of incarceration, not the amounts you owe). Child support arrears (child support payments that you owe) are not dischargeable in bankruptcy. The only way to change the monthly child-support amount going forward is to file a modification petition (see below).

What to Do if Your Income or Circumstances Change

If your income or circumstances change significantly (for example, if your income has gone down by more than 15%, or if the child has begun living with you), you should file a Support Modification Petition immediately. Child support orders will not automatically change if your income or needs change unless you file an Upward or Downward Support Modification Petition in court. If the court grants a child support modification, it will be retroactive to the date you filed a change petition, but not to before. For example, if your income dropped in 2018, but you do not file a petition then, the court can only reduce your child support from the date of filing.

How to Modify Child Support Orders

You may go to the Family Court that issued your support order (unless neither you, the other parent, or child lives in that county or state anymore; in which case you can file where either you or the other parent lives). You can also file for modification in Supreme Court if it determined your child support in a divorce, but Family Court may be faster and easier, and is available for people whose orders originated in either Family Court or Supreme Court. When you go to Family Court (see page 32 for NYC Family Court info) to file your petition, bring photo identification. There, complete a Support Modification Petition form. If the original support order was issued in another state or county, you must bring a certified copy of the support order.

If you have large child-support arrears that you cannot afford, the court still has to enforce these arrears. You may want to consider writing a letter to the Support Collection Unit (not the court) to request a longer-term repayment plan, which does not change the overall amount, but lowers your monthly arrears if you truly cannot afford them. Include details of your expenses, disabilities, and hardship. A court will only consider reducing accumulated arrears in very exceptional circumstances: if the petitioner had been living below the poverty line and was unable to work (for example, due to a disability) during the time of an active court order. **If you believe you were in such a circumstance, you should contact an attorney for help.**

Usually you do not need a lawyer for a child support modification case. Family Court clerks will help you file the necessary forms. After you file, you will need to fill out and swear to a financial disclosure statement (which can be found online at www.nycourts.gov/forms/familycourt/pdfs/4-17.pdf). There are no fees associated with filing child support petitions in Family Court. You will need to arrange for another person over the age of 18 to serve your summons and petition on the other party.

Domestic Violence and Safety Planning

What is Domestic Violence?

Domestic violence (“DV”) is a pattern of behavior used to establish power and control over another person through fear and intimidation which often includes the threat or use of physical, emotional, or sexual violence. Domestic abuse can happen to anyone regardless of gender and sexual orientation. Examples of DV include:

- **Physical violence:** hitting, strangling, cutting, pushing, etc. Physical abuse does not always leave marks.
- **Emotional/psychological/verbal:** verbal degradation, cursing, putting down, threats, intimidation, isolation; putting someone in constant fear; threatening to harm children.
- **Sexual:** there are high correlations between physical and sexual abuse; sex can be non-consensual in intimate relationships and marriages.
- **Financial abuse:** preventing someone from working; taking someone’s paycheck; limiting access or control over partner’s or families’ finances.

Victims of DV often live in fear not only for their own safety and well-being, but also for the safety and well-being of their children. DV victims face high rates of depression, anxiety, and sleep disturbance, and are frequently isolated emotionally and financially from their community, friends and family. If you are experiencing DV of any kind, one of the best ways to keep yourself safe and avoid feelings of isolation and depression is to develop a safety plan.

How to Create a Safety Plan

- Call the police if you ever fear for your safety or the safety of your children.
- Consider moving to a shelter or other safe place.
- Have important phone numbers available, including the police at 911, the 24-hour DV Hotline at (800) 621-4673, and friends or relatives.
- If you leave your abuser for your safety, take your children to safety as well.
- Keep a copy of any Order of Protection with you at all times (see page 30 for more information about Orders of Protection). File a copy with the police precinct and your child’s school, and give copies to babysitters and a neighbor.
- Tell child-care providers and school officials who has permission to pick up your children. Instruct them not to release the children to anyone else.
- If the abuser violates the Order of Protection, call the police immediately.
- Ask neighbors to call the police if they see the abuser near your home or if they hear any suspicious activity coming from your apartment.
- Plan an escape route out of your home in case of an emergency.
- Pack a bag with important documents and other things you would need if you had to leave in a hurry, and put it in a safe place.
- Consider changing the locks to your home or apartment and getting locks for the windows. Safe Horizon will change your locks for free; call (800) 621-4673.
- Consider getting an unlisted telephone number, and use caller ID to screen your calls.
- Change your regular travel habits; shop and bank at different places.
- Call the DV Hotline at (800) 621-4673 for information about DV shelters and housing, safety planning, counseling, and access to courts and advocates.

Orders of Protection

In New York State, there are three courts that issue orders of protection (also known as restraining orders): Family Court, Supreme Court (in a divorce action), and Criminal Court.

What is an order of protection? An order of protection is issued by the court to limit the behavior of someone who harms or threatens another person. It is used to address various safety issues, which include but are not limited to situations that involve domestic violence. An order of protection may direct the offending person not to injure, threaten or harass you, your family, or any other person(s) listed in the order. It may also directing the offending person to stay away from you and your children; to not live in the same home as you; to award emergency temporary custody or child support; to turn in their guns; or not communicate with you in any way.

You can file for an order of protection in Family Court if:

- You are related by blood or marriage (ex: step-parent or brother) to the other person;
- You are married to (or divorced from) the other person;
- You have a child or children in common with the other person; or
- You are or were in an “intimate relationship” with the other person (you do not need to have had sexual intercourse), regardless of whether you lived together at any time

Where can you file an order of protection in Family Court? You can file for an order of protection in Family Court in the borough where the incident occurred or where you or the abuser live. You may wish to speak with an attorney before filing. There is a Safe Horizon and Family Justice Center (“FJC”) in each Family Court where advocates can help you to file and provide a safe space to wait (see page 33 for FJC and Safe Horizon Locations). Child care is available at FJC. Arrive early and plan on being in court for most of the day.

In your petition, be sure to include the first, worst, and most recent incident that happened to you. Include any injuries you sustained. Also include any weapons or dangerous objects that were used. Include if your children were present (either in the room or in the home).

You will usually see a judge the same day, who will decide whether to issue you a temporary Order of Protection. The court can appoint you an attorney if you cannot afford one. This will typically happen on the next court date. The summons, petition, and temporary order of protection must be personally served—handed to—the respondent by any person aged 18 or older, except you. The police, the sheriff, a friend or relative can serve the papers for free, or you can hire a process server.. Papers for an order of protection may be served any day of the week, at any time of the day or night.

What can you do if someone violates an order of protection? It is a crime to violate an order of protection. If the subject of the order of protection does not obey the order, you can call the police and they will arrest them. You can also file a violation of the order in Family Court.

Criminal and Supreme Court orders of protection: Criminal Court orders of protection may only be issued when a person is charged with a crime. Supreme Court orders of protection may only be issued as part of a divorce proceeding.

Child Protective Proceedings

What is a child protective proceeding?

When it appears that a child under the age of 18 has been abused or neglected or is in danger of being abused or neglected, a petition may be filed by the Administration for Children’s Services (“ACS”) asking the Family Court to assist in protecting the child. The court then holds hearings to decide if the allegations are true and if so, what action the court should take to protect the child.

New York State defines child neglect or abuse as the act, or failure to act, by any parent or caretaker that results in the death, serious physical or emotional harm, sexual abuse, or exploitation of a child under the age of 18. Anyone can make a report of suspected child abuse by calling 311.

How does a child protective hearing occur?

The petition and a summons must be served upon (delivered to) the parents or persons legally responsible for the child to allow them to come to court and hear the case against them, and to present a defense. If the child has been under another’s care, the persons named in the petition may be someone else (whoever has been legally responsible for the child). In this case, the parents must also be served with court papers so that they may appear in court if they wish to request custody of their child.

What if my child has already been removed from my home?

In some circumstances, an emergency removal from the home will occur (this may be done with or without a court order). Regardless of whether the child has been removed from home with or without the parents’ consent, the parents may ask that a court hearing be held within a short period of time to see if the child may return home until a full hearing on the allegations is completed.

What happens after the hearing?

If the court finds that the allegations have not been proven, the court will dismiss the petition and return the child to his or her home.

If the court decides that the child has been abused or neglected, a hearing will be scheduled so that the court may consider what to do in the best interests of the child. Before this hearing, if the child has not already been removed from the home and the court finds that to be best for the child, the child will be removed. The child may be placed in foster care or with other suitable persons until the court makes its final decision.

The court will then order an investigation of the child’s home and family by ACS or the Probation Department. In some cases, the court orders an evaluation by the Mental Health Services. Reports are prepared to help the judge decide how best to protect the child.

The parents or guardians against whom the petition is filed may hire attorneys to represent them in court, or ask the court to assign attorneys at no cost if they cannot afford to hire their own. An attorney is also assigned to represent the child.

New York City Family Court Addresses and Telephone Numbers

Bronx County

900 Sheridan Avenue, Bronx, NY 10451 (corner of 161 Street)

Telephone: (718) 618-2098

Kings County (Brooklyn)

330 Jay Street, Brooklyn, NY 11201 (downtown Brooklyn)

Telephone: (347) 401-9610

New York County (Manhattan)

60 Lafayette Street, New York, NY 10013 (between Franklin and Leonard Streets)

Telephone: (646) 386-5200

Queens County

151-20 Jamaica Avenue, Jamaica, NY 11432 (across from the Rufus King Park)

Telephone: (718) 298-0197

Richmond County (Staten Island)

100 Richmond Terrace, Staten Island, NY 10301 (two blocks west of St. George Terminal)

Telephone: (718) 675-8800

New York City Supreme Court Addresses and Telephone Numbers

Bronx Supreme Court

851 Grand Concourse, Bronx, NY 10451

Matrimonial Clerk: (718) 618-1340

Kings (Brooklyn) Supreme Court

360 Adams Street, Brooklyn, NY 11201

Matrimonial Clerk: (347) 296-1714

New York (Manhattan) Supreme Court

60 Centre Street, New York, NY 10007

Matrimonial Clerk: (646) 386-3010

Queens Supreme Court

88-11 Sutphin Boulevard, Jamaica NY 11435

Matrimonial Clerk: (718) 298-0950

Richmond (Staten Island) Supreme Court

26 Central Avenue, Staten Island, NY 10301

Civil Clerk: (718) 675-8700

New York City Family Justice Centers Addresses and Telephone Numbers

Call 311 to be connected to the Family Justice Center nearest you.

Bronx Family Justice Center
198 East 161st Street
2nd Floor

Queens Family Justice Center
126-02 82nd Avenue

Brooklyn Family Justice Center
350 Jay Street

Staten Island Family Justice Center
126 Stuyvesant Place

Manhattan Family Justice Center
80 Centre Street

Safe Horizon Addresses and Telephone Numbers

Safe Horizon's Family Court Reception Centers provide a safe, emotionally supportive space for you to wait for court hearings.

Brooklyn Family Court
330 Jay St - 12th Floor
Brooklyn, NY 11201
Mon. to Fri. 9 a.m. to 1 p.m.
Mon. to Fri. 2 p.m. to 5 p.m.
(718) 834-7440

Queens Family Court
151-20 Jamaica Ave - 2nd Floor
Jamaica, NY 11432
Mon. to Fri. 9 a.m. to 1 p.m.
Mon. to Fri. 2 p.m. to 5 p.m.
(718) 262-0202

Bronx Family Court
900 Sheridan Ave - Room 1-40
Bronx, NY 10451
Mon. to Fri. 9 a.m. to 1 p.m.
Mon. to Fri. 2 p.m. to 5 p.m.
(718) 590-2371

Staten Island Family Court
100 Richmond Terrace
Staten Island, NY 10301
Mon. to Fri. 9 a.m. to 5 p.m.
(718) 447-3820

Manhattan Family Court
60 Lafayette St - Room 4C
New York, NY 10013
Mon. to Fri. 9 a.m. to 5 p.m.
(212) 577-1270

Healthcare and VA Health Benefits

In this section, you will find information on the following topics:

- Medicare, Medicaid, and VA Health Benefits
- Medicaid Spend-Downs and Pooled Trusts
- Enrolling in a Pooled Trust for Purposes of Medicaid
- VA Home Care Benefits
- Copayments for VA Healthcare
- Health Benefits for Family Members of Veterans
- VA Transportation Benefits
- Access-A-Ride

Medicare, Medicaid, and VA Health Benefits

Read this page for information about having both VA Health Benefits and Medicare/Medicaid, and general information about VA Health Benefits, Medicare, and Medicaid.

VA Health Benefits Eligibility: If you served in the military for even a day, you may be eligible. To apply for VA Health Benefits, call (877) 222-8387 or submit VA Form 10-10EZ.

Medicaid Eligibility: You are eligible for Medicaid if you receive SSI, if you meet certain financial requirements, or if you have high medical bills. Apply for Medicaid by visiting your local HRA Job Center or call HRA at (718) 557-1399. Even if you are above Medicaid's income limits, you may be eligible for Medicaid by "spending down" to the income limit, or creating a Pooled Trust (see page 36). Contact a social worker or attorney for more information.

Medicare Eligibility: Medicare has four "parts": Part A (hospital inpatient insurance); Part B (outpatient insurance); Part C (Medicare Advantage plans); and Part D (prescription drug plans). To apply for Medicare, call (800) 633-4227. Below is information on eligibility for Medicare:

- Part A: People 65 or older automatically qualify for Medicare Part A. People younger than 65 qualify if they have certain health conditions (like kidney failure) or have received SSDI benefits for at least 24 months. Call (888) 692-6116 for more information.
- Part B: Anyone enrolled in Part A can enroll in Part B by paying a monthly premium. Those living in New York City and with incomes up to \$1,377/month (single, 2017 limit) may be eligible to have the premium waived. Call (888) 692-6116 for more information.
- Part C: If you are eligible for Part A and Part B, you can sign up for Part C with benefits provided by a private insurer. This additional-cost plan will cover benefits that would not be covered by Part A and Part B.
- Part D: If you receive Parts A and B, or Part C, you may sign up for this prescription drug plan. It will cost roughly \$0-\$100 per month. You may join Part D if you already have VA prescription coverage, but you will not be able to use both types of coverage to pay for the same prescription.

Having VA Health Benefits with Medicare: The VA recommends that even if you have VA Health Benefits, you sign up for Medicare (Part A and Part B) when you are eligible. That way, you have the choice of receiving care at non-VA facilities, and have coverage if VA funding drops or if you need to attend a non-VA hospital for any reason. Plus, Medicare Part A and Part B enrollment may be free for you (call (888) 692-6116 for information about Medicare premium waivers). Part D is not as strongly recommended by AARP if you have VA Health Benefits because the VA prescription drug plan is usually better than Medicare's.

Eligibility for VA Health Benefits, Medicaid, and/or Medicare: You may be eligible for two or three of these programs, with increased insurance coverage from each program. For example, Medicaid may allow you to get increased home care if you are disabled and require it.

If you are denied VA Health Benefits, Medicare, or Medicaid, but you think you are eligible, contact an attorney.

Medicaid Spend-Downs and Pooled Trusts

If your monthly income is over the Medicaid level (for 2019 - \$859.00 for individuals, \$1267.00 for married couple), you may still be able to qualify for Medicaid by “spending down” to the income limit or creating a Pooled Income Trust.

What is a spend-down?

The amount by which your income exceeds the Medicaid limit after deducting what you have paid for Medicare Part B and any other health insurance premiums is referred to as the “spend-down.” If your income exceeds Medicaid income-eligibility levels, you must “spend-down” your excess income to meet the Medicaid level.

Who is eligible for a spend-down?

To qualify for a spend down, you must be under age 21, age 65 or older, certified blind or certified disabled, pregnant, or a parent of a child under age 21.

If you meet one of these criteria and have excess income, you have options.

- (1) Pay-In Program: You can pay your monthly excess income amount for any month to your local Department of Social Services and obtain full Medicaid coverage for that month.
- (2) If you have medical bills equal to your spend-down amount in a particular month, you can submit these bills to Medicaid and Medicaid will pay the additional medical bills (over and above the spend-down) for that month. This includes outpatient care, doctor and dental visits, lab tests, prescription drugs, and long-term care in the community such as home care and assisted living.
- (3) Pooled Income Trust: If you cannot afford to pay in your spend down to Medicaid and you do not have qualifying medical bills, but you need medical care due to a disability, there is another option called a Pooled Income Trust.

What does a pooled income trust do?

The purpose of a pooled income trust is to allow people with disabilities to shelter their excess income in order to maintain their Medicaid eligibility. People of any age who are disabled may enroll in a pooled trust sponsored by a non-profit organization. By enrolling in a pooled income trust, individuals with disabilities are able to participate in Medicaid while still having use of their full monthly income. This allows you to still pay for your monthly expenses through the trust, while also maintaining your healthcare coverage through Medicaid.

When you enroll in a pooled income trust, you deposit your spend-down amount into the trust each month. If you have monthly, non-medical bills that are greater than or equal to your spend-down amount, then enrolling in a pooled trust may be a good option for you. Though your spend-down is being deposited into the trust each month, you will still have control over how your money is being spent. Each month, bills equal to the amount of your spend-down (minus a small, monthly administrative fee by the non-profit) can be submitted to the trust and used for the payment of various monthly living expenses. These payments will be sent by the trust directly to the service provider being paid (ex: your landlord, cable provider, credit card company, etc.).

You should consult a lawyer if you are considering enrolling in a pooled trust.

Enrolling in a Pooled Trust for Purposes of Medicaid

The most common challenge facing New Yorkers looking to qualify for Medicaid, including home care, is having income above the Medicaid limit. In 2019, the monthly income limit for a single person household is \$859.00, and for a married couple where both spouses are applying for Medicaid, the monthly income limit is \$1,267.00. Income above these limits is considered “excess income” or your Medicaid “Spend-down.” Between housing costs and paying for basic needs, even consumers with income well above the Medicaid limits often find themselves with little extra money at the end of the month. As a result, many people can’t afford to “spend-down” and they certainly can’t afford to pay for care out-of-pocket. In these situations, a pooled trust can be very useful.

Step 1: Apply and Be Approved for Medicaid with a spend-down

Before enrolling in a pooled trust, you should first apply for Medicaid and be approved. Your Medicaid application takes approximately 45 days to be processed and approved. If your income is above the Medicaid eligibility limit and you are either disabled or at least 65 years of age, you may be approved for Medicaid with a spend-down. See page 36.

