

Postings for VBS Appeals

#1. Nothing starts off the veteran's appeals section like talking football! When it comes to appeals, I look at it like a triple option offense. See when it comes to a successful triple option offense (see Navy football program) the quarterback can either hand the ball off to his fullback, fake to the fullback and run the ball himself, or fake to the fullback, then keep the ball for himself, and then pitch the ball to the slot back that is trailing behind him if needed. Now appeals work in a similar fashion because you can either A. File a NOD or Notice of Disagreement. B. File for a De Novo Review with a DRO which is a Decision Review Officer (to take another look at your claims). C. File a formal appeal to the BVA which is to the Board of Veterans Appeals.

#2. Before deciding which type of appeal to take it really helps to try and figure out first why your claims were denied in the first place, because that often dictates which route you will want to take. I say this because as part of the Veterans Claims Act of 2000, AKA the VA's "Duty to Assist" law, the VA must now say in plain English not only why your claim was denied but also why your claims received the ratings percentage that you received and what constitutes a higher rating as well. Now many times it's extremely obvious that an error has occurred, what the error was, and that they completely overlooked some of the evidence. In which case, a NOD or Notice of Disagreement is usually the fastest way to go. I say this because of the 3 options this is essentially the quickest, especially if it's a pretty straight forward error that's occurred.

#3. When filing a "Notice of Disagreement" more commonly referred to as a (NOD) with the VA, it really helps to read over the denial letter with a fine toothed comb first before deciding on taking that route in the first place. I say this because all a NOD does is it gets the VA to go back over your claim again (with no new information) to make sure that they made the correct decision. Which is why in many instances these are not always helpful because if they say "No" then you use a NOD to ask them again without anything new or pertinent, then chances are it will be "No" again! Now on the other hand if say in the (Evidence) section of your denial letter, you notice that they didn't list important information that could be helpful to your claims, or that they omitted or overlooked evidence on the first go around, then by filing a NOD pointing out what was overlooked it could get them to overturn their previous decision by simply using a NOD, which takes the least amount of time.

#4. I like to use Notice of Disagreements (NOD's) especially when there is what's referred to as a (CUE) or "Clear Unmistakable Error" that has happened within the veteran's claim that's caused the denial. Especially when the error is obvious and easy to point out, to the employees at the Regional Office that is the ideal candidate for a NOD. Also in many instances if they, failed to even acknowledge viewing certain evidence within the "How we came to our decision" section. I say this because oftentimes when it's a more complex case you will more than likely want to go straight to a DRO which we will be discussing here shortly.

#5. When filing a Notice of Disagreement (NOD) with the Regional Office there is something that you will always want to be aware of which I often refer to as the "SOC HOLE." The SOC Hole is when you get chased down a rabbit hole going back and forth with the Regional Office filing NOD's and they respond back with another "Statement of the Case" or (SOC) then you end up responding back with another NOD, only to get another SOC again. This can turn into a ping pong game going back and forth with the Regional Office without yielding any results, and each time you file another NOD you can pretty much add another year for the Regional Office to respond back. Which is why it can oftentimes, be a better idea to go for appeal option #2. Which, we will be discussing in the upcoming postings.

#6. Over the last few days I have had several veterans contacting me, asking how they go about filing a Notice of Disagreement (NOD). The way, I prefer veterans to do this is first sit down and troubleshoot where the error happened within their claims to begin with. See by reading your denial letter carefully the answer usually will present itself. At that point write down a few notes on things that were errors or were overlooked, then type up a letter that begins with: I, (state your name, DOB, Social) do hereby submit this letter as my Notice of Disagreement based on A, B, C and begin listing out your reasoning as to why you disagree with the decision that's been made in your claims. Now oftentimes if you have multiple injuries, you may wish to appeal some but not all of the decisions the Regional Office made. In these cases you will want to state which decisions you're challenging and which ones you're not. Then once completed you will want to sign the NOD, and submit it through your VSO/County Benefits Coordinator and have them look it over, make adjustments and to create a chain of custody for the NOD. Also you will want to make sure that you sign and date the NOD as well.

