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## Veterans Disability Compensation

Disability Compensation is a monetary monthly benefit paid to veterans who are disabled by an injury or illness that was incurred or aggravated during active military service. Disability compensation varies with the degree of disability and the number of the veteran's dependants. In general, veterans are entitled to disability compensation if:

1. They were discharged or released from service under conditions **other than dishonorable**;
2. Their disease or injury was **incurred or aggravated** in the line of duty; and
3. The disability is not the result of their **own willful misuse** or abuse of drugs or alcohol.

Disability **compensation benefits are not "needs based"** and therefore neither eligibility for compensation nor the amount of monthly compensation received are affected by other income received nor property owned by the veteran.

**Other than Honorable:** There are essentially five types of discharge issued by the military services. Those veterans with (1) honorable discharges or (2) discharges under honorable conditions are usually eligible for compensation payments. Veterans with (3) bad conduct discharges and (4) discharges under less than honorable conditions may be ineligible depending upon the particular fact involved in the discharge. Veterans with a (5) dishonorable discharge are usually ineligible for compensation payments.

**In the Line of Duty:** This phrase means that an injury or disease must be incurred or aggravated during a period of active service. The VA and the courts have long held that "in the line of duty" covers **anything** that occurred during the period that began with induction into the military service and ending with discharge. There is no requirement of a connection between the medical condition and performance of military duties; only a time based connection between the medical condition and the period of military service.

**Disability:** To be entitled to compensation the veteran must prove that he or she has a current disability and that the disability is the result of something that happened while they were in service. The disease, injury or event does not have to be directly related to military service as long as it happened during their period of service. If a veteran had a disease or injury prior to joining the military, the veteran may still be entitled to service related compensation payments if the preexisting condition was aggravated during military service.

**Service Connection:** There are a number of ways to prove that there is a linkage between a current disability and an event, injury or disease that occurred during military service. In addition, certain veterans are eligible for compensation payments based on an assumption that their disability is service connected. These include veterans who have been exposed to Agent Orange or other pesticides, exposed to radiation, suffer from certain tropical diseases and Gulf War veterans who have certain chronic unexplained disabilities.



**Willful Misconduct:** This phrase means “an act involving conscious wrongdoing or known prohibited action”.

**Alcohol and Drug Abuse:** There are a variety of specific regulations which address the effect of alcoholism and drug abuse on eligibility for pension benefits. **Alcohol and/or drug abuse which is secondary to a service-connected medical condition may not be exclusion to the receipt of compensation payments.**

**Rate of Compensation Payments:** Once a service related connection is established, the VA will assign a disability rating to the disease or illness. The current compensation rates of payments are:

<b>Veteran’s Disability Rating</b>	<b>Monthly Payment</b>
<b>10%</b>	<b>\$117</b>
<b>20%</b>	<b>\$230</b>
<b>30%</b>	<b>\$356</b>
<b>40%</b>	<b>\$512</b>
<b>50%</b>	<b>\$728</b>
<b>60%</b>	<b>\$921</b>
<b>70%</b>	<b>\$1,161</b>
<b>80%</b>	<b>\$1,349</b>
<b>90%</b>	<b>\$1,517</b>
<b>100%</b>	<b>\$2,527</b>

These rates may be higher if the veteran is eligible for combat related special compensation. The VA’s assignment of a disability rating may be challenged if the veteran believes the rate has been set lower than warranted by the disability. In addition, **a total disability rating may be assigned where a veteran who fails to meet the scheduled rating percentage is nevertheless unable to secure a substantially gainful occupation. This is called total disability rating based on individual unemployability (TDIC).** A determination of a particular veteran’s eligibility for TDIC is considered within the context of a veteran’s capabilities regardless of whether an average person could be considered employable under the same circumstances.

### **About Lawyers for Equal Justice**

Lawyers for Equal Justice (LEJ) was created in 2003 as a non profit, 501(c)(3) law firm that would focus on advocating on behalf of low income individuals and families in Hawai`i on civil legal issues of statewide importance. Initial funding to support LEJ’s vision came from a two year grant of \$55,000 from the Hawaii Community Foundation’s Capacity Building Grant process.

LEJ’s core mission is to help our clients gain access to the resources, services and fair treatment that they need to realize their opportunities for self achievement and economic security. Central to our mission are the core values held by most people in Hawai`i, such as fairness, opportunity, community, partnership, responsibility and ensuring equal access to justice for low-income residents in Hawai`i.

LEJ staff can be a strong advocate for veterans trying to access a variety of Veterans Administration benefits available to support their housing, training, health and income needs as they struggle to regain control of their lives during times of crisis. **Contact us on Oahu at 808 587 7605.**