Step 2: Prepare Proof of Disability

Medicaid requires proof of disability in order to be eligible for a pooled trust. If you currently receive Social Security Disability (SSD), or if you received SSD before and you now receive Social Security Retirement benefits, your disability can be proven by your Social Security Disability award letter. If you do not receive Social Security Disability, your disability can be proven by obtaining a Medicaid Disability Determination. For information and assistance on obtaining and completing the needed forms, please consult your attorney, social worker, or healthcare professional.

Step 3: Enroll in a Pooled Trust

You will need to submit an application which includes: a completed original Beneficiary Profile Sheet (with signature); a Joinder Agreement (with notarized signature); and a one-time initial fee for enrolling in the trust. The trust also charges a monthly maintenance fee for the trust’s services. Fees can be paid by personal check, cashier’s check, certified check, or money order, made payable to the pooled trust organization. It may take approximately 4 – 6 weeks for the application to be processed and approved by the trust. **Except for the fees, money deposited into the Pooled trust can be used to pay your monthly expenses.**

Step 4: Submit Documents to Medicaid for Medicaid’s Approval of the Trust

Once you are accepted into the pooled trust, copies of all necessary documents are hand-delivered to Medicaid for Medicaid’s approval of the trust. The documents needed for submission to Medicaid include: a copy of Medicaid’s approval with your Spend-Down; a copy of the approved Pooled Trust Application; a copy of the Pooled Trust Master Trust; a copy of the transaction ledger showing deposits into the trust; and a copy of the Proof of Disability. It takes approximately 45-90 days for your submitted documents to be processed and approved by Medicaid but coverage will be retroactive to the date you began depositing your spend-down into the trust.

VA Home Care Benefits

The VA provides access to different types of home healthcare services, including short-term skilled care, discrete primary care visits at home, and long-term caregiver assistance. These services help veterans of any age who are chronically ill or disabled remain in their homes. These programs may also be available for veterans who are isolated or whose caregiver is experiencing burden. You can receive more than one service at the same time. These services are part of the VHA Standard Medical Benefits Package, and therefore all enrolled veterans are eligible if they meet the clinical need for the service. A copayment may be charged based on your VA service-connected disability status and financial information. Contact your VA social worker/case manager to complete the “Application for Extended Care Benefits” (VA Form 10-10EC) to learn the amount of your copay. For more information about VA copayments, see page 39.

VA Home Health Aide/Homemaker Services

A Home Health Aide/Homemaker is a trained person who can come to your home and help you take care of yourself and your daily activities. This program can be used as a part of an alternative to nursing home care, and as a way to get Respite Care at home for veterans and their family caregiver. Services are based on your assessed needs.

Skilled Home Healthcare Services

Skilled Home Health is short-term healthcare services that can be provided to you if you are homebound or live far away from the VA. Services may include nursing care, therapy, patient education (about managing your illness), a home safety evaluation, and social work support.

Home-Based Primary Care

Home Based Primary Care is for veterans who have complex healthcare needs for whom routine clinic-based care is not effective by providing them with their healthcare services in their home. The program provides primary care visits at home, case management, social work, therapy, mental health services, nutrition counseling, and help with managing medication.

Respite Care

Respite Care is a service that pays for a person to come to your home or for you to go to a program while your family caregiver takes a break. Respite Care can be helpful to veterans of all ages, and their caregiver. Veterans can receive Respite Care in an inpatient, outpatient or home setting. Respite Care can help lower the stress the veterans and their family caregiver may feel when managing a veteran’s long term care needs at home (For more information about the VA Family Caregiver program, see page 93).

If you are denied home care under VA Health Benefits, but think you are eligible, contact an attorney.

Copayments for VA Healthcare

VA copayments are determined by your VA Priority Group, which may be ranked 1 through 8. To find out your Priority Group, call (877) 222-8387.

If you are required to make a copayment and cannot, the VA will not withhold treatment or medications. If you are unable to pay, you may apply for a hardship, waiver, compromise or repayment plan. Call (877) 222-8387 for these options. The following is a list of certain important differences in VA copayments depending on your Priority Group:

- **Medications:** Veterans in Priority Group 1 do not pay for medications no matter their income; veterans in Priority Group 2-8 are required to pay for each 30-day or less supply of medication for treatment of nonservice-connected condition (unless otherwise exempt), with an annual cap of \$700.
- **Outpatient Services:** Veterans pay the same amount for services: \$15/visit for Basic Care Services (primary care) and \$50/visit for Specialty Care Services.
- **Inpatient Services:** Priority Group 7 and Priority Group 8 veterans are responsible for various charges for inpatient stays. Priority Group 6 and below generally do not have a copayment for inpatient services.
 - Some veterans may qualify for reduced inpatient copayment rates. Call (877) 222-8387 for more information.
- **Geriatrics and Extended Care:** Copayments for Long-Term Care services start on the 22nd day of care during any 12-month period—there is no copayment requirement for the first 21 days. Actual copayment charges will vary from veteran to veteran depending upon financial information submitted to the VA.
 - Nursing Home Care/Inpatient Respite Care/Geriatric Evaluation: Max. \$97/day
 - Adult Day Healthcare/Outpatient Geriatric Evaluation/ Respite Care: Max. \$15/day
 - Domiciliary Care: Max \$5/day

Private Health Insurance: Note that if you have private health insurance, the VA is generally required to bill private health insurance for treatment of non-service-connected conditions.

The following are some conditions exempt from copayments: Care related to a VA-rated service-connected disability; counseling and care for military sexual trauma; readjustment counseling and related mental health services; individual or group smoking cessation or weight reduction services; care potentially related to combat service for veterans that served in a theater of combat operations after November 11, 1998; laboratory and electrocardiograms; hospice care.

Health Benefits for Family Members of Veterans

Healthcare coverage is available to family members of Veterans through an array of programs, each offering individuals health benefits under certain circumstances. The VA also provides additional support and service to Family Caregivers of eligible veterans injured during a period of active service on or after September 11, 2001. Please refer to page 93 for more information about Caregiver benefits.

Civilian Health and Medical Program of the Department of Veterans Affairs

The Civilian Health and Medical Program of the Department of Veterans Affairs (“CHAMPVA”) is a health benefits program that provides coverage to the spouse or widow(er) and the dependent children of a Veteran who:

- Is rated permanently and totally disabled due to a service-connected disability,
- Was rated permanently and totally disabled at the time of death,
- Died of a service-connected disability, or
- Died on active duty, and the dependents are not otherwise eligible for DoD TRICARE benefits.

CHAMPVA covers most healthcare services and supplies that are medically and psychologically necessary. Upon confirmation of eligibility, you will receive a Program Guide addressing the services and supplies concerning coverage. To apply, you must complete an Application for CHAMPVA Benefits (VA Form 10-10d), and an Other Health Insurance Certification (VA Form 10-7959c). Please call (800) 733-8387 for more information.

Application materials should be sent to:

VHA Office of Community Care, CHAMPVA Eligibility, PO Box 469028, Denver, CO 80246

Children of Women Vietnam Veterans (“CWWV”)

The VA provides health benefits to children of women Vietnam-era veterans who have a qualifying birth defect. CWWV benefits do not cover care unrelated to the covered birth defect. Eligibility is determined by the VHA Office of Community Care in Denver, Colorado. Applicants must mail a completed Application for Benefits For Certain Children of Vietnam Veterans with Disabilities (VA Form 21-0304) to the VHA address listed above. For information, call 303-914-2900.

TRICARE

TRICARE (formerly CHAMPUS) is a regionally managed healthcare program available to active duty and retired veterans, their families, and survivors. TRICARE offers several health plans depending on who you are and where you live. For plan options, visit <https://www.tricare.mil/Plans/HealthPlans>. For eligibility, call (800) 538-9552.

Camp Lejeune Family Member Program

The VA provides coverage for family members of Veterans who lived or served at Camp Lejeune between August 1, 1953 and December 31, 1987 for certain conditions: <https://www.va.gov/COMMUNITYCARE/programs/dependents/CLFMP.asp>. For more information, see page 88 or call (866) 372-1144.

VA Transportation Benefits

VA NY Harbor Healthcare (Manhattan) VA Medical Center

Who qualifies for Transportation Benefits at the NYHHS VA in Manhattan?

If you receive a VA Pension (non-service-connected), or if your income is under \$13,535/year (for a single person without dependents), or if you are 30% or more service-connected, you qualify for reimbursement for public transportation, mileage (if you drive), and tolls to and from the VA hospital — save your receipts. You will not be required to pay a transportation deductible when you use your Transportation Benefits. Visit the Travel Office on the 1st Floor of the VA for more information, or call the travel office at (212) 686-7500 ext. 3646.

If you are 30% or more service-connected, you automatically qualify for ambulette service (no matter what your income is) if a VA physician completes a request. The physician will only do so if you require two-person assistance to get into and out of the ambulette. If your physician does not think that you require two-person assistance, you qualify for reimbursement for public transportation, mileage (if you drive), and tolls to and from the VA hospital — save your receipts. The VA will not reimburse for taxis to Manhattan or parking. Visit the Travel Office on the 1st Floor of the VA for more information, or call the travel office at (212) 686-7500 ext. 3646.

If you are under 30% service-connected (20% or 10%), you qualify for reimbursement for public transportation, mileage (if you drive), and tolls only if your appointment is for the specific service-connected injury — save your receipts. The VA will not reimburse for taxis to Manhattan or parking. Visit the Travel Office on the 1st Floor of the Manhattan VA for more information, or call the travel office at (212) 686-7500 ext. 3646.

All other veterans will not be able to receive VA transportation benefits, except for shuttle service between VA medical centers.

Shuttle service: All veterans qualify for free shuttle service between VA medical centers. Visit the Travel Office on the 1st Floor of the Manhattan VA or call (212) 686-7500 ext. 3646 for more information about shuttle service between VA medical centers.

VA Transportation Benefits

James J. Peters (Bronx) VA Medical Center

Who Qualifies for Transportation Benefits at the James J. Peters VA in the Bronx?

If you receive a VA Pension (non-service-connected), or if your income is under \$13,535/year (for a single person without dependents), or if you are 30% or more service-connected, you qualify for reimbursement for public transportation, mileage (if you drive), and tolls to and from the VA hospital — save your receipts. The VA will reimburse for taxi service only if you qualify in advance and if you have a medical condition that does not allow you to travel on public transit. You will not be required to pay a transportation deductible when you use your Transportation Benefits. Visit the Travel Office in Room 1B-05, or call at (718) 584-9000 ext. 5323, for more information.

If you are under 30% service-connected (20% or 10%), you qualify for reimbursement for public transportation, mileage (if you drive), and tolls only if your appointment is for the specific service-connected injury — save your receipts. The VA will reimburse for taxi service only if you qualify in advance and if you have a medical condition that does not allow you to travel on public transit. Visit the Travel Office in Room 1B-05, or call at (718) 584-9000 ext. 5323, for more information.

All other veterans will not be able to receive VA transportation benefits except for shuttle service between VA medical centers.

Shuttle service: All veterans qualify for free shuttle service between VA medical centers. Visit the Travel Office in room 1B-05 or call (718) 584-9000 ext. 5545 for more information about shuttle service between VA medical centers.

Access-A-Ride

Access-A-Ride is MTA New York City's paratransit service. It provides door-to-door transportation within New York City on an advance reservation basis to people who, because of a mental or physical disability, are unable to use public transit buses or subways.

Who is eligible?

You are eligible for Access-A-Ride if you have a disability that prevents you from using the public buses or subways.

In order to receive Access-A-Ride services, you must complete an application and undergo an in-person individualized assessment. During the assessment, Access-A-Ride will ask you to demonstrate whether you can: go up or down subway stairs; travel to a subway station or bus stop; get on, ride, and exit a subway or bus; and ride or navigate the bus or subway system independently. Access-A-Ride will also evaluate your gait, balance, endurance, strength, and range of motion, and assess whether you have any cognitive or psychological conditions that may prevent you from using the bus or subway.

How do you apply?

Whether you are applying or recertifying for Access-A-Ride, you must call (877) 337-2017 to schedule an appointment at an assessment center in the borough where you live. Appointments are scheduled Monday through Friday, from 9 a.m. to 5 p.m. Once you agree to visit an assessment center, an application packet will be mailed to you. It should arrive in approximately five days. Application packet materials requested in an accessible format will be mailed to you separately. The packet includes the print version of the application and a letter with the date, time and location of your appointment, including instructions on scheduling round-trip transportation to the assessment center. You must fill out the application prior to your scheduled interview. When scheduling transportation to the assessment center, please mention if you are traveling with a personal care assistant. No fare is charged for travel to or from the assessment center.

At the assessment center, you will have a face-to-face interview with a healthcare professional and may undergo functional testing. Following your visit to the center, an assessment report will be created and a decision about your eligibility will be made within 21 days after you visit the assessment center. You will receive written notification of Access-A-Ride's decision.

What if you are denied?

If you are denied eligibility or given conditional eligibility—like if Access-A-Ride determines you can use their services only in certain weather conditions—you have a right to appeal the decision within 60 days of notification. An appeal form and instructions are included with the notification letter. Appeals may be in writing or in person. **If you are denied eligibility, contact an attorney.**

Housing Law

In this section, you will find information on the following topics:

- Neighbor Nuisance
- Obtaining Repairs for Tenants in Private Landlord Buildings
- Inspections, Repairs, and Transfers in Section 8 and NYCHA
- Nonpayment of Rent
- Holdover
- Reasonable Accommodations for Tenants with Disabilities
- Occupancy and Succession of a NYCHA Apartment
- Succession of Rent-Stabilized and Rent-Controlled Apartments
- New York City Rent Freeze Program
- Service Dogs in New York City Housing
- Housing Options and Programs in New York City
- Rights in New York City Shelters
- New York City Housing Court Addresses and Telephone Numbers

Neighbor Nuisance

As a New York City resident, it is inevitable that you will sometimes be annoyed by smells, noises or vibrations emanating from your neighbor’s apartment. A guide to the NYC Noise Code can be found here: https://www1.nyc.gov/html/dep/pdf/noise_code_guide.pdf.

However, if your neighbor’s smells, noises or vibrations make it impossible for you to enjoy your own apartment, you might have some recourse through your landlord or the courts. Below are steps you should take if you have a neighbor nuisance. Keep in mind, however, that only your landlord can evict another tenant. Any court case you bring will be against your landlord for failing to properly respond to your complaint.

Step 1: You may try to talk to your neighbor in a polite, respectful manner. It is possible that your neighbor does not know that they are causing a nuisance.

Step 2: If politely asking your neighbor to stop causing a nuisance does not work, begin to document every instance of nuisance. Keep a log with dates and times. Also, talk to your other neighbors and find out if they are also experiencing the nuisance. If the nuisance is noise, you should call 311 or your local police precinct, who should respond to your complaint (when they are not responding to emergencies). Keep a record of every time you make a noise complaint and ask for documentation of visits from the police. You can also record the noise. If the nuisance is something other than noise you can ask a friend or relative to witness the nuisance; this person could serve as a witness in court (see step 4 below).

Step 3: Write your landlord a letter that details all the instances of nuisance. If other neighbors also have problems with the nuisance, ask your neighbors to tell your landlord, too. Ask your landlord to take action and give them a deadline. In addition, mail the landlord the letter by certified mail (return receipt requested) as proof of notice. Keep a copy for your records.

Step 4: If your landlord does not take any action in response to your letter, you can bring a Housing Part action (“HP action”) in court. The court will generally only provide relief in extreme cases by ordering the landlord to evict the nuisance-causing tenant. To file an HP action, go to the housing court in your borough and tell the clerk you would like to file an HP action. There is a \$45 filing fee. You must pay with a money order, bank check, or in cash; the court will not accept a personal check. If you cannot afford the fee, you can fill out a fee waiver form, and the judge may not require you to pay the fee.

The clerk will set a court date and give you documents that you will fill out and then have to “serve”—deliver to—the landlord. The clerk can give you information about how to serve the landlord, but you must know the landlord’s physical address because you cannot serve a PO Box. You also cannot personally deliver the documents to your landlord, so arrange for someone over the age of 18 to serve your landlord for you.

On your court date, tell the judge about the nuisance and bring any witnesses, documents, or other evidence.

You should talk to an attorney about this process if you have any further questions.

Obtaining Repairs for Tenants

You are entitled to an apartment fit for human habitation without any conditions endangering or harmful to your life, health, or safety. All tenants are eligible to seek repairs and rent abatements from their landlord for violations of this “Warranty of Habitability.” Note that your landlord may not be responsible for the cost of repairs if the defects were due to your negligence or the negligence or abuse of someone in your household, but the landlord must always keep the premises in good repair. If you believe there has been a violation, record it—take pictures and video if possible—and take the following steps:

Step 1: All tenants in private landlord apartments should first contact their superintendent or management company about the needed repair. If your superintendent or management company is not being responsive (the repair has not been made in a timely manner), you should write a letter to the owner of the building that describes the problem and asks for the repair to be made by a certain date. Send the letter by certified mail, return receipt requested—you must also read your lease and follow the requirements for “notices” set forth in the lease—and keep a copy.

Step 2: If the problem is not solved, call 311 and ask the NYC Department of Housing Preservation & Development (“HPD”) for a housing inspection. HPD can order the landlord to make repairs and/or fine the landlord. Save documentation of any HPD violations.

Step 3 (for tenants in rent-controlled or rent-stabilized apartments only): If you live in rent-regulated housing, you should contact the Division of Housing and Community Renewal (“DHCR”) at (866) 275-3427 and file a complaint for “decreased services.” To find out if you live in a rent-regulated apartment, contact the DHCR at (718) 739-6400.

Step 4: If your landlord still has not responded, you may go to the housing court in your borough and file a Housing Part action (“HP action”) to obtain repairs (see page 57 for the court address). You will need to bring to court the actual physical address of your landlord. The HP Clerk at the court will help you complete the forms to receive an “Order to Show Cause” that will require you and your landlord to appear before a judge on a later date. After obtaining a signed Order to Show Cause, the clerk will instruct you to serve the papers on your landlord and HPD. Even with an active court case, repairs can take weeks or months to be fully completed.

