

The New York City Veteran's Legal Guide

Information about Common Legal Problems & Solutions

☆ ☆ ☆ for New York City Veterans ☆ ☆ ☆



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NEW YORK LEGAL ASSISTANCE GROUP

 LegalHealth

Welcome

New York City is home to over 250,000 veterans, many of whom face legal challenges. The New York City Veteran's Legal Guide provides information about the most common legal problems facing veterans living in New York City. The guide is intended for use by both veterans and their advocates, and contains information that is specific to the New York State and New York City legal systems.

We designed the New York City Veteran's Legal Guide to be easy to use. First, turn to the Table of Contents and find your legal issue. Then turn to the appropriate page; nearly all of the legal issues in this guide are covered in just one page. For example, if your neighbor is playing loud music day and night, and the loud music disrupts your sleep and work, turn to the Table of Contents and find the "Housing Law" heading. Under "Housing Law," you will find the "Neighbor Nuisance" subheading along with the page number where you can find information about this legal issue. Many veterans face a variety of legal problems that this short guide cannot cover, and these veterans should seek legal assistance as soon as possible to promptly resolve their legal matters.

The New York City Veteran's Legal Guide was prepared on behalf of the LegalHealth Division of the New York Legal Assistance Group by Keith Hoffmann, an Equal Justice Works Fellow sponsored by Latham & Watkins LLP, with help from Kevin Kenneally, Megan O'Byrne, Pandora Strasler, P. Keegan Henry, Alexandra Lewis-Reisen, Aaron Singer, David McElhoe, Kimberly Warner, Mary Fox, David Falcon, Nina Pejoves, Jennifer Cao, Michael Danna, Erin Kim, Jesse Levitsky, Jeffrey Kiffel, and Rosenthal Herman & Notaro, P.C. We are grateful to Randy Retkin, Julie Brandfield, and Kim Susser for their insights and revisions to this guide, and Annika Jakes for the cover design. We also thank Latham & Watkins LLP for printing copies of this guide and for their steadfast support of veterans and organizations that advocate for veterans.

DISCLAIMER: This legal guide is intended as an informational tool for non-lawyers and advocates. This guide does not purport to provide legal advice or to give an opinion as to the appropriate course of action in a particular case. Veterans and their advocates should always conduct their own research on the best course of action for their particular case and should always check any information contained in this guide against the relevant statute or regulation to ensure its accuracy.

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Housing Law

In this section, you will find information on the following topics:

- Neighbor Nuisance
- Repairs for Tenants in Private Landlord Buildings
- Repairs, Inspections and Transfers in NYCHA and Section 8 Housing
- Non-payment
- Holdover
- Reasonable Accommodations for Tenants with Disabilities
- NYCHA Apartment Occupancy and Succession
- Succession of Rent-Stabilized and Rent-Controlled Apartments
- Housing Options and Programs
- Housing Court Addresses and Telephone Numbers

Neighbor Nuisance

As a New York City resident, it is inevitable that you will sometimes be annoyed by smells, noises or vibrations emanating from your neighbor’s apartment. However, if your neighbor’s smells, noises or vibrations make it impossible for you to enjoy your own apartment, you might have some recourse through your landlord or the courts. Below are steps you should take if you have a neighbor nuisance.

Step 1: You should try to talk to your neighbor in a polite, respectful manner. It is possible that your neighbor does not know that they are causing a nuisance.

Step 2: If politely asking your neighbor to stop causing a nuisance does not work, begin to document every instance of nuisance. Keep a log with dates and times. Also, talk to your other neighbors and find out if they are also experiencing the nuisance. If the nuisance is noise, you should call 311 or your local police precinct, who should respond to your complaint (when they are not responding to emergencies). Keep a record of every time you make a noise complaint and ask for documentation of visits from the police. You can also record the noise. If the nuisance is something other than noise you can ask a friend or relative to witness the nuisance; this person could serve as a witness in court (see step 4 below).

