Veterans Affairs Canada | Anciens Combattants Canada

Application to the Minister

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Purpose

The purpose of this policy is to provide guidance in regards to what constitutes an application for awards granted under the *Pension Act* (disability pension, attendance allowance, clothing allowance, exceptional incapacity allowance and prisoner of war compensation) and compensation granted under Part 3 of the *Veterans Well-being Act (VWA)* (pain and suffering compensation, additional pain and suffering compensation, clothing allowance, death benefit, detention benefit, and critical injury benefit).

Policy

General

1. Section 3 of the *Award Regulations* describes the type of information and documents that are essential for an applicant to provide in support of the application for an award under the *Pension Act* (disability pension, attendance allowance, clothing allowance, exceptional incapacity allowance and prisoner of war compensation).
2. Sections 48, 48.1, 49, 54.2, 55, and 60 of the *Veterans Well-being Regulations (VWR)* describe the type of information and documents that are essential for an applicant to provide in support of the application for compensation under Part 3 of the Veterans Well-being Act (pain and suffering compensation, additional pain and suffering compensation, clothing allowance, death benefit, detention benefit, and critical injury

benefit).

3. No benefit is payable unless a duly completed application – application form, plus other pertinent information including supporting documentation – has been made by or on behalf of the person and payment of the benefit is approved by the Minister, except where the Minister has waived the requirement to make application. See the Waiver of Requirement for Application policy.
4. Submission of the application form, although an important first step, is only one stage in the overall process of completing the applicant's claim, which also includes the submission of supporting documentation. The nature and type of supporting documentation that is required by the Department will vary depending on the benefit.
5. All applications must be signed by the applicant in order to be considered a valid application under the *Pension Act* or under the *Veterans Well-being Act*. Applications which have been signed electronically in accordance with the *Secure Electronic Signature Regulations* are also acceptable.
6. A completed departmental application form is preferred as it contains not only basic information but also the required statutory declaration. Letters may be acceptable in lieu of an application form as long as they include necessary information and are accompanied by a signed affidavit or declaration attesting to the truth of the information provided.
7. Applications may be delivered to the Department in person, by mail, fax (a faxed application must be followed by the original signed application) or online. The date the application form, or letter in lieu of the form, is received by the Department, or the date of initial contact with the Department, if earlier, will normally constitute the date of application as long as all the other requirements are met and the supporting documents have been received by the Department within a reasonable period of time.
8. In cases where the applicant initiates an application through a representative of an external agency or organization, the date of application will be the date the Department receives the application form, or letter in lieu of the form, or initial notice.

Exceptions to Applicant's Signature

9. Based on the circumstances of a particular case, the requirement for an applicant to sign the application may not always be reasonable. Where this is the case, the Department requires signature by a duly appointed legal representative (paragraph 12).
10. In circumstances where the applicant signs the application with an "X", the issue may be whether or not they understood the nature and effect/contents of the document that they were signing. Consequently, their signature should be witnessed in writing, and the Department should be satisfied that the applicant appeared to understand the contents of the application.

Third Parties and Legal Representatives

11. The applicant, or a third party on the applicant's behalf, is generally required to submit the appropriate application form, and should be advised that it is in their interest to complete the form as fully as possible.
12. A third party is generally a "legal representative" which is an individual appointed as attorney or committee by way of a power of attorney or court order, or alternatively, the Public Trustee.
13. An individual purporting to be a legal representative must be willing to provide evidence of qualification as a legal representative according to established legal standards, including any applicable legislation.
14. In the case of an application for a disability pension under the *Pension Act*, a legal representative may also include the Department, when it assumes the role of Administrator, or a Third Party Administrator appointed by the Department under paragraph 41(1)(a) of the *Pension Act*.
15. In the case of an application for compensation under the *Veterans Well-being Act*, neither the Veterans Well-being Act nor the *Veterans Well-being Regulations* authorize the Minister to appoint a third party

administrator or to authorize departmental administration.

16. If an individual whose affairs are being administered by the Department or a third party administrator appointed under the *Pension Act* wishes to apply for compensation under the *Veterans Well-being Act*, the administrator must be the individual's legal representative as defined in paragraph 12 before he/she can make an application on the individual's behalf under the *Veterans Well-being Act*.
17. An application may not be signed by a departmental employee on behalf of the applicant, unless the employee is the applicant's appointed legal representative.