Optional Step 5: As a last resort, you may make the needed repair yourself (or hire someone to do it) and deduct the cost from your rent. In order to take this step, you must be certain that the expense was necessary to correct a violation of New York City’s Housing Maintenance Code. Taking this action may result in your landlord suing you for non-payment of rent. You will need to justify your actions. If you complete the repair yourself, you must get bids for the work and document the needed repair and costs. **Before you adopt this approach, consult an attorney.** If you have already begun an HP action, ask the judge for permission before taking this step.

Withholding Rent: Never spend any rent money that you have withheld from your landlord if you need a repair. Save the rent money in a special account. **You do not need to withhold the rent to have the repair fixed; instead, follow the steps above to avoid being sued by your landlord for nonpayment of rent. Before you adopt this approach, consult an attorney.**

Inspections, Repairs, & Transfers for Section 8 and NYCHA

Inspection in Section 8 (including HUD/VASH Section 8) and NYCHA housing: If you receive a Section 8 subsidy administered by any agency (including a HUD/VASH Section 8 voucher, which is administered by NYCHA) or live in a NYCHA building, the agency responsible for your housing must annually inspect your apartment for violations of federal housing regulations. The agency must notify you in advance before they may conduct an inspection. You must make every effort to allow the inspector access to the apartment, or reschedule the inspection. For NYCHA housing or NYCHA Section 8, call (718) 707-7771; for HPD or any other Section 8 voucher, call 311. If the inspector finds any violations, either you or your landlord (depending on who is responsible) must repair them within a specified time period. If your landlord is at fault and fails to make necessary repairs within the time limit, Section 8 may stop rent payments. If an agency suspends Section 8 payments due to your landlord's failure to make repairs and you continue to pay your share of the rent, your landlord cannot evict you.

If the Section 8 landlord fails to make necessary repairs: Your landlord is responsible for making repairs to ensure the unit remains in compliance with HUD's Housing Quality Standards. As long as you did not cause the damage, your landlord must make these repairs at their own expense. If you believe that your apartment is in need of repairs and your landlord is unresponsive, you may schedule a special inspection for a NYCHA Section 8 apartment by calling (718) 707-7771 or going online to the NYCHA self-service portal at selfserve.nycha.info; for inspections of HPD or any other Section 8 voucher apartment, call 311. If the inspectors decide that repairs are necessary, your landlord must fix them within 30 days. If your landlord fails to make the repairs within 30 days of the inspection, you may request an emergency transfer to a new unit.

Obtaining a Section 8 Transfer Voucher: If you do not want to renew your lease or your landlord does not offer to renew your lease, then you may request a transfer. Note that if your apartment is rent-stabilized, your landlord must offer to renew your lease. To request a transfer if you have NYCHA Section 8, you must submit the "Voucher Holder's Request for Transfer" form, which you may obtain via the NYCHA customer contact number at (718) 707-7771. To request a transfer in HPD Section 8, you must complete a "Move Request" form that you can obtain by calling HPD at 311. You may also need to submit supporting documents depending on the reason for your transfer. HPD and NYCHA Section 8 transfers can take as long as several months; however, if you need a transfer more quickly and match one of NYCHA's emergency transfer categories, apply for an emergency transfer, which will be processed within 21 business days. If you believe that you are entitled to a transfer that HPD or NYCHA fails to carry out quickly enough, contact an attorney.

NYCHA apartment transfer request: Your NYCHA Housing Assistant can clarify the various transfer guidelines. Some reasons that NYCHA may deem appropriate for a transfer include having an overcrowded apartment, having an apartment that is too large for your family, travel hardship in getting to your job, the need to be closer to a medical facility, or the need to be closer to a family member who needs your help due to aging or health. Call your Housing Assistant, NYCHA at (718) 707-7771, or an attorney for more information.

Nonpayment of Rent

In a nonpayment proceeding a landlord seeks payment of unpaid rent from a tenant. Nonpayment can result in a tenant's eviction. If you have a court case, you should contact an attorney.

Initial demand: Your landlord must first demand the overdue rent from you and warn you that they can evict you if you do not pay. This demand may be done in writing or made orally.

Nonpayment Petition and Notice of Petition: You will then be served a Nonpayment Petition and Notice of Petition. You will have five days to answer the Notice of Petition in housing court. Go to the Clerk's Office in the housing court stated on the Notice of Petition, and file an answer. You must tell the clerk why you did not pay some or all of the rent and any defenses.

Defenses: A variety of defenses are available, so when you file your answer, it is important to tell the clerk anything that could help your case. Defenses include, among others:

- You paid some or all of the rent, or the amount they are asking for is incorrect.
- Naming incorrect parties or problems with service (the delivery of court documents to you, which should usually be done by hand-delivery; contact an attorney for more information)
- Repairs are needed in the apartment. Your answer should always include any repairs needed.
- "Laches," if the landlord waited too long to sue (usually more than one year)

Preparing for court: After you receive the Notice of Petition, be sure to prepare all relevant documentation for your court date. This includes documentation of your past rent payments, or anything related to a defense you have claimed in your answer. If you have applied for rental assistance—a "One Shot Deal"—through HRA, you should bring proof of your application. To apply for rental assistance, visit your local HRA Job Center or call (718) 557-1399. HRA requires that you have the ongoing ability to pay rent and/or an agreement with your landlord, known as a stipulation, to approve your application.

On your first court date, you can ask for an adjournment—a second court date—to find an attorney if you do not have one. You will also be able to sign a stipulation with the landlord. This stipulation typically sets a payment plan for the owed rent. Do not sign it unless you fully understand what it says. You should seek legal advice before deciding whether to sign. HRA may require you to bring this stipulation to them to approve your rental assistance application.

If you and the landlord do not reach an agreement, your case may go to trial. Before that, the judge may issue an order requiring you to do something (for example, make a payment) by a certain date. It is very important to follow any deadlines in the court order or stipulation. If you fail to follow the deadlines, you may be evicted.

Failing to answer or appear in court: If you do not answer the petition on time, do not appear on the court date, or do not pay the owed rent by the deadline in a stipulation or court order, you will receive a Marshal's Notice of Eviction. If you receive a Marshal's Notice, you have 5 business days to go to the Clerk's Office and file an Order to Show Cause to ask for more time to stay in your home, stating why you were unable to meet the deadline.

Holdover

A holdover is a case brought by a landlord to evict a tenant on grounds other than nonpayment of rent. The following are some reasons for a holdover:

- Your lease has expired and has not been renewed
- You allegedly violated a term of the lease
- You allegedly committed or permitted a nuisance in the building
- Alleged chronic late payment of rent
- You allegedly refused to allow the landlord access to your apartment under certain circumstances
- You allegedly used the housing unit for illegal activity
- The landlord alleges that you are a “squatter” (which means that you did not have a rental agreement with the landlord).

If you receive a Holdover Petition or a Notice of Petition that tells you when and where to appear in housing court, contact an attorney as soon as possible. If possible, you should consult with the attorney before your court date. Bring to the meeting with the attorney all notices you have received from your landlord, a copy of your lease, and any other evidence that may be important.

Important legal information about holdover legal procedures:

- **The owner cannot evict you until a judge decides the case and issues a warrant for eviction. It is very important that you go to housing court to defend yourself on each court date to prevent the judge from automatically deciding in the landlord’s favor.**
- If you are a licensee or a squatter, you will receive a 10-Day Notice to Quit. Otherwise, you will receive a Notice to Terminate for which the amount of time you have to vacate can vary. In a month-to-month tenancy, for example, you will be served with notice 30 days before the expiration of the term. If you do not leave the premises within this amount of time, your landlord may commence eviction proceedings in housing court.
- The Notice to Terminate in some situations must be preceded by a 10-Day Notice to Cure. If you receive a Notice to Cure, you have a chance to fix the alleged problem before the landlord serves you with a Notice to Terminate. The Notice to Cure and Notice to Terminate must provide in detail the grounds for termination of your tenancy.
- The Notice to Quit or Notice to Terminate will provide a date by which the landlord wants you out of the apartment. After that date, you will likely receive a Notice of Petition and Holdover Petition, which will restate the grounds for the holdover and tell you when and where to appear in court if you wish to fight the case.
- At your court appearance, the judge will issue a general denial of the landlord’s allegations on your behalf, unless you or your attorney submits a written answer.

Use and occupancy: The landlord cannot collect rent from you during the holdover case, but the judge may require you to pay “use and occupancy,” which is usually similar to your rent amount.

Defenses: The law concerning holdovers is complex, and defenses are often available. As soon as you determine that your case is a holdover, you should consult with an attorney if possible.

Reasonable Accommodations for Tenants with Disabilities

Federal, state, and New York City laws prohibit housing discrimination on the basis of a tenant's disability. People with disabilities are entitled to the same use and enjoyment of where they live as those without disabilities. All housing providers in New York City have the responsibility to make a reasonable accommodation if it is necessary for a person with disabilities to have equal opportunity to use and enjoy a dwelling. This is true whether you live in a private apartment, co-op, condominium, public housing or in an apartment with a Section 8 subsidy. For an individual with disabilities to qualify, they must have a physical or mental impairment that substantially limits one or more major life activities. Major life activities include seeing, hearing, walking, eating, breathing, normal cell growth (impaired in those diagnosed with cancer), sleeping and other activities central to daily life.

What is a reasonable accommodation?

Reasonable accommodations can include modifications to your apartment, grounds or common spaces, making communications accessible, or permitting a third party to make rent payments for a tenant with a mental disability. You can make a request for an accommodation from any housing provider at any time, not just at the beginning or end of your lease. A landlord may deny a reasonable accommodation request if they can prove that it would impose an undue financial burden on them. If this is the case, your housing provider is responsible for discussing and implementing possible alternatives that are not too financially burdensome. Note that if you live in a rent-regulated apartment, and your reasonable accommodation includes a move to another rent-regulated unit, your new apartment will still be rent-regulated, but it may have a higher rent than your old apartment.

Your landlord may require that you provide proof of your disability from a medical professional to support your request for a reasonable accommodation. This proof can be a letter from a doctor or therapist—you do not need to hand over your medical records.

How do I request a reasonable accommodation?

If you are a resident of public housing, you may request a reasonable accommodation at the Development Management Office or through the NYCHA Department of Equal Opportunity (Services for People with Disabilities Unit) at (212) 306-4652. If you participate in NYCHA Section 8, you may contact NYCHA's Customer Contact Center at (718) 707-7771; if you have HPD Section 8, request an accommodation by calling 311; if you have HUD Section 8, request an accommodation by calling (800) 669-9777. If you have a private landlord, contact an attorney to request a reasonable accommodation directly from the landlord.

What if the landlord, NYCHA or Section 8 refuses my request?

If any landlord refuses to provide you with a reasonable accommodation and refuses to discuss a cost-effective alternative, you may file a complaint with the U.S. Department of Housing and Urban Development, the New York State Division of Human Rights, the New York City Commission on Human Rights, or in state or federal court. **To do so, contact an attorney who specializes in this area of law. When you meet with the attorney, bring evidence of your disability and written documentation that explains your accommodation request.**

Occupancy and Succession of a NYCHA Apartment

Occupancy of a NYCHA apartment

If you are the tenant of record in a NYCHA public housing development apartment and you want to permanently add a family member to your lease, you must make a Permanent Occupancy Permission Request in writing to your development housing manager.

NYCHA will grant a request to permanently add an occupant to a lease only if: 1) the tenant of record currently occupies the apartment and is in good standing; 2) the request is for a qualifying family member, including a spouse, domestic partner, biological or adopted child, ward, grandchild, parent, sibling or grandparent of the tenant, including in-laws, half-relatives, and step-relatives; 3) the proposed occupant passes a criminal background check if they are 16 or older; and 4) the addition of the new occupant does not “overcrowd” the apartment. If the addition of the new occupant would “overcrowd” the apartment, it is advisable to apply for a transfer to a larger unit at the same time that you request to permanently add the occupant. If you are successful in adding an occupant to your lease, the income of the additional person will be added to family income for rent calculation purposes.

If you need a family member or friend to live with you temporarily (generally for less than one year), you may request temporary permission from your development manager. Temporary occupants’ incomes are not added to the family income to calculate your rent, and they do not “count” for overcrowding purposes. However, temporary occupants have no right to succeed to the apartment if the tenant of record dies or leaves the unit.

Succession to a NYCHA apartment

If the primary tenant of a NYCHA apartment lease moves out or dies, NYCHA regulations limit who may continue to live in the apartment to qualifying remaining family members who are otherwise eligible for the apartment. Qualifying family members include those in any of the three following groups: 1) family members who (a) originally resided in the apartment with the primary tenant (and were on the housing application), and (b) who lived in the apartment with NYCHA authorization continuously for at least one year before the primary tenant’s death or departure; 2) family members who were (a) born or adopted into the family, and (b) who lived in the apartment with NYCHA authorization continuously for at least one year before the primary tenant’s death or departure; and 3) family members who both (a) have received written permission from Management to live there (by the occupancy process laid out above) and (b) who lived with the primary tenant after they received permission from NYCHA for at least one year prior to the primary tenant’s death or departure. In addition, the remaining family member must be legally competent to sign a lease, pass a criminal background check, and have a valid source of income either through employment or a public benefit. If you are seeking succession of a NYCHA apartment, it is advisable to contact an attorney to investigate your claim.

If you believe that NYCHA has improperly denied your petition for occupancy or succession, you have a right to a grievance hearing with the development housing manager. **While it is not required that you have legal representation at the grievance, it may be beneficial to seek legal representation or advice prior to your hearing.**

Succession of Rent-Controlled and Rent-Stabilized Apartments

If you live in a rent-controlled or rent-stabilized apartment, you may have succession rights to the tenant of record's lease. This means you may have the right to keep living in the apartment if the tenant of record no longer lives there. You should consult with an attorney if you believe you have the right to succeed to an apartment.

Who has succession rights in rent-controlled or rent-stabilized apartments? Rent-controlled and rent-stabilized apartments have similar rules for succession rights. They involve two categories of family members: "traditional" and "non-traditional." People who do not fall into either category will not have succession rights.

- "Traditional" family members who have succession rights include spouses, children, parents, step-children, step-parents, brothers, sisters, grandparents, grandchildren, parents-in-law, and children-in-law. Aunts, uncles, nieces, nephews, and cousins are *not* included, so if these people are to succeed, they must meet the standards of "non-traditional" family (below).
- "Non-traditional" family members are individuals who do not have the "traditional" relationship, but who have the same kind of relationship as traditional family members. For example, this category could cover unmarried or "common law" couples, domestic partners, an uncle who raised you as his daughter, or senior citizens and disabled persons living together as family units, even if they are not romantically involved.

What are some of the factors in determining whether a "non-traditional" family member has succession rights? The court looks to see if there was enough financial and emotional interdependence to prove such a family relationship. Factors considered (all are not required) include: shared finances (joint credit cards, bank accounts) and household expenses; holding yourselves out as family members to the outside world; the length of the relationship; sharing a household budget for purposes of receiving benefits; attending family-type functions such as holidays, celebrations, vacations or social occasions; formalized legal arrangements such as naming the other in a will or life insurance policy; and performing family functions such as caring for each other or for each other's extended family, or raising children together.

What else do I have to prove to get succession rights to the apartment?

- Senior citizens (age 62 and older) and disabled persons must have lived in the apartment with the legal tenant for the year before the legal tenant left or died.
- For most other people, you must have lived in the apartment as your primary residence with the legal tenant for at least the two years immediately before the tenant left or died.
- You are also entitled to succession rights if you moved into the apartment with the named tenant when the tenant first moved in, or have lived in the apartment since the beginning of your relationship with the tenant, even if you have not lived there for one year.
- The minimum residency rules will not be interrupted by any period during which the "family member" temporarily relocates because they serve in the military; are a full-time student; due to a court order; for employment reasons; are hospitalized; or other reasonable grounds.

Can the landlord raise the rent when a person succeeds to the lease? The landlord may raise the rent according to the rent guidelines for the apartment, but is not entitled to a "vacancy allowance" increase unless your claim is the second succession claim of the tenancy.

New York City Rent Freeze Program: SCRIE and DRIE

The NYC Rent Freeze Program, which includes the Senior Citizen Rent Increase Exemption (“SCRIE”) Program and the Disability Rent Increase Exemption (“DRIE”) Program, helps those eligible stay in affordable housing by freezing their rent. Under this program, a property tax credit covers the difference between the actual rent amount and what you (the tenant) are responsible for paying at the frozen rate.

To apply for both DRIE and SCRIE, you must (a) be listed as the primary or co-tenant on the lease/rent order or have been granted succession rights to the apartment, (b) your income cannot have exceeded \$50,000 after tax deductions (adding up the incomes of all household members) in the previous year, AND (c) you must currently pay more than one third of your household income towards your rent.

Who is eligible for Disability Rent Increase Exemption (“DRIE”)?

Not all apartments allow you to apply for DRIE. Eligible apartments include those that are rent stabilized, rent-controlled, Mitchell-Lama, Limited Dividend, Redevelopment, Housing Development Fund Company (“HDFC”) Cooperative, Section 213 Cooperative, or a Rent Regulated Hotel/Single Room Occupancy Unit.

You must be at least 18 years old at the time of application to qualify for DRIE.

To be considered disabled for DRIE purposes, you must receive any of the following:

- Supplemental Security Income (“SSI”),
- Social Security Disability Income (“SSDI”),
- VA Non-Service Connected Pension or Disability Compensation Benefits,
- United States Postal Service (“USPS”) Disability Pension or Disability Compensation Benefits, or
- Disability-related Medicaid.

If you believe you may be eligible for DRIE, call 311 to receive instructions as to how to apply, or visit <http://www1.nyc.gov/site/rentfreeze/tools/drie-forms.page>.

Who is eligible for Senior Citizen Rent Increase Exemption (SCRIE)?

Not all apartments allow you to apply for SCRIE. Eligible apartments include those that are rent-stabilized, rent-controlled, or a Rent Regulated Hotel/Single Room Occupancy Unit.

You must be at least 62 years old at the time of application to qualify for SCRIE.

If you believe you may be eligible for SCRIE, call 311 to receive instructions as to how to apply, or visit <http://www1.nyc.gov/site/rentfreeze/tools/scrie-applications.page>.

