

H.R. 3834: Protecting Veterans Claim Options Act (Chairman Bost)

Courtesy of the House Committee on Veterans' Affairs Majority Staff

HOUSE COMMITTEE ON
VETERANS' AFFAIRS
CHAIRMAN MIKE BOST

BACKGROUND:

When the Department of Veterans Affairs (VA) Veterans Benefits Administration (VBA) denies a veteran's claim for VA benefits, the veteran can continue their pursuit of their claim by filing one of three appeals options within one year of the unfavorable decision. One of those options, the "supplemental claim," requires the veteran to submit "new and relevant" evidence (under current law). This is required even when the veteran files their supplemental claim within the current one-year window of receiving VBA's denial. Often, VBA claims processors decide (even incorrectly) that the veteran did not submit sufficient "new and relevant" evidence with their timely supplemental claim. Thus, this process creates an unnecessary hoop for veterans: they are required to convince VA that their additional evidence is "new and relevant" before VA will issue a new decision on the actual merits their claim, which can add months or years of waiting to the process. Further, when VBA decides the veteran's additional evidence was not "new and relevant," veterans then have the option to file, within one year, an appeal to the VA Board of Veterans' Appeals (Board) to have the Board decide whether to grant their VA benefits claim. However, under current law, if the Board agrees with VBA that the veteran did not submit enough "new and relevant" evidence with their supplemental claim, the Board refuses to even reconsider whether a veteran's claim for VA benefits should be granted, despite the fact that the veteran continued their pursuit of their claim in a timely way. Thus, for veterans and their families, the "supplemental claim" option does not serve as an effective option to appeal a denial of a claim – rather, it is a trap for veterans.

If the Board denies a veteran's claim on appeal, veterans have the option to appeal that Board decision to the U.S. Court of Appeals for Veterans Claims (Court), a federal court separate from VA. When the Court finds the Board made a legal error in a decision, the Court most often remands (sends back) the case to the Board to issue a brand-new decision and fix the error. When Congress reformed the appeals process under the *Veterans Appeals Improvement and Modernization Act of 2017* [Pub. L. 115-55], it became unclear whether a veteran was allowed to submit additional evidence to the Board after a Court remand. However, often after receiving a Board decision, and during the Court process, veterans learn for the first time exactly what evidence they need to submit to succeed in their claim for VA benefits. As a result of the AMA, veterans cannot act on that information and cannot submit additional evidence to support their claim.

BILL SUMMARY:

The *Protecting Veterans Claim Options Act* would clarify that the Board must make a decision on the merits of a veteran's claim regardless of whether they submitted "new and relevant" evidence with a timely filed supplemental claim. The bill would also clarify that veterans may submit additional evidence to the Board after the Court remands their case back to the Board.

THE MESSAGE:

- The *Protecting Veterans Claim Options Act* would close a loophole in the law that prevents veterans from ever receiving a final decision on their claims for VA benefits.
- The *Protecting Veterans Claim Options Act* would ensure that each step in the veterans' claims and appeals process works for veterans – not bureaucratic paperwork.