Disability Pension (Pension Act) & Pain and Suffering Compensation (VWA)

18. Applications for disability pension and pain and suffering compensation must be accompanied by supporting documentation that provides information about the member's or veteran's injury or disease, including a diagnosis of a medical condition, and evidence of a permanent disability.
19. The date of application for the disability pension and pain and suffering compensation will be the date the application form is received (whether submitted electronically, delivered in person, or faxed) or the date of postmark if sent by mail, or the date of initial contact if earlier. For the pain and suffering compensation, the application date cannot predate April 1, 2019. All supporting documents must be received within a reasonable period of time in order to preserve the date of application.

Disability Pension - Additional Pension

20. An application for disability pension is deemed to be an application for additional pension when the disability pension application includes information on eligible dependents.
21. It is the duty of the pensioner to notify the Department of his/her marriage or common-law relationship, or dependent children. Notification thereof constitutes an application for additional pension.

Disability Pension, Pain and Suffering Compensation, and/or Death Benefit - Survivor or Dependent Child

22. An application for disability benefits (disability pension and pain and suffering compensation) and/or death benefit by a survivor or a dependent child shall include:
    - Medical reports or other records that document the member's or Veteran's injury, disease, diagnosis, disability, increase in disability (disability pension or pain and suffering compensation);
    - Copy of the death certificate of the member or Veteran; and
    - Medical reports or other records that document the cause of death of the member or Veteran.
23. The following are examples of medical reports or other records which may be accepted for purposes of documenting the member's or Veteran's cause of death:
    - death certificate
    - casualty notification
    - autopsy report
    - hospital discharge summary
24. In the case of an application for pain and suffering compensation or death benefit, the application shall also include a statement regarding all known beneficiaries, including the applicant's own identity.
25. Survivors and dependent children cannot apply for pain and suffering compensation for a condition for which they received the death benefit.
26. In circumstances where, prior to death, the member or Veteran signed and submitted to the Department an application for disability benefits (with the exception of the critical injury benefit and the additional pain and suffering compensation) including supporting documentation, the Department did not render a

decision prior to the member's or Veteran's death, and there is a survivor and/or dependent child of the member or Veteran, the Department will continue to adjudicate the claim based on the member's or Veteran's application. It is not necessary for the survivor and/or dependent child to submit a new application for benefits.

27. Survivors and surviving dependent children are not eligible to apply for and/or be paid the Additional Pain and Suffering Compensation or Critical Injury Benefit on behalf of a deceased member or Veteran.

Additional Pain and Suffering Compensation (VWA)

28. Applications for the Additional Pain and Suffering Compensation (APSC) and for an increase in the APSC grade level must be made in writing by the member/Veteran or the member's/Veteran's legal representative and shall include:
    - a complete and signed approved departmental application form(s), which contains a declaration attesting to the truth of the information provided.
    - medical reports or other records which document the disability creating the permanent and severe impairment and the barrier to re-establishment (if the department does not already have this information on file); and
    - at the request of the Department, other information that is necessary to determine eligibility and grade level.
29. Where possible, existing information on file should be utilized.
30. The date of application for the Additional Pain and Suffering Compensation will be the date the application form is received (whether submitted electronically, delivered in person, or faxed) or the date of postmark if sent by mail, or the date of initial contact if earlier. All supporting documents must be received within a reasonable period of time in order to preserve the date of application.

Attendance Allowance (Pension Act)

31. A pensioner may contact a representative of the Department to make an application for attendance allowance (including by facsimile or a telephone call followed by a signed application). The date of this contact will constitute the date of application. If the application is being prepared by a representative, the date the application is received or date stamped by the Department will constitute the date of application.
32. If the pensioner dies before submitting an application for attendance allowance, the Department is not authorized to accept an application from the pensioner's survivor or dependent children.
33. Where a pensioner who has applied for attendance allowance dies before such allowance is awarded to him/her, the application shall, if the pensioner is survived by a dependent be proceeded with and determined in the same manner as if the pensioner had not died. If the pensioner is not survived by an eligible dependent, the claim is discontinued; it is not payable to his/her estate.
34. Applications for reassessment of attendance allowance do not need to be signed by the pensioner.
35. A pensioner whose claim was denied on the basis that the eligibility criteria were not met may reapply to the Department when the criteria have changed.

Clothing Allowance

36. A member or Veteran may contact a representative of the Department to make an application for clothing allowance (including by facsimile or a telephone call followed by a signed application). The date of this contact will constitute the date of application. If the application is being prepared by a representative, the date the application is received or date stamped by the Department will constitute the date of application.