Service Dogs in New York City Housing

A service dog is one that is individually trained to do work or perform tasks for the benefit of an individual with a disability. A disability is a mental or physical condition that substantially limits a major life activity, which includes seeing, hearing, walking, eating, breathing, sleeping and other activities central to daily life.

Can my service dog stay in my apartment?

Federal housing law prohibits discrimination in the sale or rental of housing based on an individual's disability and requires a housing provider to make "reasonable accommodations" that are necessary for an individual with a disability to fully use and enjoy the housing. This may include allowing you to have a service dog, regardless of a "no pets" policy. For purposes of "reasonable accommodation" requests, a service dog does not need to be individually trained or certified. However, the housing provider may require you to provide documentation of your disability and your need for the animal.

How do I obtain a tag for my service dog?

All dogs in New York City, including service dogs, must have a valid dog license attached to the collar when in public. You can apply online at <https://a816-healthpsi.nyc.gov/DogLicense/>, download the application from <http://www1.nyc.gov/assets/doh/downloads/pdf/vet/vet-doglicense-form.pdf> and apply by mail, or call 311 to have an application mailed to you. You should have information regarding your dog's breed, color, vaccination, and neutering on hand. You should also obtain a check or money order for the license fees due. You may call 311 to request a free and optional tag that identifies your dog as a service dog.

What if the landlord refuses my request?

You may file an administrative complaint with the City Commission on Human Rights (CCHR) or with the State Division of Human Rights (SDHR) within one year after the alleged discrimination. To do so, contact an attorney who specializes in this area of law.

Where can I find more information?

- The New York State and City Bar's "Guide to the Use of Service Animals in New York State," found at <http://documents.nycbar.org/files/guide-to-the-use-of-service-animals-in-new-york-state.html>
- The U.S. Department of Justice's frequently asked questions page, found at https://www.ada.gov/regs2010/service_animal_qa.pdf

Housing Options and Programs in New York City

HUD/VASH Section 8 Vouchers: HUD/VASH is a joint program between the VA and the Department of Housing and Urban Development. It provides Section 8 vouchers to certain veterans. To be eligible, you must be eligible for VA healthcare and be homeless. Each VA Medical Center has a HUD/VASH unit that will be able to help you apply; call (877) 424-3838 in order to be connected with the HUD/VASH unit nearest you. If you are admitted to the program, a HUD/VASH caseworker will be assigned to you. The caseworker will help you obtain a HUD/VASH Section 8 housing voucher, locate housing in the community, and connect you with other services.

NYCHA housing development apartments: To apply for a NYCHA apartment, your income in 2019 may not exceed \$58,450 (for a single person) and you must undergo a criminal background check. The waiting list is currently very long. Call (718) 707-7771 for more information or to apply.

If you have a mental health condition: If you are homeless and have a mental illness, you may be eligible for supportive housing. Call the Center for Urban Community Services' intake line at (212) 801-3333 for more information.

If you have HIV/AIDS: If you are homeless or at-risk of homelessness and have HIV/AIDS, you may be eligible for housing benefits through HASA. If your case is approved, HASA will appoint a case manager who will assist you in locating housing. Call HASA at (212) 971-0626.

Temporary shelters: Temporary shelters are located around the City but intake must be done at specific locations. These locations also have case managers who may be able to help you apply for supportive housing or find other housing options. Call 311 to get more information, including directions to shelters or drop-in centers that provide hot meals, showers, laundry, etc. See page 56 for more information regarding shelter locations.

Office of Client Advocacy: The Office of Client Advocacy provides crisis intervention for people at-risk of becoming homeless and helps mediate conflicts between shelter staff and clients. Call (800) 994-6494 for more information.

New York City Shelters

Who is eligible to enter a shelter?

Anyone who is homeless is eligible to enter a shelter. All single adult males must apply at: **30th Street Intake Center**, 400-430 East 30th St., NY, NY (entrance at 30th St. and 1st Ave.). All single adult women must apply at one of the following locations: **HELP Women's Shelter**, 116 Williams Ave. (between Liberty Ave. and Glenmore Ave.), Brooklyn, NY; or **Franklin Shelter**, 1122 Franklin Ave. (near 166th Street), Bronx, NY. Adult families may be eligible to enter a shelter together. Adult families must apply at **The Adult Family Intake Center**, located at: 400-430 East 30th St., NY, NY 10016, inside of the 30th Street Men's Shelter.

Families with at least one child under age 21, pregnant women, and couples or other “adult families” with a pregnant woman must apply for shelter at **DHS' Prevention Assistance and Temporary Housing (PATH)** intake center, located at 151 East 151st Street, Bronx, NY 10451.

If your family has been found ineligible for shelter, you have a right to an Agency conference at PATH the next morning, conducted by a DHS attorney. You also have a right to request a State Fair Hearing. To request a hearing, call 1-800-205-0110. The hearings are considered “emergency hearings” and will be scheduled within a few days.

What are my rights once I'm placed in a shelter?

- To remain in the facility and not be involuntarily transferred or discharged, except in certain circumstances such as when an individual endangers the health and safety of others or steals or destroys property at the shelter facility
- To basic standards of habitability
- To receive visitors in designated areas during reasonable hours as specified in the rules
- To have private written and verbal communications with legal counsel
- To leave and return before curfew
- To present grievances

Reasonable Accommodations:

Reasonable accommodations should be made when required, including when a family member has vision or hearing impairments, medical conditions like asthma, cancer, or diabetes, developmental/learning disabilities, or mental health conditions. Reasonable accommodations may include transferring families to medically appropriate units or facilities, or providing information in an accessible format.

What can I do if the living conditions in the shelter are dangerous?

Submit a maintenance request or ask the shelter case worker to submit a maintenance request. If the shelter won't fix the problems after making such a request, you may call 311, the DHS Office of Client Advocacy (800) 994-6494, or the HRA Shelter Complaint Hotline: (718) 291-414. You can also write a complaint to the Director of the Shelter about the issues. If conditions warrant, you can also bring an HP Action (see page 47 – Inspections, Repairs, etc).

If you believe you have been unfairly denied shelter or a reasonable accommodation, you should consult a lawyer.

New York City Housing Court Addresses and Telephone Numbers

Telephone Number for the Court System's Housing Clerk: (646) 386-5750

Bronx Housing Civil Court

1118 Grand Concourse
Bronx, NY 10456

Harlem Community Justice Center (housing)

170 East 121st Street
New York, NY 10035

Manhattan Housing Court

111 Centre Street
New York, NY 10013

Kings County (Brooklyn) Housing Court

141 Livingston Street
Brooklyn, NY 11201

Queens County Housing Court

89-17 Sutphin Boulevard
Jamaica, NY 11435

Red Hook Community Court (housing)

88 Visitation Place
Brooklyn, NY 11231

Richmond County (Staten Island) Housing Court

927 Castleton Avenue
Staten Island, NY 10310

Immigration Law

In this section, you will find information on the following topics:

- Naturalization Through Military Service
- Discretionary Options for Family Members of Servicemembers

Naturalization Through Military Service

It is imperative to seek the advice of an immigration attorney before filing any applications related to immigration status.

The U.S. Citizenship and Immigration Services (“USCIS”) allows veterans and servicemembers to apply for naturalization on the basis of military service. This benefit affords servicemembers an expedited naturalization process and waives naturalization application fees. Additionally, continuous physical presence requirements for general applicants under the Immigration and Nationality Act (“INA”) are inapplicable to servicemembers. For more information about the application process or to determine eligibility, visit <https://www.uscis.gov/military>, or call the Military Help Line that USCIS has established for servicemembers at (877) 247-4645.

Eligibility

To qualify for naturalization through military service under Sections 328 or 329 of the INA, members of the U.S. armed forces must have:

- *Served honorably for at least one year during peacetime* – Applicant must be a Lawful Permanent Resident (“LPR”), and have served honorably in the U.S. Armed Forces for at least one year, and either still serving **OR** filing the application within 6 months of Honorable discharge; **OR**
- *Served honorably during a designated period of conflict* – Applicant is not required to be an LPR at the time of application, but must have performed active duty military service or served as a member of the Selected Reserve of the Ready Reserve during:
 - World War I (April 6, 1917 to November 11, 1918);
 - World War II (September 1, 1939 to December 31, 1946);
 - Korean War (June 25, 1950 to July 1, 1955);
 - Vietnam (February 28, 1961 to October 15, 1978)
 - Gulf (August 2, 1990 to April 11, 1991); or
 - On or after September 11, 2001

Required Forms

A service member or veteran applicant filing for naturalization under one of the special provisions of the INA must submit the following forms to USCIS:

- Form N-400, Application for Naturalization
- Form N-426, Request for Certification of Military or Naval Service

Fee Exemptions

All fees for naturalization or for a certificate of naturalization are waived, including biometric capturing fees and fees associated with filing a Form N-400, Form N-426, Form N-336 (Request for a Hearing on a Decision in Naturalization Proceedings), Form N-600 (Application for Certificate of Citizenship).

How to Apply

You must send your application forms for expedited processing to the Nebraska Service Center at P.O. Box 87426, Lincoln, NE 68501-7426. For FedEx, UPS, or DHL deliveries, use the following address: Nebraska Service Center, 850 S. Street, Lincoln, NE 68508.

Discretionary Options for Family Members of Servicemembers

It is imperative to seek the advice of an immigration attorney before filing any applications related to immigration status.

You may be eligible for immigration relief if you are the spouse, widow(er), parent, or child of:

- An active-duty member of the U.S. armed forces;
- An individual in the Selected Reserve of the Ready Reserve; or
- An individual who (whether still living or deceased) previously served on active duty or in the Selected Reserve of the Ready Reserve and was not dishonorably discharged.

All documents required must be submitted to the USCIS office located at: Jacob K. Javits Federal Building, 26 Federal Plaza, 3rd Fl., Room 3-120 New York, NY 10278.

Parole in Place

Parole in place permits the immediate relatives of U.S. military servicemembers to apply for permanent resident status. It allows the spouses, parents and minor children of U.S. citizens to apply for adjustment of status and remain in the United States.

Parole in place will only be granted if you came into the United States without authorization by an immigration officer or you came into the U.S. as a parolee.

To request parole in place, you must submit the following to the USCIS office listed above:

- Form I-131, Application for Travel Document. Handwrite “Military PIP” in Part 2.
- Evidence of the family relationship;
- Proof of family member’s military service, such as DD Form 214;
- Two identical, color passport style photographs; and
- Evidence of any additional favorable discretionary factors to be considered.

Deferred Action

Deferred action defers (or postpones) removal action against an individual for a certain period of time. If you are granted deferred action, you are considered to be lawfully present in the U.S. for the period deferred action is in effect. Deferred action does **not** give you lawful status, nor does it excuse any past or future periods of unlawful presence.

To request deferred action, you must submit the following to the USCIS office listed above:

- A letter stating basis for the deferred action request;
- Copy of the DD Form 4, Enlistment/Reenlistment Document;
- Evidence supporting a favorable exercise of discretion in the form of deferred action;
- Evidence of the family relationship;
- Proof of residence in the U.S. at the time of the servicemember’s death (if applicable);
- Proof of identity and nationality;
- If applicable, any document the foreign national used to lawfully enter the United States;
- Form G-325A, Biographic Information; and
- Two identical, color, passport-style photographs.

LGBTQ Veterans' Legal Rights

In this section, you will find information on the following topics:

- Name Changes
- Changing Your Name and Gender Marker on Official Documents
- Changing Your Name on Military Documents

Name Changes

If you live in New York City, you may bring a name change proceeding in any county in the city. To file a Name Change Petition, you can either go to the court in your county and speak to the Name Change Clerk, or you can complete the forms online, available at https://www.nycourts.gov/courts/nyc/civil/int_adultnamechange.shtml, and bring them to the courthouse.

It costs \$65.00 to change a name in Civil Court. If you do not have money to pay the court fees, you can ask the court for a Fee Waiver to continue without paying.. Some courts call this “Poor Person’s Relief.”

If you were born in New York State, you need to bring either an original or certified copy of your birth certificate. If you were not born in New York State, you need to bring proof of your birth, as well. The papers will be reviewed by the court clerk and submitted to a judge. If the judge approves your name change, you will have to publish your new name in one or more newspapers. Newspapers charge a fee for publishing your name change. Note that even if the court grants your Fee Waiver request, you will still have to pay for any fees that the newspaper charges to print your name change.

If you believe your safety or wellbeing may be endangered by the publication of your name change, you should consult a lawyer for assistance. New York State law provides that publication can be waived if it “would jeopardize such applicant’s personal safety.” This can be helpful for transgender individuals and survivors of domestic violence.

If you are a parent or legal guardian and want to change a child’s name you need the consent of any other parent or legal guardian. If you want to change the name of a child who is 14 years of age or older, you need a notarized consent form signed by the child.

NYC Civil Court, Bronx County

851 Grand Concourse
Bronx, NY 10451
(718) 618-2500

NYC Civil Court, Queens County

89-17 Sutphin Blvd.
Jamaica, NY 11435
(718) 262-7138

NYC Civil Court, Kings County

141 Livingston Street
Brooklyn, NY 11201
(347) 404-9133

NYC Civil Court, Richmond County

927 Castleton Avenue
Staten Island, NY 10310
(718) 675-8460

NYC Civil Court, New York County

111 Centre Street
New York, NY 10013
(646) 386-5700

Changing Your Name and Gender Marker on Official Documents

Once you have obtained a Court Ordered Name Change (see page 62), you will need to change any official identification documents that contain your prior name.

To update your driver's license, social security card, and update your information with the Human Resources Administration, simply bring a certified copy of the name change order to the appropriate office and complete the necessary change of name request forms.

To update birth certificates issued in New York City, you must complete the NYC Department of Health's "Correcting a Birth Certificate" form and provide a photocopy of your current photo ID. If you are updating your name, you must submit a certified copy of your legal name change order. The fee to change your name and/or gender on your birth certificate is \$55.

To update birth certificates issued in New York State but outside of New York City, you will need a certified copy of your current birth certificate, a completed Application for Correction of Birth (Form DOH-297), and a certified copy of the legal name change order.

If you were born **outside of New York State**, visit <http://www.transequality.org/documents> for more information on how to change your name on your documents.

Gender Markers

To change your gender marker, most agencies require a doctor's letter affirming or attesting to your "gender transition." Most agencies accept letters stating that you are undergoing "appropriate clinical treatment." However, some agencies require language determining that you have "completed the process of gender transition to the new gender" or that "one gender predominates over the other."

To change your gender marker on your birth certificate issued in New York City, you need to submit a doctor's letter (see previous paragraph). To update birth certificates issued in New York State but outside of the five boroughs of New York City, you must complete a "Notarized Affidavit of Gender Error". You must also include a notarized affidavit on professional letterhead from a physician, nurse practitioner, or physician assistant licensed in the U.S. who has treated or reviewed and evaluated your gender-related medical history. **Surgery is not required in New York State.**

Updating Your Passport

To change your name only, you will need to complete Form DS-82 (<https://travel.state.gov/>). You will also need your current passport, your certified name change order, and one passport photo. The fee to change your passport if you are over 16 years of age is \$110.

To change your gender marker, you will need to complete Form DS-11. You will need to bring your updated photo ID, your certified name change order, and one color passport photo. You will also need a medical certification that indicates you are in the process of or have had appropriate clinical treatment for gender transition. For more information on what must be included in your physician's letter, please see <https://travel.state.gov>.

Changing Your Name on Military Documents

Changing Your DD 214

Congress has authorized the correction of records when it is considered necessary either to rectify an error or to remove an injustice. The DD Form 214 does not list gender but it does list your name. While for most non-transgender people a service record showing a former name does not communicate any sensitive information, for transgender people disclosure of the former name can be equivalent to disclosure of transgender status. This can be considered an injustice, and will be the strongest basis for your request to update your name on the DD 214.

To request a change of name on your DD 214, you need to submit an Application for Correction of Military Records (see page 13). In addition to DD Form 149, it is helpful to include:

- Evidence of your legal name change, such as a certified copy of your name change order;
- A U.S. Passport showing your updated name and gender;
- A state driver's license or identification card showing your updated name and gender;
- A court order recognizing your gender transition; and
- A signed statement, on office letterhead, from a licensed physician.

You should consult a lawyer of Veterans Service Organization if you are considering an application for a correction of military records. Veterans who are represented in their applications have a significantly higher rate of success than those that apply without guidance.

Updating the Defense Enrollment Eligibility Reporting System (“DEERS”)

In order to change your name and gender in DEERS, the DEERS/RAPIDS Service Project Office for your military department must submit a request to Defense Human Resources Activity (“DHRA”) for review and implementation. A gender or name change in DEERS will not affect the eligibility of any of your existing dependents for military benefits.

The Service Project Office of your military department should submit scans of the below documentation for DHRA review, with the subject line “DEERS Record Change Request ICO *First Name Last Name*”:

- Two forms of identification that are listed as acceptable on the federal Form I-9, one of which is a government-issued picture ID;
- If name change is requested, a court order legally changing your name; and
- If gender marker change is requested, a signed statement, on office letterhead, from licensed physician.

Social Security and Other Public Benefits

In this section, you will find information on the following topics:

- Social Security Disability Benefits: SSI and SSDI
- Working While Earning SSI or SSDI
- Social Security Retirement Benefits
- Social Security Survivors Benefits
- Social Security Auxiliary Benefits
- Social Security Representative Payee Program
- Overpayment of Benefits

Social Security Disability Benefits: SSI and SSDI

The Social Security Administration (“SSA”) administers Supplemental Security Income (“SSI”) and Social Security Disability Insurance (“SSD” or “SSDI”), the largest federal disability benefits programs.

SSI pays benefits based on financial need for disabled and elderly people. To qualify for SSI, the beneficiary must either be disabled, blind, or age 65 or older. In addition, there are asset/resource limits: \$2000 if living alone and \$3000 for a couple. In 2019, an SSI beneficiary living alone in New York State will receive a maximum of \$858 per month, and a beneficiary living with others will receive \$794 per month. If you receive other unearned income (such as VA benefits), then the first \$20 is not counted but the remainder reduces your SSI benefits dollar for dollar. SSI recipients automatically receive Medicaid and qualify for the Supplemental Nutrition Assistance Program (“SNAP”), sometimes called Food Stamps; call (718) 557-1399 for SNAP information. Veterans eligible for SSI should consider applying for the VA Pension, which is a larger benefit (see page 90 to find out more about the VA Pension).