#7. From the time that the VA sends you a denial letter for your disability compensation claims you have 1 year to file a Notice of Disagreement (NOD). If that time period lapses then you would have to file a brand new claim at that point, but most NOD's are typically filed within the first 30 days or so. I like to bring this up because years ago when I went through my issues, the VA originally rated me at 60% which I thought was fair so I didn't challenge anything seeing as when I got out of service I enrolled into college and went to work. It wasn't until a few years later that I woke up one morning in an ICU ward paralyzed again that my circumstances had drastically changed from having GBS Guillain Barre Syndrome a second time, hence I was no longer 60% disabled anymore, at which point I had to begin the process over again based on the increased level of severity, which is why I stress this point that it can happen.

#8. The second option that you have is to file for what is called a "De Novo Review" with a Decision Review Officer more commonly known as a (DRO). "De Novo" is the Latin expression for "From the beginning or anew" which to the VA means that they will take another look at your claims which were denied with a fresh set of eyes using a Decision Review Officer that typically has more experience than the rater that denied your claims originally. Although this option does take longer than a NOD, it oftentimes can be a far more effective way of getting your decision overturned without having to go to the BVA which takes much longer!

#9. When requesting a "De Novo Review" with a Decision Review Officer (DRO), the first thing that I like to do is use this to request a "De Novo hearing" as part of the review process. This allows you the opportunity to speak directly with the DRO at the Regional Office. This can oftentimes allow you the opportunity to clear up any questions the DRO may have and it can give you the opportunity to state your case as well to a live human being that will be making a decision on your claims.

#10. While the Decision Review Officer (DRO) does have all of your records in front of them, it really helps to request a De Novo hearing as part of the De Novo Review process. I say this because if done correctly it can accomplish one of a few things. First and foremost it can allow you to state your case to them in person, which if you really buckle down and study your records ahead of the hearing you can talk knowledgeably about your injuries and how they impact your daily life. For example: On August 13, 1992 I was injured, I was seen and treated in medical for this condition. Then after an extended hospital stay filled

with physical therapy with Lieutenant Guzman, and under the care of my Neurologist named Commander Crapin, I was medically boarded and eventually medically discharged for the same condition. Since that time I have been seen 87 times over the course of 21 years and it's gotten progressively worse since it began which is well documented. Then bring up the doctors notes, and if you have any secondary conditions that stem from the original injury you can stress that as well. In other words, it allows you to point everything out to them. Additionally this can cause the DRO to order additional testing as well which I have seen happen on numerous occasions. Also if you feel that the DRO just isn't, understanding this can be an indicator that your case may be headed to the BVA, which we will discuss shortly!

#11. When it comes to De Novo Review hearings with the DRO, it's all about preparation. One thing that I always found that was helpful when I prepared for any type of hearing, whether it be with a VA or Social Security judge was doing mock hearings in my head over and over again, and eventually with a loved one. I would try and find easier ways to explain the situation, and to put it into terms that anyone could understand. I say this because my medical conditions are pretty rare, and complex at the same time, so knowing my illnesses as I do, I realized that what is common knowledge to me, may not be common knowledge to the next person. A very intelligent doctor once told me that your average medical professional has never seen a single case of GBS Alan, therefore when your explaining it, try and find ways to explain it that they will understand. I have since always used that advice in my explanations of my disabilities!

#12. Oftentimes when veterans are going through De Novo Reviews, they have multiple injuries which are actually by product injuries from the original injury which was caused by their military service. For example: In my personal case, I went into the hospital because of Guillain Barre Syndrome. After a considerable amount of time being immobile during my hospitalizations and chronically ill, I started showing signs of Rheumatoid Arthritis. After being tested it turns out that I did have Rheumatoid which the doctors felt was caused by the other medical problems, which caused me to now have to take a chemo medication for that. The chemo drug; then caused numerous complications such as extreme weight loss and ultimately gangrene in my intestines which were all byproducts of the original illness. My point being is that oftentimes it takes having to sit down with the Decision Review Officer during the De Novo Review hearing to explain everything and connect the dots so that they can follow the tea leaves to

understand how all of your illnesses and injuries are interconnected while at the same time service connected.