Step 3: Write your landlord a letter that details all the instances of nuisance. If your neighbors also have problems with the nuisance, ask your neighbors to tell your landlord. Ask your landlord to take action against the nuisance-causing tenant and give them a deadline. In addition, mail the landlord the letter certified mail (return receipt requested) as proof of nuisance notice. Keep a copy of the letter for your records.

Step 4: If your landlord does not take any action in response to your letter, you can bring a Housing Part action (“HP action”) in court. The court will generally only provide relief in extreme cases by ordering the landlord to evict the nuisance-causing tenant. To file an HP action, go to the housing court in your borough (see page 11 for addresses and telephone numbers of New York City Housing Courts) and tell the clerk you would like to file an HP action. There is a \$45 fee to file the case. You will need to pay with a money order, bank check, or in cash. The court will not accept a personal check. If you cannot afford to pay the fee, you can fill out the fee waiver form, and the judge may not require you to pay the fee.

The housing court clerk will set a court date and give you documents that you will fill out and then have to “serve”—deliver to—the landlord. The clerk can give you information about how to serve the landlord, but you must know the physical address of your landlord; you cannot serve a PO Box. You also cannot deliver the documents to your landlord because a party to a proceeding cannot serve court papers, so arrange for someone over the age of 18 to serve your landlord for you.

On your court date, tell the judge about the nuisance and bring any witnesses, documents or other evidence as proof.

You should talk to an attorney about this process if you have any further questions.

Obtaining Repairs for Tenants in Private Landlord Apartments

You are entitled to an apartment fit for human habitation without any conditions endangering or harmful to your life, health, or safety. All tenants are eligible to seek repairs and rent abatements from their landlord for violations of this “Warranty of Habitability.” Note that your landlord may not be responsible for the cost of repairs if the defects were due to your negligence or the negligence or abuse of someone in your household, but the landlord must always keep the premises in good repair. If you are a tenant in a private apartment (you do not live in a NYCHA apartment or have a Section 8 voucher) and you believe there has been a violation, record it in any way possible and take the following steps:

Step 1: All tenants in private landlord apartments should first contact their superintendent or management company about the needed repair. If your superintendent or management company is not being responsive (the repair has not been made in a timely manner), you should write a letter to the owner of the building that describes the problem and asks for the repair to be made by a certain date. Send the letter by certified mail, return receipt requested (you must also read your lease and follow the requirements for “notices” set forth in the lease) and keep a copy.

Step 2: Call 311 and ask the NYC Department of Housing Preservation & Development (“HPD”) for a housing inspection. HPD can order the landlord to make repairs and/or fine the landlord. Save documentation of any HPD violations.

Possible step 3 (for tenants in rent-controlled or rent-stabilized apartments only): If you live in rent-regulated housing, you should contact the Division of Housing and Community Renewal (“DHCR”) at (866) 275-3427 and file a complaint for “decreased services”. To find out if you live in a rent-regulated apartment, contact the DHCR at (718) 739-6400.

Step 4: If your landlord still has not responded, you may go to the housing court in your borough and file a Housing Part action (“HP action”) to obtain repairs (see page 11 for the addresses and telephone numbers of New York City Housing Courts). You will need to bring with you to court the actual physical address of your landlord. The HP Clerk at the court will help you complete the forms to receive an “Order to Show Cause” that will require you and your landlord to appear before a judge on a later date. After obtaining a signed Order to Show Cause, the clerk will instruct you on how to serve the papers on your landlord and HPD.

Possible step 5: As a last resort, you may make the needed repair yourself (or hire someone to do it) and deduct the cost from your rent. In order to take this step, you must be certain that the expense was necessary to correct a violation of New York City's Housing Maintenance Code. Also, you must get bids for the work and document both the needed repair and the costs. Taking this action may result in your landlord suing you for non-payment of rent. You will need to justify your withholding. Before you adopt this approach, consult an attorney.

What not to do: Never spend any rent money that you have withheld from your landlord if you need a repair. Save the rent money in a special account. You do not need to withhold the rent to have the repair fixed; instead, follow the steps above to avoid being sued by your landlord for non-payment of rent. Contact a housing attorney for more information.