If you receive SSI and your income or resources change, you **must** report the new information by calling (800) 772-1213 or visiting your local SSA office. Changes include new income from VA benefits, employment wages, marriage, or any other source. Keep a print out of your call or a receipt from the SSA office. If you do not notify SSA, you may have an overpayment and be required to pay back SSA (see page 72 for more information about overpayments).

SSD provides benefits for individuals whose disabilities limit their ability to work. Unlike SSI, SSD is not income tested; you can therefore receive SSD and VA compensation at the same time. To qualify for SSD, an applicant must have paid Social Security taxes, worked long enough (usually 10 years), and the disability must be found within roughly five years of when the applicant last worked. You may be eligible for VA compensation but not SSD, or vice versa. VA compensation is granted based on service-connected disability, and not one’s ability to work.

To meet SSD’s disability requirement, you must prove that you cannot do the work you did before and are now unable to do all basic work-related activities. Medical record evidence will be required. SSD (not SSI) beneficiaries are eligible for Medicare after receiving SSD for two years. Medicaid is not automatically provided with SSD. However, an applicant may be eligible for Medicaid if he or she qualifies for SSI or applies for Medicaid with a spend-down (see page 36).

To apply for SSI or SSD, go to your local SSA office or call (800) 772-1213. You will have to complete an application. You must provide all medical records to SSA as soon as possible. If denied, you have 60 days from the date on the denial letter to appeal by filing a “Request for Reconsideration” at your local SSA office. Always follow the procedure given on the denial notice concerning appealing the denial. **If you are denied either SSD or SSI, it is helpful to consult with an attorney about your appeal.**

Working: You may work while receiving SSI or SSDI, but the amount you can earn is limited and may affect your benefits (see page 67 for more information).

Working While Earning SSI or SSDI

You may work while receiving Supplemental Security Income (“SSI”) or Social Security Disability Insurance (“SSD” or “SSDI”) but the amount you can earn is limited and may affect your benefits.

Substantial Gainful Activity: Generally, you cannot perform “substantial gainful activity” (SGA) and continue to receive SSI or SSD. SGA means you work and make over \$1,220 per month (in 2019, for individuals who are not blind, and \$2,040 per month if you are blind). But the following special rules make it possible for you to work and still receive SSD or SSI benefits.

SSD Trial Work Period: You can continue to receive SSD benefits during a trial work period, during which you test your ability to work for nine months. There are no limits to how much you can earn, as long as you still have a disability and you report your work to the Social Security Administration. Always report to Social Security if you plan to begin working, and your monthly income once you have begun working. The trial period starts when you earn over \$880 per month (in 2019). The period continues until you have worked for any nine months within a 60 month period. After the trial period, you have 36 months to work and receive benefits if your monthly earnings are less than “substantial gainful activity” of \$1220 in 2019 (\$2,040 if you are blind). Your SSD payments will stop for the months you earn above the SGA limit. If you must quit work because of your disability, inform SSA within 5 years to have your benefits reinstated.

SSI Work Rules: If you receive SSI benefits, are disabled, and earn income, you may continue to receive SSI benefits as long as your earnings and income do not exceed SSI income limits. Always report to Social Security if you plan to begin working and inform them of your monthly income once you have begun working. If an SSI recipient earns more than \$1220 a month in 2019, then a case review could be triggered and Social Security could find that the individual is no longer disabled because s/he is working above the substantial gainful activity level. If your only income is SSI and the money you make is from your job, Social Security does not count the first \$65 of earned income plus one-half of the amount over \$65. Social Security reduces your SSI benefits \$1 for every \$2 you earn over \$65.

SSI and SSD Work Expenses Exemption: SSA can deduct work expenses related to your disability from your monthly earnings. The reduction may help you remain eligible for benefits. Work expenses may include the cost of co-payments for prescriptions, counseling services, transportation to and from work, a personal attendant, a wheelchair, or certain work equipment.

SSI Plan to Achieve Self-Support (PASS Program): SSA has a plan to help SSI beneficiaries achieve their work goals without affecting their benefits. For example, you can set aside money to go to school or get job training, and use that money to pay for transportation to work, child care, or job equipment. The plan must be in writing (Form SSA-545-BK) and approved by Social Security. Contact your local Social Security office for an application form and help.

Reporting: You must tell SSA if you start or stop work and if your pay or hours change. If you do not report, you may receive more income than you are due, and SSA will ask you for a refund. Make sure to keep the receipt SSA provides. Contact an attorney for more information.

Social Security Retirement Benefits

Social Security retirement benefits are available to persons at least 62 years of age who have worked at least 10 years. Depending on your current age, you may be penalized with smaller monthly payments if you apply before age 65, 66, or 67, and will be rewarded with larger monthly payments the longer you wait to apply, up to age 70. The spouses of people who worked may also be eligible even if they have not worked. You may work while earning Social Security retirement benefits but your benefits may be reduced, and you must report income to Social Security (see below).

When Can You Begin to Earn Social Security Retirement Benefits?

You may choose to get benefits before Full Retirement Age, as early as age 62. But your benefit rate will be reduced for the rest of your life based on the number of months you receive benefits before Full Retirement Age. The exact amount of the reduction depends on what year you were born. The maximum reduction is 30% for people born after 1959. To find out how much your benefits would be reduced if you retire before Full Retirement Age, call (800) 772-1213 or visit www.ssa.gov/planners/retire.

You can receive retirement benefits without a penalty at Full Retirement Age, which depends on your date of birth. If you wait until Full Retirement Age, your benefits will not be reduced. If you were born before 1942, your Full Retirement Age is 65-years old. If you were born between 1943-1959, your full retirement age is 66 years-old. The Full Retirement Age for people born in 1960 or later is 67-years-old. To find out your exact Full Retirement Age, call (800) 772-1213 or visit www.ssa.gov/planners/retire. If you already receive disability benefits when you reach Full Retirement Age, your disability benefits automatically convert to retirement benefits, but the amount remains the same.

If you delay your retirement past Full Retirement Age, Social Security will increase your benefits a certain percentage for the rest of your life, depending on your date of birth and how long past Full Retirement Age you wait before drawing on Social Security benefits. The benefit amount going forward will increase until you start drawing benefits, or until you reach age 70, at which point Social Security will no longer increase your benefit amount further. To find out how much your retirement benefits would be increased if you retire after Full Retirement Age, call (800) 772-1213 or visit www.ssa.gov/planners/retire.

Can You Work and Earn Social Security Retirement Benefits? Yes, but if you are under Full Retirement Age, your retirement benefits will be reduced. Starting with the month you reach Full Retirement Age, Social Security will not reduce your benefit no matter how much you earn.

If you are under Full Retirement Age for the entire year that you work while earning Social Security retirement benefits, Social Security deducts \$1 from your benefit payments for every \$2 you earn above \$17,640 (in 2019). In the year you reach Full Retirement Age, Social Security deducts \$1 in benefits for every \$3 you earn above \$46,920 (in 2019) until the month before you reach Full Retirement Age; income from that month won't be counted. You must immediately report if you decide to work or any change in income while earning Social Security retirement benefits by calling (800) 772-1213 or visiting your local Social Security office.

Social Security Survivors Benefits

As you plan for the future, you may want to think about what your family will need upon your death. Social Security survivor benefits can help by providing certain members of your family with an income when you die.

Who is eligible for survivors benefits based on your work?

- **A widow(er)** may be eligible for full benefits at Full Retirement Age. The full retirement age for survivors born in 1943-59 is age 66. The Full Retirement Age for people born in 1960 or later is 67. A widow or widower is eligible for benefits at any age if they are caring for your child younger than 16 or disabled;
- **Unmarried children** younger than 18;
- **Children of any age who were disabled before age 22;**
- In certain circumstances **stepchildren, grandchildren, step-grandchildren, or adopted children;**
- **Dependent parents** may be eligible if they are 62 or older. To qualify as dependent, you would need to provide at least half of their support;
- **Divorced spouses** may be eligible if they are 60 or older (50-59 if disabled) and the marriage lasted at least 10 years, or if the former spouse is caring for your mutual natural or adopted child who is younger than 16 or disabled.

How much are the benefits?

The benefit amount is based on the lifetime earnings of the deceased. Social Security uses the deceased worker's basic benefit amount to calculate the amount the survivor can get. The amount depends on the survivor's age and relationship to the worker. Typical benefits include:

- **Widow or widower** at Full Retirement Age generally gets 100% of the worker's basic benefit amount. Widow or widower under full retirement gets 71-99%.
- **Children** get 75% of worker's benefit amount.
- **Dependent parents**
 - One surviving parent gets 82.5% of the worker's benefit amount.
 - Two surviving parents get 75% of the workers benefit amount.

You can check your Social Security Statement to get an estimate of the survivor's benefits by creating a Social Security account online at www.socialsecurity.gov/myaccount.

How can your family member apply for benefits?

They can apply by telephone or at any Social Security Office. For some claims, benefits will be paid at the time of applying and not from the time of death, so do not delay. They will need:

- Proof of death;
- Their Social Security number, and the deceased workers SSN;
- Your birth certificate;
- Your marriage certificate or divorce papers, if applying as a divorced widow or widower;
- Dependent children's Social Security numbers and birth certificates (if applicable);
- Deceased worker's W-2 forms or federal self-employment tax return for the most recent year; and
- Bank account information so benefit can be deposited.

Social Security Auxiliary Benefits

If you are receiving Social Security retirement or disability benefits, certain members of your family may be eligible to receive benefits. These benefits that are paid to family are called auxiliary benefits. These benefits can be particularly helpful for large families and people with dependents. It is important to note that family members of those who receive SSI (Supplemental Security Income) are not eligible for auxiliary benefits.

Disabled Worker and Auxiliary Benefits

Both your spouse and children can qualify for benefits if you are a disabled worker receiving Social Security Disability benefits (“SSDI”). A disabled worker is one who is no longer able to work because of illness or impairment and who worked for long enough to be insured.

In order for your spouse to qualify for auxiliary benefits, he or she must have a child under 16 or a disabled child in their care **or** be at least 62 years of age. A divorced spouse may be entitled to benefits as long as the marriage lasted at least 10 years.

Your child may qualify for auxiliary benefits if they are under age 18 (or up to 19 if the child is a full-time high school student) or over age 18 if they have a disability that began before age 22.

Retirement and Auxiliary Benefits

Both your spouse and children can qualify for benefits if you are retired and receiving benefits. The age of your retirement determines the amount of benefits that will be available to your spouse and children. The longer you wait to retire, the greater your spouse and children’s benefits will be.

Similar to the spouse and children of disabled workers, the spouse of a retired worker must have a child under 16 or a disabled child in their care **or** be at least 62 years of age to qualify for benefits. The child of a retired worker can collect benefits if they are under 18 (under age 19 if still in secondary school) or disabled before the age of 22.

How much will a person receive when they are granted an auxiliary benefit?

Generally, a spouse or child of a living disabled or retired worker is eligible for 50% of the person’s benefits. For example, if you receive \$600 per month for SSDI, your child or spouse may receive \$300 per month. However, there are limits on how much a family can receive in benefits. So if instead you have three children, they each can receive benefits as long as the combined total of their benefits is under the family maximum. Your local Social Security office can help you identify your family maximum limit.

Applying for Auxiliary Benefits

To file an application for auxiliary benefits, go to your local Social Security office. Your spouse or child can be added to your claim for benefits at the beginning of your application process or after your proceedings have begun. There are different applications for retirement or disability claims. The Social Security office will help you fill out the correct forms. If you are denied the benefit, you have 60 days to file an appeal or you will be required to start the process again.

Social Security Representative Payee Program

If you are unable to manage your benefits, then the Social Security Administration (“SSA”) may require you to have a representative payee for your Social Security Retirement, SSDI, or SSI benefits. You may also decide that you should not manage your benefits on your own and decide to name a representative payee to help you handle your income. Call (800) 772-1213 for more information or see www.ssa.gov/payee.

What is Social Security’s Representative Payee Program?

A representative payee acts on behalf of the beneficiary, the person who earns the Social Security benefits. A payee is responsible for everything related to Social Security benefits that a capable beneficiary would do. The following are the required duties of a payee:

- Determine the beneficiary’s needs and use their payments to meet those needs;
- Save any money left after meeting the beneficiary’s current needs in an interest bearing account or savings bonds for the beneficiary’s future needs;
- Report any changes or events which may affect the beneficiary’s eligibility for benefits or payment amount;
- Keep records of all payments received and how they are spent and/or saved;
- Provide benefit information to agencies or medical facilities that serve the beneficiary;
- Help the beneficiary get medical treatment when necessary;
- Notify SSA of any changes in your (the payee’s) circumstances that would affect your performance or continuing as payee;
- Complete written reports accounting for the use of funds; and
- Return any payments to which the beneficiary is not entitled to SSA.

Who can be a representative payee?

A family member or friend can be your representative payee. They should contact their local SSA office to apply to be a payee. The payee must submit an application and documents to prove their identity. SSA usually requires them to complete the payee application in a face-to-face interview. If an individual like a friend or family member, as opposed to an organization, serves as payee, they cannot collect a fee for serving as payee. If you do not want a friend or family member to serve as payee, you can request to have an organization be your payee, for a small fee (maximum of \$43 per month in most cases in 2019); visit your local Social Security Office for a list of fee-for-service payee organizations. Call (800) 772-1213 for more information.

What if Social Security appoints a payee but you do not believe you need one?

You have the right to appeal either the decision that you need a representative payee, or the person or organization SSA has chosen as your representative payee. You have 60 days to appeal a decision by contacting SSA. Contact your local Social Security office or call SSA (800) 772-1213. **It may be helpful to be represented by an attorney in this appeal.**

What do you do if you have concerns about your payee?

If you believe your payee may be stealing from you or if you have other concerns that you do not feel you can talk to your payee about directly, contact Social Security immediately by calling (800) 772-1213 or visit your local Social Security Office. Social Security will investigate the allegations of misuse. **You may also wish to contact an attorney for further actions.**

Overpayment of Benefits

If you receive any government benefit and your income, circumstances, or amount of resources changes—for example, if you begin working, earn new benefits, move to a new home, marry, inherit money or win a lawsuit—then you must report the change to the appropriate agency as soon as possible in order to avoid “overpayments” or “over-issuances” which you will have to pay back. **To fight a determination of overpayment, you should seek legal assistance.**

VA Benefits Overpayments: If you earn new benefits, receive money or property from any source, if your income changes, or if you marry or move (even if you move from one place to another within New York State) at any point while you have VA Health benefits or a Non-Service-Connected Pension (“VA Pension”), notify the VA immediately in order to avoid a potential overpayment. If you receive a VA Pension, you should call (877) 294-6380 and then submit VA form 21-4138 (“Statement in Support of Claim”) stating the change. If you receive VA Health benefits, notify the VA by calling (877) 222-8387 and submit VA Form 10-10EZR.

If you have an overpayment, the VA will notify you of its overpayment first in a letter from the VA, followed by a letter from the VA Debt Management Center (“DMC”), which will state how much the VA thinks you have been overpaid and that the VA will withhold this amount from future payments. **At this point, see an attorney to fight the VA’s overpayment determination.**

Within 30 days of receiving the DMC letter you should submit a Waiver Request in order to avoid having the VA immediately deduct funds from future benefit payments. You have 180 days to file the request, though if you file it after 30 days, the VA will likely begin deducting money from your benefits while it considers your waiver request. The request letter should contain information about the hardship that reduced VA benefits will place on you. At the same time you submit your waiver request, you should also file a written dispute of the overpayment if you think it is incorrect. You also must submit VA Form 5655 (Financial Status Report Form). In letters to the VA, always include your full name, Social Security Number, and VA file number. Call the DMC at (800) 827-0648 for more information.

SSI and SSD Overpayments: SSI or SSD overpayments might be caused, for example, by a return to work, a change in living situation, or marriage. If you receive SSI, overpayments may also be caused by beginning to receive other benefits, like VA compensation or VA Pension. Thus, you must notify the Social Security Administration (“SSA”) if you return to work, move, marry, begin receiving other benefits, or if your resources or assets increase. Notify SSA of any of these changes immediately by calling (800) 772-1213 or by visiting or calling your local Social Security Office. If SSA believes you have received an overpayment, SSA will send a formal Notice of Overpayment, which will explain the amount of overpayment, the reasons, and several options for how to correct the issue. If you disagree that you were overpaid, you must file a Request for Reconsideration within 60 days. Alternatively, if you agree that you were overpaid, but you believe it was not your fault and are not able to repay the amount, you must file a Request for Waiver. You can also file a waiver if you do not agree that you were overpaid but you want to fight the overpayment and you are past the 60 time limit to file a reconsideration. If you receive SSI, it is assumed that you cannot afford to repay any overpayments. SSA’s form to request this waiver is available at [socialsecurity.gov/forms/ssa-632.pdf](https://www.socialsecurity.gov/forms/ssa-632.pdf).

Overpayment of Benefits (continued)

Temporary Assistance for Needy Families (“TANF”) Overpayments: If you receive Temporary Assistance (also known as cash assistance), any changes in income, child support, resources or assets, household members, or residence must be reported to HRA within 10 days of the change. A change will not necessarily make you ineligible for TANF, but the rules on eligibility are confusing, so being cautious and reporting any change is strongly advisable. If you receive TANF for a child and know that the child will be absent from home for 45 days or more, you must report that change within five days of knowing that the child will be absent for that long. To notify HRA, call (718) 557-1399 or visit your local HRA Job Center. Make sure you obtain and save proof that you have notified HRA of the change.

If HRA determines that you have been overpaid, they will notify you by letter with information about how much you were overpaid and the period during which the overpayment occurred. The office will try to recover the amount overpaid either through direct repayment or by reducing the amount paid out in future benefits. The overpayment will be recovered from someone in the household who received the overpayment, any subsequent household an overpaid individual joins, or any individual who left the household after the overpayment occurred. If you are no longer a recipient of TANF, then you will receive a similar notification of overpayment, and you will have at least 10 days before collection activities proceed. You may request a fair hearing during this 10-day period. Additionally, if the total overpayment was less than \$125 and not due to fraud, then it is possible the recovery will be waived.