#13. After your De Novo Review hearing it's pretty much just a waiting game to hear back from the Decision Review Officer (DRO). That is unless the DRO requests additional Compensation & Pension exams when your medically documented issues are in conflict. I mention this because over the years I have seen numerous veterans request and receive additional C&P exams through the DRO to counteract previous examination results.

#14. If the Decision Review Officer (DRO) requests additional Compensation & Pension Exams (C&P) after your De Novo Review hearing that can be a great opportunity to get back into the C&P examiner's office, if you had a really bad C&P exam initially which caused your denial in the first place. I mention this because oftentimes veterans hurt their claims in the early stages or prior to finding "Veterans Benefits Support" and they end up having more C&P exams as part of their De Novo review process which they can properly prepare for, on the second go around!

#15. Oftentimes when veterans first begin to file claims they make numerous mistakes and errors. As I have mentioned numerous times in the past: "While C&P exams can be extremely frustrating and difficult to go through, I never pass on any opportunity to state your case to someone that has the power to make a decision." Now while I do understand that the raters and DRO's make the actual decisions on your claims, they weigh their decisions heavily on what the C&P examiners have said regarding your injuries. Which is why having an additional round of C&P exams can often be helpful, especially when you have properly prepared for them seeing as you now know what to expect!

#16. Once your De Novo Review hearing is over and any possible C&P exams which they may have scheduled have passed it becomes a waiting game to see if you will either win or if you will receive another SSOC which is a Supplemental Statement of the Case. If you receive a SSOC then it starts to become apparent that your appeals are more than likely going to head to the BVA which is the "Board of Veterans Appeals" which is in Washington DC. I say this because at this point it starts to become apparent that the VA Regional Office is what I like to call "Entrenched in a bad Ideology" at this point and they are unlikely to change their decision.

#17. If you receive a Supplemental Statement of the Case often referred to as an (SSOC) as a response to your De Novo Review this will tell you why the VA Regional Office is continuing to deny your claims. I mention this because as I pointed out previously they oftentimes become "Entrenched in a bad ideology" which means they more than likely have no intentions of changing their decision which is why these appeals usually end up going to the Board of Veterans Appeals, which is often referred to as the (BVA). In the coming days we will be breaking down the BVA and how that works and all the pros and cons of having your appeals heard there!

#18. The main reason why it can be beneficial to take your appeal to the Board of Veterans Appeals (BVA) is that it takes your appeal out of the hands of the Regional Office which to this point was decided by VA Raters and Decision Review Officers (which are administrative workers), and it places your appeal in the hands of lawyers and judges which simply look at the law and how your conditions fit with the applicable laws.

#19. 96.1% of all appeals to the Board of Veterans Appeals were for VA disability compensation in 2012. Each year on average over 95% of all appeals, are for compensation for service connected medical conditions. When you factor in that only leaves the other 3.9% for everything else which includes Burial Benefits, Education Benefits, Insurance, Home Loan Guaranty Program, Medical, Pension, VR&E, Other Programs, BVA Original Jurisdiction, NCA Burial Benefits, and Multiple Program Areas that's not a lot left to go around for everything else!

#20. The reason that 96.1% of appeals are over VA disability compensation is because most other veterans benefits issue are pretty cut and dry. I say this because when it comes down to it there are 2 major factors that it takes to win a disability compensation claim.

A. You have to establish that a service connection exists, which at times can be very difficult for numerous reasons such as: A. The NPRC fire of 1973. B. Records were lost. C. The injury wasn't reported in service. D. The government hasn't accepted that your illness was caused by service. E. VA employees improperly document your injuries and the severity of them. You get my point.