37. Where a member or Veteran, who has applied for clothing allowance under the *Pension Act*, dies before such allowance is awarded to him/her, the application shall, if the pensioner is survived by a dependent – survivor or child – be proceeded with and determined in the same manner as if the pensioner had not died. If the pensioner is not survived by an eligible dependent, the claim is discontinued; it is not payable to his/her estate.
38. Under the *Veterans Well-being Act*, the clothing allowance is only payable to a member or Veteran. Where a member or Veteran, who has applied for clothing allowance under the *Veterans Well-being Act*, dies before such allowance is awarded to him/her, the application shall be discontinued. It will not be payable to the survivor, orphans or the estate.
39. Neither the *Pension Act* nor the *Veterans Well-being Act* permit survivors, dependent children or orphans of a member or Veteran, who has died without having applied for clothing allowance, to apply for such allowance.
40. A pensioner whose claim was denied on the basis that the eligibility criteria were not met may reapply to the Department when the criteria have changed.

Exceptional Incapacity Allowance (EIA) (Pension Act)

41. A pensioner may initiate an application with any representative of the Department either in writing, by facsimile, by a personal visit or by telephone.
42. The Department will take reasonable steps to notify a pensioner of his or her right to apply for EIA at such time as he or she becomes a Class 1 pensioner or equivalent, through the aggregate of the percentages payable in relation to the extent of the disability for which the pension is paid, and the percentage of basic pension for which prisoner of war compensation is paid or the extent of the disability for which a disability award or pain and suffering compensation is paid.
43. If the pensioner dies before submitting an application for EIA, the Department is not authorized to accept an application from the pensioner's survivor or dependent children.
44. Where a pensioner who has applied for EIA dies before such allowance is awarded to him/her, the application shall, if the pensioner is survived by a dependent be proceeded with and determined in the same manner as if the pensioner had not died. If the pensioner is not survived by an eligible dependent, the claim is discontinued; it is not payable to his/her estate.
    - A pensioner whose claim was denied on the basis that the eligibility criteria were not met may reapply to the Department when the criteria have changed.
45. A Veteran who is receiving the Exceptional Incapacity Allowance (EIA) under the *Pension Act* is not eligible to be paid the APSC.
46. If a Veteran was previously in receipt of the EIA, but is no longer in receipt at the time of the APSC application, the Veteran may be eligible for the APSC.
47. A Veteran who is receiving the APSC is not eligible to be paid the EIA.
48. If a Veteran is not receiving the APSC and applies for the EIA, the following rules apply:
    - The Department must first determine whether the Veteran is eligible for the APSC.
    - If the Veteran meets all of the eligibility criteria for the APSC, the Veteran will be given APSC. The EIA application will be deemed to be an APSC application, and the decision will be deemed to be made under the *Veterans Well-being Act*.
    - If the Department determines that the Veteran is not eligible for the APSC, the EIA application will continue under the *Pension Act*. If all other EIA criteria are met, the Veteran will be given EIA.
49. If a CAF member applies for the EIA (even if they received a preemptive favourable APSC decision under section 75.2 of the *Veterans Well-being Act*), the following rules apply:
    - The Department shall find the member to be ineligible for APSC, as members are not eligible for APSC.

- The remaining APSC eligibility criteria need not be considered.
- The member's EIA application will continue under the *Pension Act*. If all other EIA criteria are met, the member will be given EIA (and any APSC decision under section 75.2 would be withdrawn.)

Financial Advice (VWA)

50. A person who has obtained financial advice in relation to any disability award (if assessed at 5% or greater), pain and suffering compensation (if assessed at 5% or greater), critical injury benefit, or death or detention benefit received under the *Veterans Well-being Act* must, within 12 months of the date of decision awarding payment of the benefit or award, apply in writing to the Department for the payment or reimbursement of fees incurred or expended in obtaining that financial advice.
51. If the application is for the payment of fees incurred, it must be accompanied by an invoice containing the name and address of the financial adviser, and the amount of the fee charged.
52. If the application is for the reimbursement of fees expended, it must be accompanied by both an invoice as indicated above and proof of payment, e.g. cancelled cheque, receipt, etc. For more information, see the "Reimbursement of Fees for Financial Advice" policy.

Critical Injury Benefit (VWA)

53. The Department may waive the requirement to make application for the Critical Injury Benefit if the Department has sufficient information to establish that the member or Veteran meets the eligibility criteria.
54. On application, the member or Veteran must submit evidence that, after March 31, 2006, they sustained one or more severe and traumatic injuries, or developed an acute disease, which:
    - was service-related injury or disease;
    - was the result of a sudden and single incident; and
    - caused immediate severe impairment and severe interference in their quality of life.

References

Award Regulations, section 3

Pension Act, sections 41, 48, 49, 56, and 80; subsections 72(1.1) and 81(1)

Secure Electronic Signature Regulations

Veterans Well-being Act, Part 3; subsection 76(1)

Veterans Well-being Regulations, sections 48, 48.1, 49, 54.2, 55, 60 and 62