SNAP (Food Stamps) Overpayments: If you receive SNAP (sometimes called Food Stamps) in New York City, any changes in income, child support, resources or assets, household members, or residence must be reported to HRA within 10 days of the change. A change will not necessarily make you ineligible for SNAP, but the rules on eligibility are confusing, so erring on the side of caution and reporting any change is strongly advisable. However, if you receive SNAP for a child and you know that the child will be absent from home for 45 days or more, you must report that change within five days of knowing that the child will be absent for that long. To notify HRA, call (718) 557-1399 or visit your local HRA Job Center. Make sure you obtain and save proof that you have notified HRA of the change.

If HRA determines that you have been overpaid, then all adult members of the household who received benefits are responsible for repayment, even if they have left the household. The form of repayment might be different as well. For example, if the household continues to receive SNAP, their benefits may be reduced to repay the agency, though an adult who was previously in the household might be required to make cash payments to the agency.

Unemployment Insurance: In New York, any money paid to you while you received Unemployment Insurance that you were not entitled to is considered an “overpayment.” For example, if you mistakenly and/or incorrectly reported your wages, begin working again without reporting it, are not actually seeking employment, or do not complete the required activities, you will not be found to be entitled to benefits, meaning any benefits received will be overpayments. To report any of these changes, call the Claims Center immediately at (888) 209-8124.

Tax Law

In this section, you will find information on the following topics:

- Federal Taxes
- New York State and City Taxes

Federal Taxes

Tax Considerations of VA Benefits

Benefits paid under laws administered by the Department of Veterans Affairs are exempt from taxation. Payments received as a member of a military service generally are taxed as wages except for retirement pay, which is taxed as a pension.

The following veterans benefits are not required to be reported on the federal tax return:

- Education and training allowances
- Service-Connected Disability Compensation (see page 80)
- VA Non-Service Connected Pension (see page 90)
- Special Monthly Compensation (“SMC”)
- Aid & Attendance Benefits (see page 92)
- Dependency and Indemnity Compensation (see page 95)
- Grants for homes designed for wheelchair living

Additional Tax-Free Benefits for Veterans

- Grants for motor vehicles for veterans who lost their sight or the use of their limbs;
- Death gratuity paid to a survivor of a servicemember who died after Sept. 10, 2001;
- Interest earned on insurance dividends left on deposit with the VA;
- Dividends on and proceeds from G.I. (National Service Life) insurance. If an individual elects to apply his paid up National Service Life Insurance accumulated dividends to the purchase of paid-up insurance, neither the dividends nor the paid-up insurance with such dividends are subject to tax;
- Payments received by a veteran under the VA’s Compensated Work Therapy program;
- Benefits under a dependent-care assistance program.

Federal Tax Considerations for Veterans with Disabilities

Service-connected veterans may be eligible for a federal tax refund for the year the VA increased his/her disability percentage or after being granted Combat-Related Special Compensation (see page 85) after an award of Concurrent Retirement and Disability. The refund can be retroactive. If you eligible, you must file an amended income tax return to claim a refund.

Temporary Delay for Hardship/Currently Not Collectible

The IRS can delay collection because of financial hardship: if a taxpayer’s monthly income is not sufficient to provide for basic living expenses, the IRS will temporarily defer collection of any unpaid taxes. The taxpayer *must* call the IRS at the number on their IRS notice to be placed into currently non-collectible status. This status will not change unless the taxpayer’s financial situation improves. This is only a temporary solution for taxpayers whose expenses exceed their income. Non-collectible status *does not* forgive the tax liability. The tax, interest, and penalties continue to accrue until the statute of limitation on collection expires or the tax is paid in full.

Combat-Injured Veterans Tax Fairness Act of 2016

Veterans who suffer combat-related injuries and are separated from the military will not be taxed on the one-time lump sum severance payment they receive from the Department of Defense

(“DoD”). This law went into effect in 2017 and instructs DoD to identify veterans who were taxed on their severance payment so they can file an amended return to receive their refund.

Partial Payments/Payment Plans

Taxpayers may apply for a monthly installment agreement by calling the IRS at the number on their IRS notice, applying online, or by mail. Taxpayers must show the amount of their proposed monthly payment and the date they wish to make their payment each month. The IRS will automatically give taxpayers the low income installment agreement fee if they qualify.

Taxpayers are required to pay interest plus a late payment penalty on the unpaid taxes for each month or part of a month after the due date that the tax is not paid. A taxpayer who does not file the return by the due date — including extensions — may have to pay a penalty. The IRS charges a User Fee to set up the agreement. Those who don’t meet the terms of the agreement throughout the life of the agreement are charged an additional fee, regardless of income level.

IRS Offer in Compromise

If you cannot pay your full tax liability, or doing so creates a financial hardship, an offer in compromise allows you to settle tax debt for less than the full amount owed. The IRS considers your unique situation, including: ability to pay, income, expenses, and assets. The IRS generally will approve an offer in compromise if the amount offered is the most it can expect to collect within a reasonable period of time. To be eligible, you must be current with all filings and not in bankruptcy proceedings. To submit an offer, use the Offer in Compromise Booklet available at www.irs.gov. The \$186 application fee may be waived if your income falls below IRS Low Income Guidelines. For more information, visit www.irs.gov/individuals/offer-in-compromise-1.

IRS Collection Financial Standards

Collection Financial Standards are used to determine your ability to pay delinquent tax liability. Visit www.irs.gov/businesses/small-businesses-self-employed/collection-financial-standards.

Waivers and Forgiveness

The IRS may waive certain penalties on back taxes. For example, you may receive a waiver if you underwent circumstances beyond your control, like relocation due to a natural disaster or living below the poverty line. To request a penalty waiver, file IRS Form 843. For more information, see: www.irs.gov/businesses/small-businesses-self-employed/penalties-at-a-glance.

Federal Earned Income Tax Credit (EITC)

Many veterans are eligible for the EITC, a refundable federal income tax credit for low- to moderate-income working individuals/families. Visit www.eitc.irs.gov or call (800) 829-1040.

Free Tax Preparation Services

The Volunteer Income Tax Assistance (“VITA”) program offers free tax help to people who generally make \$66,000 or less, persons with disabilities, and limited English speaking taxpayers. IRS-certified volunteers provide free basic income tax return preparation with electronic filing to qualified individuals. In addition to VITA, the Tax Counseling for the Elderly (TCE) program offers free tax help for all taxpayers, particularly those 60 years of age and older.

New York State and City Taxes

New York State Offer in Compromise: New York State has a compromise procedure that allows you to settle your tax debt for less than the full amount owed. This is an option if you are insolvent—your debts exceed the fair market value of your assets—in bankruptcy, or if collection in full would cause you undue economic hardship. To claim economic hardship, you must show that collection would make you unable to pay reasonable basic living expenses. The state determines the reasonable amount of living expenses according to your unique circumstances. To apply, contact the NY Offer in Compromise office at (518) 457-9086 or download forms available at www.tax.ny.gov/. A taxpayer can also demonstrate the need for payments over a period, typically of two years. To request an installment payment agreement, call (518) 457-5434 or visit www.tax.ny.gov/.

New York City Offer in Compromise: New York City residents' personal income tax is administered by the New York State Department of Tax and Finance, which follows the Offer in Compromise Procedures above.

New York State & City Personal Income Tax: Military pension payments received by retired military personnel or their beneficiaries are totally exempt from New York State & City tax. VA benefits paid to, or on account of, a veteran or beneficiary under the laws relating to veterans, are treated the same for New York State & City tax purposes as for federal tax purposes. If these amounts are excluded from gross income for federal income tax purposes, they are not subject to New York State & City income tax (see page 75).

New York State Property Tax Exemptions for Veterans: There are three different property tax exemptions available to veterans who served in and were honorably discharged from the Armed Forces. A veteran can receive only one of the following exemptions:

1. The Alternative Veterans' Exemption is available for residential property of a Veteran who has served during a designated time of war or received an expeditionary medal;
2. The Cold War Veterans' Exemption is available only on residential property of a Veteran who served during the Cold War period; or
3. The Eligible Funds Exemption is partial and applies to property that a veteran purchased with pension, bonus, or insurance monies.

The exemptions are usually available in county, city, town, and village taxing jurisdictions across New York State. They may be available for school district taxes. Extra tax reductions are also available for combat and service-connected disabilities. To request an exemption, check your local tax assessor's office to see if your jurisdiction recognizes the above exemptions. You can find the contact information for your assessor here: <http://orpts.tax.ny.gov/MuniPro/>, or by calling (518) 591-5232. In most communities the deadline for filing is March 1st.

New York City Property Tax Exemptions for Veterans:

- The veteran must have served in the U.S. armed forces during a qualifying wartime period. (See page 90 for a list of Qualifying Wartime Periods).
- The property must be the primary residence of and be owned by the qualifying veteran.
- The applicant must submit a copy of the DD 214 or separation papers for each veteran.

Technology Resources

Access to phone and/or internet is crucial to all people in finding and keeping employment, maintaining financial solvency, sustaining strong social relationships, and dealing with legal issues. If you do not have access to phone or internet, read this page for available resources.

VA Medical Centers offer free computer access. Call the numbers below for information:

- Manhattan VA Learning Resources Center: 212-686-7500 ext. 7682
- Brooklyn VA Learning Resources Center: 718-836-6000 ext. 3559
- Bronx VA Library at (718) 584-9000 ext. 6924

Public libraries in New York City have computers with Internet and other technology resources:

- New York Public Library (“NYPL”) card-holders or visitors with passes can access the libraries’ computers and Internet. Registering for a card or a one-day visitor’s pass is free and requires just a photo ID and a mailing address. To find a NYPL library near you in the Bronx, Manhattan, or Staten Island, call (917) 275-6975.
- Brooklyn Public Library (“BPL”) card-holders or visitors with passes can access the libraries’ computers and Internet. Registering for a free card requires a valid photo ID and a home/ mailing address. Call the BPL Helpline at (718) 230-2100.
- Queens Public Library (“QPL”) card-holders and visitors with passes can access computers and Internet. However, QPL restricts computer use to one hour per day for card-holders and visitors alike. Registering for a free card requires a valid photo ID and a home/ mailing address. To find a QPL library near you, call (718) 990-0728.

Other resources include FedEx, which rents out computer workstations—call (800) 463-3339 for a location near you—and restaurants like Starbucks and McDonalds that offer free wireless Internet.

Free and subsidized telephones and phone service are available through the Lifeline program. This program provides free cell phones and roughly 350 free “airtime” minutes to you if you receive Medicaid, food stamps, SSI, Section 8, LIHEAP, or TANF, or if your income is below \$16,862 annually (for a one-person household). If a Lifeline phone runs out of minutes before the monthly renewal date, users can purchase extra minutes from their service provider. To get a Lifeline phone, apply at the office of any telephone company. Call (800) 723-3546 for Safelink, and (888) 898-4888 for Assurance. Always compare rates between competing Lifeline providers.

Inexpensive Internet and laptops are also available. If you are enrolled in the Lifeline program, you may also be eligible for broadband Internet for as low as \$5 per month through programs such as Access from AT&T. This program and similar programs also offer inexpensive laptop notebooks. For more information, visit www.cheapinternet.com.

VA Benefits and Programs

In this section, you will find information on the following topics:

- The VA Compensation Claim Process: Initial Application
- The VA Compensation Claim Process: Appeal of Denial
- Service-Connected Disability Compensation Rates
- VA Compensation for Victims of Military Sexual Trauma
- Resources for Survivors of Military Sexual Trauma
- Combat Related Special Compensation
- Radiation Exposure Compensation Claims
- Agent Orange Compensation Claims
- Camp Lejeune Water Contamination: VA Benefits and Healthcare
- Total Disability Based on Individual Unemployability (“TDIU”)
- VA Pension for Non-Service Connected Disability (“VA Pension”)
- VA Pension Rates
- Aid & Attendance/Housebound Benefits
- Caregivers’ Resources
- VA Fiduciary Program for VA Benefits
- Dependency and Indemnity Compensation
- Survivors Pension
- Apportionment
- How to Request Your VA and Military Records

The VA Compensation Claim Process: Initial Application

A veteran with a service-connected disability is entitled to receive compensation from the VA for the disability.

To obtain VA compensation, you must show:

- Medical evidence of a current physical or mental disability; and
- Evidence of an event, injury or disease in service; and
- Evidence of a link between your current disability and the event, injury, or disease in military service. This link can be causal (for example, your broken arm during service caused current arm pain), can show aggravation (for example, your depression prior to entering the service was worsened during service), or can be secondary to an existing service connection (for example, you hip injury during service caused current depression by making you unable to work and go outside).

In order to apply for VA compensation benefits you should file VA Form 21-526 (or VA Form 21-0966 (“Intent to File”) to preserve the date of application). For help filling out these forms, visit the VA Regional Office at 245 West Houston Street in Manhattan, call (800) 827-1000, or visit a Veterans Service Organization (“VSO”). If you have already applied and seek to add information to your claim before the VA makes its decision, fill out VA Form 21-4138 (“Statement in Support of Claim”) with the additional evidence. Always mark additional pages with your name, VA file number, and Social Security number. If approved, benefits are payable back to the date that the veteran filed the initial application or Intent to File.

When applying for VA compensation, you may submit, along with your VA Form 21-526, the following: 1) evidence that you have a current medical condition caused by service; 2) any information relating to the initial onset of the injury; and 3) evidence of the link between the current condition and in-service injury. Affidavits from friends and family, healthcare workers’ letters, and medical records are useful to establish the link. Note that the evidentiary standards have been liberalized for claims of both Posttraumatic Stress Disorder and Military Sexual Trauma, which means that the VA may approve your claim even without evidence of your in-service injury from your personnel records (see page 84 for more information about filing a VA claim involving Military Sexual Trauma). The VA will review the veteran’s military personnel records during the claim process.

A veteran may be able to apply for VA compensation with the VA’s Fully Developed Claim (“FDC”) procedure to get a faster decision from the VA. To apply through the FDC process, log on to www.ebenefits.va.gov. Hit “*Save & Continue*” to preserve the date from which VA will pay you if your claim is approved. You have a year from this start date to gather evidence and submit the claim. *A VSO may be able to assist you in filling out an FDC paper application.*

In order to find records for your application, use the following forms:

- Request Military Personnel Records (includes DD 214s/Separation Documents, service records found within the Official Military Personnel File, and medical records): SF-180
- Request VA Medical Records: VA Form 10-5345
- Request VA Claim File Records from past VA benefits applications: VA Form VA-3288

The VA Compensation Claim Process: Appeal of Denial

On February 19, 2019, the VA implemented the VA's Appeals Modernization Act, a significant change to the previously existing appeals process for challenging denials of claims.

Effective February 2019, veterans who appeal a VA claims decision have three decision review options: to request a Higher Level Review, to file a Supplemental Claim, or to appeal to the Board of Veterans Appeals. In all cases, **veterans have one year to submit their appeal/decision review request, regardless of type.**

Requesting a **higher level review** means that you have no new evidence to submit for the VA to consider. To request this level of review, use VA Form 20-0996, "Decision Review Request: Higher Level Review".

Filing a **supplemental claim** requires you to have "new and relevant" evidence to submit for the VA to consider. "New" means evidence not previously submitted to the VA; "relevant" means evidence that tends to prove or disprove a matter at issue in the case. To request this level of review, use VA Form 20-0995, "Decision Review Request: Supplemental Claim".

Regardless of the presence of new information, veterans can request to have the decision reviewed by the **Board of Veterans Appeals**. To do so, use VA Form 10182.

You should be represented in your appeal by an attorney or Veterans Service Organization, so you should seek assistance as soon as you receive notice of the denial of your initial VA compensation application. Your attorney can help counsel you on which of the appeals options is correct for you depending on your situation.

Veterans who request a higher level review may still file a supplemental claim in the future if they find new and relevant evidence to substantiate the claim. Veterans who file a supplemental claim may also request a higher level review of that claim if it is denied. However, if a veteran files a request for a higher level review, they may not request a further higher level review. If the higher level review continues the denial, the veteran may either submit a supplemental claim if new and relevant evidence is found, or they can appeal to the Board of Veterans Appeals.

On appeal, you may submit additional information, such as current medical records, affidavits, evidence from your Official Military Personnel File, or healthcare workers' letters. These documents may be submitted after the Notice of Disagreement is filed by using VA Form 21-4138 ("Statement in Support of Claim").

In order to find records for an appeal, use the following forms:

- Request Official Military Personnel Records (DD 214s/Separation Documents, service records found within the Official Military Personnel File, and medical records): SF-180
- Request VA Medical Records: VA Form 10-5345
- Request VA Claim File Records from past VA compensation applications: VA Form VA-3288

Service-Connected Disability Compensation Rates

Veterans in receipt of service-connected disability compensation are paid according to the degree of impairment caused by the condition (or combination of conditions) as determined by the VA. The table shows monthly payments according to a veteran's "combined rating" effective December 1, 2018.

VA Disability Compensation Amount Table Effective December 1, 2018 (these amounts are subject to change)							
Rating	Veteran Alone	Veteran with Spouse	Veteran With Child Only	Veteran with Spouse & Child	Veteran with Spouse, 1 Parent, & Child	Each Additional Child under 18	Additional for Aid & Attendance Spouse
10%	\$140.05	-	-	-	-	-	-
20%	\$276.84	-	-	-	-	-	-
30%	\$428.83	\$479.83	\$462.83	\$516.83	\$557.83	\$25	\$47
40%	\$617.73	\$685.73	\$662.73	\$735.73	\$789.73	\$33	\$62
50%	\$879.36	\$964.36	\$935.36	\$1,026.36	\$1,094.36	\$42	\$78
60%	\$1,113.86	\$1,215.86	\$1,181.86	\$1,290.86	\$1,372.86	\$50	\$94
70%	\$1,403.71	\$1,522.71	\$1,482.71	\$1,609.71	\$1,704.71	\$59	\$109
80%	\$1,631.69	\$1,767.69	\$1,722.69	\$1,867.69	\$1,976.69	\$67	\$125
90%	\$1,833.62	\$1,986.62	\$1,935.62	\$2,098.62	\$2,221.62	\$76	\$14
100%	\$3,057.13	\$3,227.58	\$3,171.12	\$3,352.41	\$3,489.20	\$84.69	\$156.32

Certain veterans in receipt of service-connected disability compensation may be entitled to an additional amount if awarded Special Monthly Compensation (SMC), which is not shown here.