B. You have to prove SEVERITY. I mention this because it's a difficult thing to try and put a number on any injury or illness. After all you get to live with this injury each and every day. Therefore when the VA puts a number on it, you feel slighted because it's hard to properly reflect what you go through each day.

Hence why many times veterans end up appealing because, they feel that the percentage is to low.

#21. To file an appeal to the Board of Veterans Appeals (BVA), you have to use a "VA Form 9" which you can view by clicking on the link below. Now before you begin filing your form 9, I would suggest that you read all of the coming postings because there will be quite a bit of information about the appeals process. Also make sure that you pay close attention to Box #8, which will help you pick which type of hearing that you would like. Also you will want to outline the basis of your appeal with specific information as to why they decided things incorrectly in block #10. <http://www.va.gov/vaforms/va/pdf/VA9.pdf>

#22. I have always had a really simple philosophy when it comes to claims and appeals with the VA. "Never pass on any opportunity to get in front of any person that has the power to make a decision on your claims!" I mention this because when appealing to the BVA, you have the opportunity to have a hearing which can be vital in having your voice heard. While traveling to the BVA in Washington DC is not in the cards for most veterans because of travel costs, you can either request a video conference hearing which is the easiest way to have the hearing, because you end up traveling to the Regional Office and they stay in Washington DC. Or you can ask for a travel board hearing in which the BVA judge travels to the Regional Office which often takes considerably longer because of the fact that they only travel to the Regional Offices every so often because of the costs the VA incurs.

#23. The Board of Veterans Appeals (BVA) was established in 1933 as a way to take a veterans appeal out of the hands of the Regional Office and their office administrators and puts it into the hands of lawyers instead. While I do like the concept of doing this because many-times you need it handled by lawyers that simply interpret how your situation applies to the law, versus how a rater or DRO often become entrenched in a bad ideology. The bad part is how long it takes. These next few postings are going to look specifically at the numbers behind the BVA which will give everyone an idea of how and why the BVA's backlog is the way that it is!

#24. Question: How long do you think was the national average time in 2012 that it took to receive a "Statement of the Case" (SOC) from the time that you filed a "Notice of Disagreement" NOD?

#25. Answer: The national average in 2012 for the amount of time that it took from the time that a veteran files a Notice of Disagreement to the time they receive a Statement of the Case was 270 days on average. While this number may be a bit skewed because in places such as California, Texas and Florida it takes far longer than say North or South Dakota, that's why they call it an average. The important thing is the number though because its 270 days which, is far lower than taking it to the BVA, which is where the next postings are headed.

#26. While in 2012 the national average for the time to receive a Statement of the Case from a Notice of Disagreement was 270 days, it takes considerably longer to have an appeal heard at the Board of Veterans Appeals (BVA). In 2012 the average wait time from the time that you filed a VA Form 9 to the time that you received a decision from the BVA was 1,040 days. That's just shy of 3 years!

#27. The word that absolutely makes me cringe when a veteran is going through an appeal to the BVA is the word "REMANDED!" I say this because while the average appeal in 2012 took 1,040 days when it gets REMANDED back to the Regional Office for various reasons such as needing more work, more exams, if paperwork was done incorrectly, etc. that adds another 445 days on average onto your appeal time. Which raises you appeals time up to 1,485 days on average from the time that you filed your VA Form 9 until the time the BVA makes a decision on your appeals. Which raises, your appeal time to just over 4 years!

#28. Questions: What percentage of appeals to the Board of Veterans Appeals (BVA) do you think get REMANDED back to the Regional Office each year?

#29. Answer: 45.8% of all appeals in 2012 were remanded back to the VA Regional Offices for more work. I mention this because in essence 45.8% of appeals have an extra 445 days added onto their appeals time because they are done incorrectly. Therefore the BVA refuses to hear and settle the case! When you factor in that there are only 4 possible options which are Approved/Denied/Remanded/Other that's close to half of all decisions end up just being to remand it back to the Regional Office for more work!