Inspections, Repairs & Transfers for NYCHA and Section 8

Inspection in Section 8 (including HUD/VASH Section 8) and NYCHA housing: If you receive a Section 8 subsidy administered by any agency (including a HUD/VASH Section 8 voucher, which is administered by NYCHA) or live in a NYCHA building, the agency responsible for your housing must annually inspect your apartment for violations of federal housing regulations. The agency must notify you in advance before they may conduct an inspection. You must make every effort to allow the inspector access to the apartment, or reschedule the inspection by calling (718) 707-7771 for NYCHA housing or NYCHA Section 8, or by calling 311 for HPD or any other Section 8 voucher. If the inspector finds any violations, either you or your landlord (depending on who caused the damage) must repair them within either 30 days or a specified shorter time period. If your landlord fails to make necessary repairs within the time limit, Section 8 may stop rent payments. Note that if NYCHA or HPD suspends its Section 8 payments due to your landlord's failure to make repairs and you continue to pay your share of the rent, your landlord cannot evict you.

If the Section 8 landlord fails to make necessary repairs: Your landlord is responsible for making repairs to ensure the unit remains in compliance with HUD's Housing Quality Standards. So long as you did not cause the damage yourself, your landlord must make these repairs at their own expense. If you believe that your apartment is in need of repairs and your landlord is unresponsive, you may schedule a special inspection via NYCHA's Section 8 Customer Contact Hotline at (718) 707-7771 or HPD's hotline by calling 311. If the inspectors decide that repairs are necessary, your landlord must fix them within 30 days. If your landlord fails to make the repairs within 30 days of the inspection, you may request an emergency transfer to a new unit.

Obtaining and using a Section 8 Transfer Voucher: If you do not want to renew your lease or your landlord does not offer to renew your lease, then you may request a transfer. Note that if your apartment is rent-stabilized, your landlord **MUST** offer to renew your lease. To request a transfer if you have NYCHA Section 8, you must submit two forms: the "Voucher Holder's Request for Transfer" and the "Tenant Transfer Fact Sheet", which you may obtain via the NYCHA customer contact number at (718) 707-7771. To request a transfer in HPD Section 8, you must complete a "Move Request" form which you can obtain by calling HPD at 311. You may also need to submit supporting documents depending on your reason for the transfer. HPD and NYCHA Section 8 transfers can take as long as several months; if you believe that you are entitled to a transfer that HPD or NYCHA fails to carry out quickly enough, contact an attorney. If you need a transfer more quickly and match one of NYCHA's emergency transfer categories, apply for an emergency transfer, which will be processed within 21 business days.

NYCHA apartment transfer request: Your NYCHA Housing Assistant can clarify the various transfer guidelines. Some reasons that NYCHA may deem appropriate for a transfer include having an overcrowded apartment, an apartment that is too large for your family, travel hardship in getting to your job, or the need to be closer to a medical facility or family member who needs your help due to aging or health. Call your Housing Assistant, NYCHA at (718) 707-7771, or an attorney for more information.

Non-Payment of Rent

A non-payment is a case where a landlord seeks payment of unpaid rent from a tenant. Non-payment can result in a tenant's eviction. Below is information about the legal process of non-payment cases. If you know your case is a non-payment, seek legal advice for more information.

Initial demand: Your landlord must first demand the overdue rent from you and warn you that she can evict you if you do not pay. This initial demand may be in writing or made orally.

Non-Payment Petition and Notice of Petition: You will then be served a Non-Payment Petition and Notice of Petition. You will have five days to answer the Notice of Petition in housing court. Go to the Clerk's Office in the housing court stated on the Notice of Petition, and file an answer. You must tell the clerk why you did not pay some or all of the rent and any defenses.

Defenses: A variety of defenses are available, so when you file your answer, it is important to tell the clerk anything that could help your case. Defenses include, among others:

- Naming incorrect parties or problems with service – delivery of court documents to you, which should usually be done by hand-delivery (contact an attorney for more information);
- Issues with the apartment (for example, it is in need of repairs); or
- “Laches”, if the landlord waited too long to sue (rent usually becomes “stale” after one year).