VA Compensation for Victims of Military Sexual Trauma

Military Sexual Trauma (“MST”) can cause Post-traumatic Stress Disorder (“PTSD”) and other mental health and physical disabilities. You may therefore apply for VA compensation for disabilities that result from MST. Read this page for more information.

How Veterans are Granted VA Compensation for MST

The VA uses the term “MST” to refer to the traumatic event itself (for example, sexual assault). Veterans are not awarded compensation for the MST, but can be granted compensation for conditions that result from MST, such as anxiety, depression, or PTSD. For more information about applying for VA compensation, see page 80. If you are applying for compensation for PTSD stemming from MST, when applying, fill out VA Form 21-0781a (“Statement in Support of Claim for PTSD Secondary to Personal Assault”) instead of the usual VA Form 21-4138.

What evidence can support a VA compensation claim for PTSD from MST?

Direct evidence to support these claims includes Department of Defense forms used in reporting incidents of sexual assault or harassment, as well as investigative reports during military service. However, the VA knows that events involving sexual trauma are not always officially reported, and therefore, has liberalized evidentiary requirements for PTSD claims related to MST. The VA looks for “markers” (for example, signs, events, or circumstances) that provide some indication that the traumatic event happened. These include, but are not limited to:

- Records from mental health counseling centers, hospitals, physicians, law enforcement authorities, or rape crisis centers
- Pregnancy tests or tests for sexually transmitted diseases
- Statements from family members, roommates, fellow servicemembers, clergy members, or counselors
- Requests for transfer to another military duty assignment
- Deterioration in work performance
- Substance abuse
- Episodes of depression, panic attacks, or anxiety without an identifiable cause
- Unexplained economic or social behavioral changes
- Relationship issues, such as divorce
- Sexual dysfunction

VA regulations state that evidence from non-military sources may be used to corroborate the veteran’s account of MST. When direct evidence of MST is not available, the VA may request a medical opinion to consider a veteran’s account and any “markers” to corroborate the occurrence of the event as related to current PTSD symptoms.

Re-Evaluation of Old Denied Claims Related to MST

If your original claim was submitted before December 2011 and denied, you can request a re-evaluation from the VA Regional Office at 245 West Houston Street, NY, NY, 10014. Veterans who want the VA to review their previously denied MST-related claim can start by calling (800) 827-1000, logging into their eBenefits account online, or visiting the Regional Office. The VA will accept new evidence when a claim is re-evaluated.

Resources for Survivors of Military Sexual Trauma

Military sexual trauma (“MST”) has been labeled an epidemic that violates the service and honor of military men and women who survive their trauma. The U.S. military and VA have recently recognized the trauma and unique hardships that MST survivors face, and therefore have developed a number of resources and administrative changes for MST survivors.

MST is defined by Title 38 U.S. Code 1720D as “psychological trauma resulting from a physical assault of a sexual nature, battery of a sexual nature, or sexual harassment which occurred while the veteran was serving on active duty, active duty for training, or inactive duty training.” Sexual harassment is defined as “repeated, unsolicited verbal or physical contact of a sexual nature which is threatening in character.”

VA Compensation and MST

The VA has changed its application process and rules for VA compensation claims related to MST (see page 83 for more information).

Special VA Health Benefits Considerations for MST Survivors

The VA provides free healthcare for physical and mental health conditions related to experiences of MST, even if a veteran has not won their VA compensation claim for MST-related experiences. No documentation of the MST experiences or disability compensation rating is required to receive this free healthcare. Veterans may be able to receive free MST-related healthcare even if they are not eligible for other VA care. Veterans are also not required to pay copayments to the VA for this medical treatment.

MST Coordinators at VA Medical Centers

The VA has MST coordinators at VA Medical Centers who coordinate counseling and other services for MST Survivors:

Military Sexual Trauma Coordinators at New York-area Medical Centers	
<p>VA James J. Peters Bronx Medical Center Jan Kasten (718) 584-9000 ext. 5314</p>	<p>VA New York - Manhattan Campus Sheila Keezer (212) 686-7500 ext. 3114</p>
<p>VA Hudson Valley Healthcare System Melissa Halligan (845) 831-2000 ext. 4639</p>	<p>VA New York - Brooklyn Campus Dr. Shalini Sehgal (718) 836-6600 ext. 6479</p>
<p>VA Northport Medical Center Amanda Sokolowski (631) 261-4400 ext. 7012</p>	<p>St. Albans Community Living Center Dr. Shalini Sehgal (718) 526-1000 ext. 6479</p>

Combat Related Special Compensation

Combat Related Special Compensation (“CRSC”) is a program authorized by 10 U.S.C. 1413a that was created for disability and non-disability military retirees with combat-related disabilities. CRSC is tax-free disability compensation that you will be paid each month by the VA along with any retired pay you may already be receiving.

Eligibility

To qualify for CRSC you must:

- Be entitled to and/or receiving military retired pay;
- Be rated at least 10 percent by the VA for a service-connected condition;
- Waive your VA pay from your retired pay; and
- File a CRSC application with your Branch of Service.

Combat-related Disabilities

Disabilities that are considered related to combat include injuries incurred as a direct result of:

- Armed conflict;
- Hazardous duty;
- An instrumentality of war;
- Simulated war.

Retroactive Payment

In addition to monthly CRSC payments, you may be eligible for a retroactive payment. The Defense Finance and Accounting Service (“DFAS”) will audit your account to determine whether or not you are due retroactive payment. An audit of your account requires researching pay information from both DFAS and VA. If you are due any money from DFAS, you will receive it within 30-60 days of receipt of your first CRSC monthly payment. If DFAS finds that you are also due a retroactive payment from the VA, they should forward an audit to the VA. The VA is responsible for paying any money it may owe you.

Your retroactive payment date can be limited based on: (a) your overall CRSC start date as awarded by your Branch of Service; (b) your Purple Heart eligibility; (c) your retirement date; (d) your retirement law (disability or non-disability); (e) the six-year barring statute. Disability retirees with less than 20 years of service will be automatically limited to a retroactive date of January 1, 2008 as required by legislation passed by Congress. All retroactive pay is limited to six years from the date the VA awarded compensation for each disability.

How to Apply

For a new application, submit DD Form 2860. If you are reapplying for new disabilities to be added to your rating that you think might qualify for CRSC, request a reconsideration application from your service branch. Include documents that may help your case, including: (a) retirement orders; (b) 20-year letter or statement of service (for reservists); (c) relevant pages in your VA or service medical record; (d) VA ratings; (e) Purple Heart award citations; (f) your Retirement DD Form 214. If you have questions about your CRSC eligibility, call (800) 321-1080 or contact your branch of service.

Radiation Exposure Compensation Claims

The Radiation Exposure Compensation Act (“RECA”) offers monetary compensation to individuals who have contracted certain cancers and other serious diseases:

- Following their exposure to radiation released during the atmospheric nuclear weapons tests; or
- Following their occupational exposure to radiation while employed in the uranium industry in Arizona, Colorado, Idaho, New Mexico, North Dakota, Oregon, South Dakota, Texas, Utah, Washington, and Wyoming during the Cold War arsenal buildup between January 1, 1942, and December 31, 1971.

Who is eligible?

Claimants qualify for compensation if they establish the diagnosis of a listed compensable disease after working or residing in a designated location for a specific period of time. The following persons qualify for a lump sum payment:

- Uranium miners, millers, and ore transporters—\$100,000;
- “Onsite participants” at atmospheric nuclear weapons tests—\$75,000; and
- Certain individuals who lived downwind of the Nevada Test Site (“downwinders”)—\$50,000.

Which diseases are “compensable”?

Compensable diseases include primary lung cancer, certain nonmalignant respiratory diseases, renal cancer, other chronic renal disease including nephritis and kidney tubal tissue injury, leukemia (other than chronic lymphocytic leukemia), multiple myeloma, lymphomas (other than Hodgkin’s disease), and primary cancer of the thyroid, male or female breast, esophagus, stomach, pharynx, small intestine, pancreas, bile ducts, gall bladder, salivary gland, urinary bladder, brain, colon, ovary, or liver (except if cirrhosis or hepatitis B is indicated), or lung. Not all eligible claimants can earn compensation for each compensable disease; call (800) 729-7327 or visit <https://www.justice.gov/civil/common/reca> for more information.

How to apply

To request a RECA form to apply for benefits, and for a list of compensable diseases, call (800) 729-7327, or visit www.justice.gov/civil/request-reca-claim-form. You may also contact an attorney or VSO for further information.

Agent Orange Compensation Claims

The Agent Orange Act of 1991 expanded the traditional VA compensation claim framework for veterans that were exposed to Agent Orange during the Vietnam War era.

In order to qualify for these benefits, a veteran must show the following:

- A medical diagnosis of a disease related to Agent Orange (see below);
- Proof of exposure to Agent Orange (see below); and
- Evidence that the disease began within the deadline specified by the VA for the particular disease being claimed (for most diseases, date of onset is not considered, but see www.publichealth.va.gov/exposures/agentorange/ for more information on date of onset evidentiary requirements).

Medical Diagnoses Related to Agent Orange

The following medical diagnoses are considered “related to Agent Orange” and VA compensation will be presumptively awarded if proof of service and date of onset requirements are met: AL Amyloidosis, Chronic B-cell Leukemias, Chloracne (or similar acneform disease), Diabetes Mellitus Type 2, Hodgkin’s Disease, Ischemic Heart Disease, Multiple Myeloma, Non-Hodgkin’s Lymphoma, Parkinson’s Disease, Peripheral Neuropathy (early-onset), Porphyria Cutanea Tarda, prostate cancer, respiratory cancers (cancers of the lung, larynx, trachea, and bronchus) and Soft Tissue Sarcoma (other than osteosarcoma, chondrosarcoma, Kaposi’s sarcoma, or mesothelioma).

Proof of Exposure to Agent Orange

Any veteran who served in Vietnam during the period of January 9, 1962 to May 7, 1975 or in or near the DMZ in Korea from April 1, 1968 to August 31, 1971—even for just one day—is eligible for these benefits if they have a medical diagnosis related to Agent Orange.

Additionally, servicemembers who served on certain vessels that operated in the inland waterways of Vietnam between January 9, 1962 to May 7, 1975 are also presumptively eligible for these benefits. For a list of qualifying vessel designations, visit: www.publichealth.va.gov/publichealth/exposures/agentorange/shiplist/index.asp.

Blue Water Veterans

“Blue Water Veterans” served aboard vessels that did not operate in the inland waterways of Vietnam, but operated off the coast of Vietnam and Korea. **These veterans are now entitled to a presumption of service connection for illnesses related to Agent Orange exposure. This new rule takes effect on January 1, 2020.** If the VA previously denied your claim because they determined that your disability wasn’t service-connected, you can file a new claim based on the change in law. The VA may pay you back to the date when you submitted your original claim.

Additional groups of veterans are considered to have suffered “possible exposure” to Agent Orange. These groups include: crew members of C-123 airplanes from 1972 to 1982 (including active duty Air Force crewmembers and reservists); those based in Thailand military bases between February 28, 1961 and May 7, 1975; and those exposed by herbicide tests and storage outside of Vietnam. These veterans must be able to demonstrate that they were exposed, and claims will be decided on a case-by-case basis.

Camp Lejeune Water Contamination: VA Benefits and Healthcare

VA compensation benefits and/or healthcare may be available to veterans and their family members who resided at Camp Lejeune between August 1, 1953 and December 31, 1987. The water contamination at Camp Lejeune was caused by two on-base water distribution systems that contained volatile organic compounds. The sources of the contamination were likely on-base equipment cleaning agents, an off-base dry cleaner, and/or on-base leaking fuel tanks. As a result of possible poisoning from these contaminants, veterans who served on active duty at Camp Lejeune between 1953 and 1987 may receive VA health benefits and VA compensation benefits.

The VA has added a presumption of service connection due to Camp Lejeune water exposure for certain health conditions. The presumption of service connection applies to active duty, reserve, and National Guard members who served at Camp Lejeune for a minimum of 30 days (total) between August 1, 1953 and December 31, 1987, and are diagnosed with any of the following conditions:

- Adult leukemia
- Aplastic anemia and other myelodysplastic syndromes
- Bladder cancer
- Kidney cancer
- Liver cancer
- Multiple myeloma
- Non-Hodgkin's lymphoma
- Parkinson's disease

Veterans with other conditions that may be linked to Camp Lejeune water exposure, including the other conditions listed below, can still apply for compensation, but will be expected to establish a causal link between their exposure and current disability. To apply for VA compensation for exposure to water contamination at Camp Lejeune, you must file for VA service-connected compensation (see page 80 for more information).

VA Health Benefits for Camp Lejeune Water Contamination

VA health benefits may be awarded to veterans and family members who resided for at least 30 days at Camp Lejeune between January 1, 1957 and December 31, 1987. These veterans are eligible for medical care for 15 health conditions:

- Esophageal cancer
- Breast cancer
- Kidney cancer
- Multiple myeloma
- Renal toxicity
- Female infertility
- Scleroderma
- Non-Hodgkin's lymphoma
- Miscarriage
- Lung cancer
- Bladder cancer
- Leukemia
- Myelodysplastic syndromes
- Hepatic steatosis
- Neurobehavioral effects, including but not limited to fatigue, difficulty sleeping, personality changes, headaches, and depression.

The VA may reimburse a veteran or family member for eligible out-of-pocket expenses for the 15 covered conditions. The applicant must keep receipts for healthcare he or she paid for a covered condition. The VA will only pay for claims after the applicant has received payment from all other health plans. For reimbursement, call (866) 372-1144; to enroll in VA Health Benefits for Camp Lejeune Water Contamination, call (877) 222-8387.

Total Disability Based on Individual Unemployability (“TDIU”)

In general, conditions for which a veteran is service-connected are assigned a “rating” from the VA’s Schedule for Rating Disabilities, which aims to reflect “the average impairment in earning capacity resulting from” the veteran’s condition. Yet even when a veteran’s combined rating for all service-connected disabilities is less than 100%, if VA finds the veteran unemployable due to these disabilities, a rating known as TDIU can be granted to the veteran. **The VA conducts a two-step analysis to decide if a veteran is eligible. First, the VA will determine whether:**

- The veteran has one service-connected disability ratable at 60% or more; or
- The veteran has two or more service-connected disabilities, with at least one service-connected disability ratable at 40% or more, and a combined rating of 70% or more.

For purposes of these criteria, the following can be considered one service-connected disability:

- Disabilities of one or both upper extremities, or of one or both lower extremities, including the bilateral factor;
- disabilities resulting from common etiology or a single accident;
- disabilities affecting a single body system, e.g. orthopedic, digestive, respiratory, cardiovascular-renal, neuropsychiatric;
- multiple injuries incurred in action; or
- multiple disabilities incurred as a prisoner of war.

Note: It is also possible, though rare, for a veteran to be granted TDIU even if he or she does not meet the above rating percentage criteria. In this case, the veteran’s case will be referred to the VA Director of the Compensation Service in D.C. for extra-schedular consideration of TDIU.

Second, the VA determines if service-connected disabilities prevent the veteran from securing or following a “substantially gainful occupation.” The VA will consider such evidence as: any medical or vocational opinions, Social Security Administration and/or Vocational Rehabilitation and Employment Service records on unemployability, and educational and occupational history. In certain cases, VA orders an exam to assess combined effects of service-connected conditions.

A veteran awarded TDIU must be unable to secure or follow a “substantially gainful occupation.” However, employment that the VA considers “marginal” is not considered substantial gainful employment. “Marginal employment” exists when the veteran’s income does not exceed the federal poverty threshold for one person, but could also exist under other circumstances, as well. For 2019, the federal poverty threshold for one person is \$12,490.

The VA must consider TDIU if a veteran’s claim contains facts that indicate unemployability. Therefore, when a claim raises the issue of unemployability, the VA will have the veteran complete and return VA Form 21-8940: Application for Increased Compensation Based on Unemployability. However, the veteran may file this form on his or her own or with the help of an attorney or Veterans Service Organization (“VSO”).

Any veteran who may be unemployable may wish to consult an attorney or VSO to assess any possible entitlement to TDIU, and to ensure all proper procedures are followed.

VA Pension for Non-Service-Connected Disability (“VA Pension”)

The VA Pension provides monthly supplemental income to disabled or elderly veterans who served during a wartime period. VA Pension benefits are based on several factors: 1) wartime service (does not have to be related to combat) that ultimately results in a discharge under other than dishonorable conditions; 2) being at least 65 years-old or having a permanent and total disability; and 3) demonstrated financial need. Veterans should note the difference between the VA Pension and VA compensation benefits: to earn VA compensation benefits, a veteran does not need to be totally disabled, or show a low-income or wartime service, but the veteran must connect their disabilities to their period of service (see page 80 for more information on VA compensation benefits). To qualify for the VA Pension, a veteran must meet all of the following:

- The veteran must be discharged under other than dishonorable conditions (for example, the veteran has a Honorable or General (under honorable conditions) discharge);
- The veteran must have limited income and net worth (see “Income Requirements” below);
- The veteran must be at least 65 years-old or be permanently and totally disabled on the date of application (may be demonstrated through SSI/SSD determination or doctor’s statement);
- Permanent and total disability must not be due to willful misconduct on the veteran’s part;
- The veteran must have served during a “Qualifying Wartime Period” (see below);
- A veteran must also have active service that includes a total of 90 days during a period of war; 90 or more consecutive days, one day of which is in a period of war; or at least one day of wartime service that results in discharge for a service-connected disability. An individual who enlisted in the military service for the first time on or after September 8, 1980, is required to complete a minimum period of service, either twenty-four months of continuous active duty or the full period for which the veteran was called or ordered to active duty.

Income Requirements

- A veteran without dependents must have countable income less than the Maximum Annual Pension Rate (MAPR) of \$12,907 per year in 2017. See page 91 for a VA pension rate table.
- A veteran may work or receive other benefits while receiving a VA Pension, but may only earn up to the MAPR; the MAPR is reduced for each dollar of income a veteran or their family earn. If you receive a VA Pension and your income changes because you started working or earned a new benefit, notify the VA immediately in order to avoid a potential overpayment (see page 72 for more information). You should call (877) 294-6380 to notify the VA, or visit the VA Regional Office at 245 West Houston Street, NY, NY 10014.