#30. I often see veterans here at "Veterans Benefits Support" trying to tell everyone to (JUST HIRE AN ATTORNEY) for their appeals. Please allow me to respond to this using statistical data: In 2012 attorneys won 30.1% of appeals

versus the national average which was only 28.4% which is a bit higher than the national averages. I would also point out though that in 2012 there were 3 Veteran Service Organizations that had a higher winning percentage though which are each free of charge to use. These would be MOPH at 34.4%, AMVETS at 32% and VFW at 30.7%. When it comes to being denied, attorneys did have the lowest percentage denied at 15.7% versus the national average which is 22.5%. I would also point out though that attorneys and agents (which you typically pay both) have another statistical category though that they win in the percentage battle as well? It's called REMANDED, in which attorneys have 51.6% of appeals remanded and agents have 52.8% of appeals remanded back to the Regional Office which adds another 445 days onto your appeals time. The national average for remands is only 45.8% versus their 51.6% and 52.8%. Keep in mind that attorneys and agents typically win a percentage of your back-pay so the longer the appeal takes the more they stand to make!

#31. Criminal, civil, family, real estate, Social Security, estate planning, corporate, personal injury, automobile accident, insurance, constitutional, and the list goes on for the different types of lawyers that there are. While there are literally hundreds of types of attorneys that practice in different areas of the law, most in fact do NOT specialize in VA appeals! Having a friend of the family take on your case because he handled grandpa's estate when he passed away, or your buddies divorce attorney because "he did a great job" rarely ever gets it done! They have to specialize in that area of law which is why they have the highest remand factor. After all, I may love my primary doctor but I would never let him cut me open because he is not my surgeon!

#32. To look up a list of accredited attorneys and VSO's please just click on the link below. <http://www.va.gov/ogc/apps/accreditation/index.asp>

#33. The other day we began discussing the use of attorneys to handle appeals to the BVA and how high their remand factor was at 51.6% in 2012, which is over the national average of 45.8%. Surprisingly enough the only other group outside of attorneys which is "Agents" had a higher remand factor. "Agents" had a remand factor of 52.8% in 2012. These are the only 2 groups that had over 50% of their appeals that got remanded back to the Regional Office which adds an average of 445 days onto your appeal. The one other thing they both have in common is that both groups are the ones that charge a percentage of your back pay for their services. Which begs the question of: If you're hiring either of these parties because of their skills and expertise, and are willing to pay for their

services, why is it that they have it sent back to the Regional Office which takes far longer over 50% of the time?

#34. In 2012 the average processing time from the time that you filed a NOD to the time that you received a SOC was 270 days through the Regional Office (RO). The average time from the time that the (RO) sends the SOC to the time they receive the VA Form 9 was 40 days. The time from when they receive the VA Form 9 until the BVA's certification of appeal to the BVA (meaning wait time) was 692 days. The time between when the appeal was physically received and docketed at the BVA to disposition (meaning cycle time when they work on and decide your appeal) was 251 days. The average remand time factor if more work is needed at the VA Regional Office was 445 days.

#35. These next several postings will hopefully explain exactly why it takes so long for an appeal to be heard by the Board of Veterans Appeals (BVA). In 2012 the BVA carried 510 full time employees which is 25 employees less than in 2011 (because of federal budget cuts). This is broken down into a Chairman, Vice Chairman, Principle Deputy Vice Chairman, 64 Veterans Law Judges (including 12 Veterans Law Judge managers), 12 Senior Counsels, a Medical Advisor, and more than 300 staff counsel, and other administrative and clerical staff.

