



## **ENTRY INFORMATION FOR INCARCERATED VETERANS**

The New York State Division of Veterans' Affairs thanks you for your service to our Nation. As a justice-involved Veteran, you need to know certain pieces of information regarding the benefits that you earned through your military service. This document briefly summarizes key points that you should have at your disposal.

Despite your incarceration, you and your family members may be eligible to receive certain benefits from the United States Department of Veterans Affairs (VA). However, you also have certain obligations regarding specific benefits that you may be already receiving. Understanding this information will avoid problems with the federal government during your incarceration and upon your release, and ensure that you receive the full complement of benefits that you deserve.

### **Notifying The VA**

**You need to notify the VA and inform them about your incarceration.** Otherwise, if the VA continues paying you as if you were not incarcerated, they can hold that you have been overpaid. **The VA can then withhold all financial benefits from you and your family until the overpayment is recovered.**

**To prevent that from happening, ensure that the VA receives notice in writing from you stating that you are incarcerated.** Ask that the VA send you written confirmation of this receipt. Keep a copy of both your letter to the VA and the VA's confirming response.

**When you get out of prison, you also need to notify the VA with proof of your release.** Otherwise, the VA will assume that you are still incarcerated, and will continue paying your benefits at a reduced rate.

If you are released on parole, an original letter (not a photocopy) from your parole agent on government stationery should suffice as proof. A "movement history" from your parole agent generally will not be enough for VA purposes. Again, ask that the VA send written confirmation of receiving your letter of notification. Keep a copy of your letter to the VA and the VA's confirming response.

### **Disability Compensation**

If you are presently receiving disability compensation payments from the VA, these payments **do not necessarily stop** because you are incarcerated.

If you are convicted of a **misdemeanor, or a felony for which you are incarcerated for fewer than 60 days, your benefits payments are not reduced.**

If you are convicted of a felony and imprisoned for more than 60 days, your disability compensation payments **will not stop, but will be reduced.**

- If you have a VA disability rating of **20% or higher**, you will be paid as if your disability rating were 10% during your period of incarceration.
- If you have a VA disability rating of **10%**, your current payment at the 10% rating level will be cut in half during your period of incarceration.
- Payments are **not reduced** for recipients participating in **work release programs, residing in halfway houses, or under community control.**

### **Apportionment To Dependent Family Members**

**While you are imprisoned, your family may be able to receive all or part of the portion by which your benefits are reduced.** For instance, if you have a disability rating of 70% when you enter prison, you will personally receive payment at a 10% rating level while imprisoned, but your family can apply to the VA to receive up to the remaining 60% of your benefits.

**However, this is not automatic.** Your family must apply to the VA for “Apportionment” using VA Form 21-0788. A copy of that form is attached to this letter. This form is also available on the VA’s website ([www.va.gov](http://www.va.gov)).

The VA determines how much money from a Veteran’s remaining benefits will be apportioned to his or her spouse, children, and/or dependent parent(s) **based on individual need.** The VA will evaluate factors such as the applying family member’s household income and living expenses, and the number of family members applying, when deciding how much money from an incarcerated Veteran’s benefits to apportion to the family.

### **Pension**

If you are receiving a non-service-connected VA pension, **the VA will terminate pension payments on your sixty-first day of imprisonment, regardless of whether you are serving prison time for a felony or a misdemeanor.**

When you are released, you can apply for a VA pension again, and the VA can grant you a pension if you still meet all of the eligibility requirements (i.e., income below the Congressionally established limit, assets that are not deemed “excessive” by the VA, etc.).

### **Education Benefits**

If you are incarcerated for committing a **misdemeanor**, and you are receiving education benefits from the VA when you entered prison, you can continue receiving your **full monthly education benefits** while you are incarcerated.

If you are incarcerated for committing a **felony**, then you can be paid only the costs of **tuition, fees, books, and equipment or supplies** from the VA. You can receive these payments only if another federal, state, or local program is not already paying for these items.

If you are convicted of a felony, and you are **participating in a work release program or residing in a halfway house** (also called a “residential re-entry center”), then you can continue receiving your **full monthly education benefits**.

### **Health Care For Re-Entry Veterans**

The Health Care For Re-Entry Veterans program (HCRV) aims to address the physical and mental care needs of Veterans returning to the community, including connection to health care benefits that your military service earned.

**Importantly, planning for these post-release steps should begin during your period of incarceration.** Beginning at least one year before your conditional release date or maximum sentence date, you should request to be placed on call out to meet with your facility’s Veterans Liaison to discuss the HCRV program and other VA benefits that may be available to you upon your release.