Qualifying Wartime Periods

- World War II (December 7, 1941 – December 31, 1946)
- Korean conflict (June 27, 1950 – January 31, 1955)
- Vietnam era (February 28, 1961 – May 7, 1975 for veterans who served in the Republic of Vietnam during that period; otherwise August 5, 1964 – May 7, 1975)
- Gulf War (August 2, 1990 through a future date to be set by law or Presidential Proclamation)

To apply for a non-service connected VA pension, use VA Form 21P-527EZ.

VA Pension Rates

Veterans who earn the VA Non-Service-Connected Pension program receive a monthly benefit amount that is based on their countable income as subtracted from the Maximum Annual Pension Rate (MAPR). The MAPR rates below are effective as of December 1, 2018.

If you are a veteran:	Your yearly income must be less than:
Without Spouse or Child	\$13,535*
With One Dependent	\$17,724**
Housebound (HB) Without Dependents	\$16,540
HB With One Dependent	\$20,731
Aid & Attendance (A&A) Without Dependents	\$22,577
A&A With One Dependent	\$26,766
Two Veterans Married to Each Other	\$17,724
Two Veterans Married to Each Other, One HB	\$20,731
Two Veterans Married to Each Other, Both HB	\$23,734
Two Veterans Married to Each Other, One A&A	\$26,766
Two Veterans Married to Each Other, One A&A, One HB	\$29,764
Two Veterans Married to Each Other, Both A&A	\$35,813
Additional Amount for WW1 or Mexican Border War Veteran	\$3,075
Additional Amount for Each Additional Child	\$2,313

Certain forms of income may be excluded from this calculation, and some expenses (such as certain medical expenses) can be deducted from income as well. Veterans can seek help from an attorney or VSO to ensure that appropriate exclusions and deductions from income are applied.

* To be deducted, medical expenses must exceed 5% of MAPR, or \$676

** To be deducted, medical expenses must exceed 5% of MAPR, or \$886

Aid & Attendance/Housebound Benefits

Veterans who are eligible for a VA Non-Service Connected Pension (“VA Pension”) and require the **aid and attendance** of another person, or are **housebound**, may be eligible for an additional monetary payment. Note that this benefit is also available to surviving spouses of deceased veterans, but this fact sheet does not include information on those benefits.

The Aid & Attendance, Housebound, and Basic Pension are best understood as three tiers of the same program for low-income veterans:

- Tier 1: The VA Pension (also known as the VA Non-Service Connected Pension or VA Pension) is available to many low-income, disabled veterans (see page 90 for more information about the VA Pension).
- Tier 2: Housebound benefits are available to housebound veterans who also qualify for the VA Pension. This benefit provides an additional sum of money to the Basic Pension.
- Tier 3: Aid & Attendance benefits are available to veterans who require the aid and attendance of another person who also qualify for the VA Pension. This benefit provides an additional sum of money to the VA Pension that is greater than the housebound benefit.

Aid & Attendance/Housebound Status and VA Health Benefits

A veteran who is eligible for either Aid & Attendance or Housebound benefits is classified as “catastrophically disabled,” which automatically puts the veteran in Priority Group 5 and entitles them to VA health benefits without copayments (see page 39 for more information about VA copayments).

How to Apply

To apply for the Aid & Attendance/Housebound Improved Pension, you will need to complete VA Form 21-527EZ (“Application for VA Pension”); VA Form 21-2680 (“Examination for Housebound Status or Permanent Need for Regular Aid and Attendance”), which is completed by your physician; if applicable, VA Form 21-0779 (“Request for Nursing Home Information in Connection with Claim for Aid and Attendance”), to be completed by you and a nursing home official; and/or VA Form FV13 (“Care Provider Certification of Services”), which is completed by you and a care provider supervisor or facility administrator.

For more information, visit the VA Regional Office at 245 West Houston Street, New York, NY 10014, call 800-827-1000, or contact an attorney or Veterans Service Organization.

Caregivers' Resources

The VA has a number of resources available for veterans with disabilities and family members who are their caregivers. These resources are designed to help chronically ill or disabled veterans of any age remain in their homes. To find out if you are eligible, call the VA's Caregiver Support Line at (855) 260-3274 or visit www.caregiver.va.gov. Some of the resources available include:

- **Respite Care:** a service that pays for a person to come to a veteran's home or for a veteran to go to a program while their family caregiver takes a break
- **A Home Health Aide:** a trained person who can come to a veteran's home and help the veteran take care of themselves and their daily activities
- **Home Telehealth:** a service that allows the veteran's physician or nurse to monitor the veteran's medical condition remotely using home monitoring equipment
- **Adult Day Healthcare:** a program veterans can go to for social activities, peer support, companionship, and recreation

The VA Family Caregiver Program

As required by the 2018 VA MISSION Act, expansion of the Program of Comprehensive Assistance for Family Caregivers will begin when the VA has fully implemented a required information technology (IT) system and certifies this to Congress. The timeline for completion and the subsequent certification is in development. VA will provide updates on the MISSION Act Website at <https://missionact.va.gov/>.

Under the current regulations, only veterans who incurred or aggravated a serious injury in the line of duty on or after September 11, 2001 are eligible to apply.

Once the IT system is implemented, the expansion will occur in two phases, beginning with eligible veterans who incurred or aggravated a serious injury in the line of duty on or before May 7, 1975. The final phase is anticipated to begin two years later, for eligible veterans who incurred or aggravated a serious injury in the line of duty between May 7, 1975 and September 10, 2001.

In order to receive these benefits, the veteran's injuries must be a) serious enough to require another person (a Caregiver) to assist the veteran with the activities required in everyday living, and b) the injury must render the veteran in need of personal care services for a minimum of six continuous months based on a clinical determination (a few other conditions must be met as well). The Caregiver must be over 18, a relative (or live with the veteran full time), and undergo training to learn how to properly care for the veteran. To apply, visit www.caregiver.va.gov or contact the VA's Caregiver Support Line at (855) 260-3274. An approved Caregiver can receive:

- Training in providing personal care services to the veteran
- Ongoing technical support
- Counseling
- Lodging when accompanying the veteran to a VA facility
- Respite care not less than 30 days, including 24-hour per day care
- Mental health services
- Medical care
- A monthly stipend

VA Fiduciary Program for VA Benefits

What is the VA's Fiduciary Program?

If the VA concludes that you cannot handle your finances, then you may be appointed a fiduciary who will receive your service-connected disability benefits or non-service connected pension ("VA Pension") and make payments for you (rent, food, etc.) on your behalf. VA fiduciaries are only allowed to handle your VA benefits income, not any other benefits, money, or assets. The VA will only determine that an individual is unable to manage their financial affairs after receipt of medical documentation, or if a court of competent jurisdiction has already made the determination. You may also request a VA fiduciary if you do not feel that you are able to handle your finances by submitting your request, along with any supporting medical documentation, to the Regional Benefit Office at 245 West Houston Street, NY, NY 10014. For more information about the VA Fiduciary Program, call (888) 407-0144 (enter your area code to be connected to the New York Fiduciary Hub in Indianapolis).

Who can be a fiduciary?

The VA will appoint a fiduciary upon determining that a beneficiary is unable to manage their financial affairs. The fiduciary is normally chosen by the beneficiary, but must undergo an investigation of their suitability to serve. This investigation includes a criminal background check, review of credit report, personal interview, and recommendations of character references. When friends and family are not able to serve as fiduciaries, VA looks for qualified individuals or organizations to serve as a fiduciary. These organizations are authorized to charge up to 4% of the VA benefit amount for their services. For more information, call (888) 407-0144 (enter your area code to be connected to the New York Fiduciary Hub in Indianapolis).

What if the VA appoints a fiduciary but you do not believe you need one?

You can appeal the VA's determination that you need a fiduciary. To begin your appeal, write the VA a letter which states why you disagree with the decision and wish to appeal. This letter is called your "Notice of Disagreement" ("NOD"). Send your NOD to the address of your fiduciary hub—veterans living in New York should send their NOD to the Indianapolis Fiduciary Hub, PO Box 441480, Indianapolis, IN 46244. You may also submit any additional evidence in support of your appeal, such as a doctor's note which states that you are mentally competent to handle your affairs. You have one year from the date of the notification letter regarding the selection of your fiduciary to submit a Notice of Disagreement. It may be helpful to seek an attorney or Veterans Service Organization in making this appeal.

What should you do if you have concerns about your fiduciary?

If you have concerns about a VA-appointed fiduciary, notify the VA by calling (888) 407-0144 (enter your area code to be connected to the New York Fiduciary Hub in Indianapolis). You have the right to have a new fiduciary assigned to you at any time. If you believe that a fiduciary may be stealing from you, withholding money from you, or otherwise not handling your finances appropriately, or if the VA does not quickly replace a fiduciary you have requested to change, contact an attorney immediately.

Dependency and Indemnity Compensation

Dependency and Indemnity Compensation (“DIC”) is a tax free VA benefit paid to eligible survivors of veterans whose death resulted from a service-related injury or disease, or eligible survivors of military servicemembers who died in the line of duty.

Eligibility: Surviving Spouse

To qualify for DIC, a surviving spouse must have:

- Validly married the veteran before January 1, 1957; **or** been married to a servicemember who died on active duty, active duty for training, or inactive duty training; **or** married the veteran within 15 years of discharge from the period of military service in which the disease or injury that caused the veteran’s death began or was aggravated; **or** been married to the veteran for at least one year; **or** had a child with the veteran;
- **And** (all of the following) cohabited with the veteran continuously until the veteran's death or, if separated, was not at fault for the separation, **and** not be currently remarried (note: a surviving spouse who remarries on or after December 16, 2003, and on or after attaining age 57, is entitled to continue to receive DIC).

Eligibility: Surviving Child

To qualify for DIC, a surviving child must:

- Not be included on the surviving spouse’s DIC, **and** be unmarried, **and** be under age 18, or between the ages of 18 and 23 and attending school (note: a child adopted out of the veteran’s family may be eligible for DIC if all other eligibility criteria are met).

Evidence Required

To qualify for DIC benefits, evidence must be presented to show:

- The veteran died from an injury or disease deemed to be related to military service; **or** the servicemember died while on active duty, active duty for training, or inactive duty training; **or** the veteran died from a non service-related injury or disease, but was receiving, or was entitled to receive, VA Compensation for service-connected disability that was rated as totally disabling (a) for at least 10 years immediately before death, **or** (b) since the veteran’s release from active duty and for at least five years immediately preceding death, **or** (c) for at least one year before death if the veteran was a former prisoner of war who died after September 30, 1999.

How to Apply

Complete VA Form 21P-534 if the death was after service; if the death was in service, your Military Casualty Assistance Officer will assist you in completing VA Form 21P-534a. Visit the VA Regional Office at 245 West Houston Street, NY, NY 10014, call (800) 827-1000, or contact a Veterans Service Organization for more information.

Survivors Pension

The Survivors Pension benefit is a tax-free monetary benefit payable to a low-income, un-remarried surviving spouse and/or unmarried child(ren) of a deceased veteran with wartime service.

Who is eligible to receive Survivors Pension?

For service on or before September 7, 1980, the deceased veteran must have served at least 90 days of active military service, with at least one day during a war time period. For service beginning after September 7, 1980, the deceased veteran must have served at least 24 months or the full period for which called or ordered to active duty with at least one day during a war time period. The veteran also must have been discharged from service under other than dishonorable conditions. Survivors Pension is also based on your yearly family income, which must be less than the amount set by Congress to qualify, found at:

https://www.benefits.va.gov/PENSION/rates_survivor_pen09.asp.

While an un-remarried spouse is eligible at any age, a child of a deceased wartime Veteran must be either under 18 years of age, or under 23 years old if attending a VA-approved school, or permanently incapable of self-support due to a disability that began before age 18.

How to Apply

To apply for Survivors Pension, download and complete VA Form 21P-534EZ, “Application for DIC, Death Pension, and/or Accrued Benefits” and mail it to the Pension Management Center (PMC) that serves New York at: Department of Veterans Affairs, Claims Intake Center, Attention: Philadelphia Pension Center, P. O. Box 5206, Janesville, WI, 53547-5206. You may also visit the New York regional benefit office at Regional Benefit Office at 245 West Houston Street, NY, NY 10014 and turn in your application for processing.

Apportionment

Apportionment is a VA process by which a veteran's eligible dependent receives some of a veteran's benefits for the purpose of receiving support. When this occurs, the VA will take a certain amount of the veteran's VA compensation and give it to the person granted apportionment, reducing the monthly amount the veteran receives from the VA.

Who is eligible to receive an apportionment of a competent primary beneficiary's benefits?

- An estranged spouse and child
- Children in an estranged spouse's custody
- A child or children not living with the veteran and to whom the veteran is not reasonably contributing (e.g. child support), or
- A dependent parent (in compensation cases).

How does an eligible person file for apportionment?

To file for apportionment of the veteran's award, the veteran or person wishing to be paid must fill out the VA Form 21-0788, Information Regarding Apportionment of Beneficiary's Award.

What happens after the eligible person applies for apportionment?

When the VA receives a claim for apportionment of a veteran's benefits, the VA must gather evidence and decide whether to award the apportionment claim. The VA will only apportion a veteran's benefit if the person requesting the apportionment demonstrates a need for it, or if the veteran is failing to make payments to a family member such as through alimony or child support. The VA can also apportion a veteran's benefit if the veteran is incarcerated. Once the VA decides to award or deny the claim, the VA must notify the veteran as well as the person requesting apportionment, if other than the veteran.

Note: The VA's primary obligation is to the veteran. Even if the claimant demonstrates a need, the VA may not impose an undue hardship on the veteran.

If you are seeking apportionment, have been denied after seeking to have benefits apportioned, or believe your benefits are being improperly apportioned, contact an attorney.

How to Request Your VA and Military Records

In-Service Military Personnel and Medical Records

To request your Official Military Personnel File (“OMPF”), use form SF-180 and check both the medical records and DD 214 boxes. In the “Other” field, write: “My complete OMPF including all medical records, records of any disciplinary actions, and an undeleted copy of my DD 214 for administrative and/or legal proceedings. No extract.” Address the SF-180 to the address specified on the second page of the SF-180. Veterans discharged after 1997 may have access to an electronic version at www.vetrecs.archives.gov/VeteranRequest/home.html. You may request both an electronic and hard copy.

A request confirmation should be received within one month. To request a status update, visit <https://www.archives.gov/forms/st-louis/mpr-followup.html>. Sometimes inpatient medical records are not included. If the initial request fails to produce the medical records you need, submit NA FORM 13042, “Request for Information Needed to Locate Medical Records.”

Claim File (“C-File”)

A c-file is a record of a veteran’s past benefits claims with the VA. The c-file must be requested in cases where a clear and unmistakable error is alleged against the VA. It can also be helpful in cases where evidence that may be pertinent to another claim—like doctors’ letters or personal statements—have been lost but may have been part of a past claim.

Use VA form 3288 to request a c-file. On the VA form 3288 include language requesting “a complete copy of all VA claims records pertaining to myself.” Send the completed form to: Department of Veterans Affairs, Claims Intake Center, PO BOX 5235, Janesville, WI 53547-5235 or via fax to: (844) 822-5246. You may not receive confirmation of your request.

VA Medical Records

Use VA form 10-5345, and include language requesting your entire medical record, including all C&P exams and counseling records. You may request a CD copy rather than a paper copy. Mail the request to your VA Medical Facility’s Release of Information Office (see below). You can also hand-deliver to the ROI office.

James J. Peters VA Medical Center

Release of Information (Room 9A-37)
130 West Kingsbridge Road
Bronx, New York 10468
(718) 584-9000 ext. 5353

VA NY Harbor Healthcare (Manhattan)

Business Office, Release of Information
1st Floor, Room 1115AC
423 East 23rd Street
New York, NY 10010
212-686-7500 x3640

VA NY Harbor Healthcare (Brooklyn)

Business Office, Release of Information
1st Floor, Room 1-226
800 Poly Place
Brooklyn, NY 11209
718-836-6600 x3190

VA NY Harbor Healthcare (St. Albans)

Community Living Center
Business Office, Release of Information
179-00 Linden Blvd
Jamaica, NY 11425
718-526-1000

VA Medical Center Service Providers

Legal Assistance

New York Legal Assistance Group’s LegalHealth division provides free legal assistance to veterans through on-site legal clinics at the James J. Peters (Bronx) VA Medical Center and the New York Harbor Healthcare System (Manhattan Campus) VA Medical Center. These attorneys provide assistance with civil legal problems, including VA benefits, housing, family, Social Security, wills, and debt management issues. LegalHealth’s clinics are staffed by attorneys. Our ability to provide representation is based on different factors, depending on the legal issue. Unfortunately we cannot guarantee representation. If a LegalHealth attorney cannot assist you in a matter, they will assist you in finding someone who can. Appointments are required. Below is information on how to schedule an appointment with a LegalHealth attorney.

Call the Veterans Legal Intake Line: (212) 659-6199
Leave a message with your name, phone number, and a brief description of your legal matter.

Assistance Obtaining Benefits and Other Services

Single Stop brings a comprehensive, peer-based service to help veterans and their families in New York City. Single Stop helps veterans and their families access public benefits, VA benefits, jobs, housing, mental healthcare, education, and other services at one location. These services are not available every day at the VA, so call the contacts below for more information. All VA Medical Centers have a Veterans Justice Outreach coordinator whose job is to liaise with veterans involved in the criminal justice system.

Single Stop at New York-area VA Healthcare Facilities	
VA James J. Peters Bronx Medical Center Olga Padua (718) 584-9000 Ext. 5869	VA New York - Manhattan Campus Raquel Ogando (212) 686-7500 Ext. 5112
VA New York - Brooklyn Campus Jorlui Sillau (718) 836-6600 Ext. 4418	Jahida Powell (212) 686-7500 Ext. 5111

Veterans Justice Outreach at VA Medical Centers	
VA James J. Peters Bronx Medical Center Eddie Marcano (718) 584-9000 Ext. 2524	VA New York - Manhattan Campus Siobhan Dannacker (212) 686-7500 Ext. 4449
	VA Northport Medical Center Eric Bruno (631) 261-4400 Ext. 7167