#36. The Board of Veterans Appeals (BVA) is broken down into 4X decision teams. Each team consists of a Deputy Vice Chairman, 2X Chief Veterans Law Judges, 13X Veterans Law Judges, 2X Senior Counsel, and approximately 75 staff counsel and administrative personnel. The staff counsel are used to review the record on appeal, to research the applicable laws, and then they prepare the comprehensive draft decisions (or the remand orders) for consideration by the Veterans Law Judge who then reviews the draft and issues either the final decision or the appropriate preliminary order (to remand the appeal for further development back to the Regional Office).

#37. In the previous postings I broke down the number of Judges and full time employees that work for the Board of Veterans Appeals which was 510 full time employees in 2012. That being said, I am a lifelong resident of Central Florida, which is the 9th Judicial District within the State of Florida, which encompasses Orange and Osceola Counties, which makes up the greater Orlando area. According to the 2010 Census the greater Orlando area was the 26th largest metro area in the United States, which requires a fairly decent size legal system to handle the legal issues that arise within Orange and Osceola counties. We have 1X Chief Judge, 42X Circuit Judges, 18X Orange County Judges, 4X

Osceola County Judges, 10X Senior Judges, and 6X Magistrates. That amounts to 81 judges that work within the 9th District of Florida alone versus the 64 Veterans Law Judges that work for the BVA in addition to the Chairman, Vice Chairman and Deputy Vice Chairman which makes the BVA's number 67 judges. As for the 510 full time employees that work within the Board of Veterans Appeals and how that stacks up against the 9th District of Florida? Orange Counties Courthouse is 23 stories tall and has several hundred full time employees between the Public Defender's office, judge's assistants, legal secretaries, paralegals, stenographers, clerk of the courts offices, security, and the many other departments they have!

#38. In the previous postings I have been working to establish that there are both more judges working in the 9th Judicial District of Florida where I live at with 81 judges, than that work for the Board of Veterans Appeals which has only 67 judges. Additionally the 9th District has more employees than the 510 total full time employees that the BVA had in 2012. Now that being said as of September 30, 2012 the VA projected that there were 22,328,000 U.S. veterans alive that could each in theory have claims and appeals. Then if you factor in children, spouses, widows and at times even parents that number becomes closer to 70 million that could in theory file claims and appeals. As of January of 2013 the entire U.S population was 315.18 Million people which means, that approximately 22.22% of our population could in theory be entitled to at least one veterans benefit, which could end up in an appeal. I mention this because that's close to ¼ of the entire U.S. population. Another thing in the United States which is divided into fourths is our time zones seeing as there are 4 of them as well. So in essence you have a legal system that's been designed to handle a population the size of Central Florida which has been tasked with handling the entire Eastern Time-zone. Which explains why the wait times are the way that they are! Starting to make sense now, right?

#39. Years ago when I first began going to the VA, during one of my very first visits I overheard a Vietnam veteran screaming at an employee yelling that "This \$%#* is taking too long, \$%#* you all, I am going to appeal this straight to the Board of Veterans Appeals". He immediately turned and walked away with his chest bowed up, and I looked back at the VA employee that began to chuckle as they talked with their coworker. Back then I didn't really understand why they were laughing, until I began learning more and more about the VA system. My intentions with the previous postings was not to get a rise out of everyone here at "Veterans Benefits Support", it was to show that appealing to the BVA is the

option of last resort not the option of first resort. I say this because the numbers explain everything in great detail, and knowing this info will allow each person to make more informed decisions!

#40. Once your appeal has been docketed with the BVA there really aren't a lot of ways to speed up the 3-4 years wait that you're getting ready to endure while waiting to have your appeal heard in Washington DC. The BVA will only advance cases on the docket if you can show "convincing proof of exceptional circumstances". This would typically mean terminal illnesses, danger of bankruptcy or foreclosure, or that an error by the VA has caused substantial and significant delay in docketing the appeal. This only works a little less than 15% of the time though because pretty much all appeals to the BVA have hardships associated with them. What you would need to do though is file a "Motion to Advance on the docket". Then mail it directly to the BVA in Washington DC. Their address is:

Board of Veterans' Appeals (014)
Department of Veterans Affairs
810 Vermont Avenue, NW
Washington, D.C. 20420

#41. To check the status of an appeal at the BVA, you will need to call the BVA directly at:

(202)565-5436. If you call the BVA directly please make sure that you have your claim/appeal number handy and also make sure that you're polite and non-adversarial with the person on the other end of the phone. I mention this because being adversarial will not help your cause, and being polite and helpful often goes a long way in make a friend that can possibly help rather than an enemy that can harm your appeals.

#42. If your appeal gets denied you still have 3 basic options left, which are:

A. Filing a Motion to Reconsider- to do this you must show that the BVA made an "Obvious error of fact or law in its decision". Meaning that you must show that the BVA made a mistake, and had that mistake not occurred, the BVA's decision would have been different. To file a Motion to Reconsider; you will need to file it directly with the BVA in Washington, D.C.

B. Reopening you Appeal- If your claim has "new and material evidence" that was not included in your claims folder when your case was decided. Then the VA regional office MAY decide to reopen your appeal, and start the appeals

process all over again. The reason that I say may is that the VA regional office (yeah the people that you have been going round and round with), they will decide if the evidence is "new and material".

For example: Say that you have gone through the entire appeals process to raise your disability rating, because you lost partial use of both of your legs (which was service connected). Your condition was bad when you originally filed your claims, but in the 4-5 years that your claim was stuck in the appeals process your condition worsened.

Then just as your claim was being reviewed by the board, the doctors decided to amputate. Your claim was too far along to stop the process, to add this "new and material evidence" into your claims file. So the BVA not, knowing this new material evidence (which would more than likely affect the cases outcome), decided to deny your claim. This would more than likely qualify as grounds to reopen your appeal.

C. Appeal to the U.S. COURT OF APPEALS- This would be your last resort. You must file a notice of appeal to the U.S. Court of Veterans Appeals. This is known as "The Court". This is an independent federal court located in Washington D.C. that is not part of the Department of Veterans Affairs. You absolutely positively will need a lawyer if you plan to take your appeal into Federal Court. Otherwise you will almost assuredly loose. You only have 120 days from the date that the BVA mails its decision to file "an original Notice of Appeal" with the court. If by chance you filed a motion to reconsider within the 120 days, but the motion was denied. Your 120 day clock starts over from the day that the BVA mails you the letter denying your motion to reconsider.

If you decide to file a Notice of Appeal with The Court, you can either fax it to (202) 501-5848 or you can mail it to the addresses below. You will only have 14 days to send in the filing fees, or submit a Declaration of Financial Hardship. (If you can't afford the fees), or mail your notice of appeal to:

Clerk of the Court
U.S. Court of Appeals for Veterans Claims
625 Indiana Avenue, NW, Suite 900
Washington D.C. 20004

You should also file a copy of the Notice of Appeal with the VA General Counsel at:

Office of the General Counsel (027)
Department of Veterans Affairs
810 Vermont Avenue, NW

Washington D.C. 20420

*Remember to make sure that when you file your Notice of Appeal, to include your Full name, phone number, current address, date of the BVA decision, and docket number. The only type of decisions that is not allowed to be appealed to the best of my knowledge are decisions concerning the need for either certain types of medical treatments, or physicians decisions to either prescribe or not prescribe a particular type of drug. This would need to be taken up with the director of the VA medical center in question.

#43. This concludes our section on appealing decisions at each and every level for veterans. My hope is that each person that takes the time to read this fully understands the importance of trying to resolve each issue before taking it to the next level, largely because of the amount of time that is involved in appealing it at each level. I have heard so many times over the years of veterans fighting for 10, 20 30 and at times upwards of 40+ years. After reading this section in its entirety hopefully everyone can now see how this ends up happening to so many veterans. When going through the process, please make sure that you utilize each and every part of the process. Do not just skip straight to the BVA if your appeal could end up being won with either a NOD or through a De Novo review.