Preparing for court: After you receive the Notice of Petition, be sure to prepare all relevant documentation for your court date. This includes documentation of your past rent payments, or anything related to a defense you have claimed in your answer. If you have applied for rental assistance—a “One Shot Deal”—through HRA, you should bring proof of your application. To apply for rental assistance, visit your local HRA Job Center (call HRA at (718) 557-1399). HRA may require that you have the ongoing ability to pay rent and/or an agreement with your landlord, known as a stipulation, to approve your application (see below for more information).

On your first court date, you will typically be able to ask the court for an adjournment—a second court date—to find an attorney if you do not have one yet. You will also have the opportunity to sign a stipulation with the landlord. This stipulation typically sets forth a payment plan for the rent that is owed. Do not sign the stipulation unless you fully understand what it says. You should seek legal advice before deciding whether to sign. HRA may require you to bring this stipulation to the Job Center to approve your rental assistance application for a “One Shot”.

If you do not reach an agreement with the landlord, your case may go to trial. Before that happens, the judge may issue an order requiring you to do something (for example, to make a payment) by a certain date. It is very important to follow any deadlines in the court order or stipulation. If you fail to follow the deadlines, you may be evicted from your apartment.

Failed to answer or appear in court: If you do not answer the petition on time, do not appear on the court date, or do not pay the owed rent by the deadline in a stipulation or court order, you will receive a Marshal's Notice of Eviction. If you receive a Marshal's Notice of Eviction, you have five business days to go to the Clerk's Office and file an Order to Show Cause to ask the court for more time to stay in your home.

Holdovers

A holdover is a case brought by a landlord to evict a tenant on grounds other than non-payment of rent. The following are some reasons for a holdover:

- Your lease has expired and has not been renewed
- You allegedly violated a term of the lease
- You allegedly committed or permitted a nuisance in the building
- Chronic late payment of rent
- You allegedly refused to allow the landlord access to your apartment under certain circumstances
- You allegedly used the housing unit for illegal activity
- The landlord alleges that you are a “squatter” (which means that you did not have a rental agreement with the landlord)

If you receive a Holdover Petition or Notice of Petition that tells you when and where to appear in housing court, contact an attorney as soon as possible. If possible, you should consult with the attorney before your court date. Bring to the meeting with the attorney all notices you have received from your landlord, a copy of your lease, and any other evidence that may be important.

Important legal information about holdover legal procedure:

- If you are a licensee or a squatter, you will receive a 10-Day Notice to Quit. Otherwise, you will receive a Notice to Terminate for which the amount of time you have to vacate can vary. (In a month-to-month tenancy, for example, you will be served 30 days before the expiration of the term.) You must leave the premises within this amount of time or your landlord will likely commence eviction proceedings in housing court.
- The Notice to Terminate in some situations must be preceded by a 10-Day Notice to Cure. If you receive a Notice to Cure, you have a chance to fix the alleged problem before the landlord serves you with a Notice to Terminate. The Notice to Cure and Notice to Terminate must provide in detail the grounds for termination of your tenancy.
- The Notice to Quit or Notice to Terminate will provide a date by which the landlord wants you out of the apartment. After that date, you will receive a Notice of Petition and Holdover Petition, which will reaffirm the grounds for the holdover and tell you when and where to appear in court if you wish to fight the case.
- At your court appearance, the judge will issue a general denial of the landlord’s allegations on your behalf, unless you or your attorney submits a written answer.
- The owner cannot evict you until a judge decides the case and issues a warrant for eviction. It is very important that you go to housing court to defend yourself on each court date to prevent the judge from automatically deciding in the landlord’s favor.

Use and occupancy: The landlord cannot collect rent from you during the case, but the judge may require you to pay “use and occupancy,” an amount usually similar to your previous rent.

Defenses: The law concerning holdovers is complex, and defenses are often available. As soon as you determine that your case is a holdover, you should consult with an attorney if possible.

Requesting a Reasonable Accommodation for Tenants with Disabilities

Federal, state and New York City laws prohibit housing discrimination on the basis of a tenant's disability. People with disabilities are entitled to the same use and enjoyment of where they live as those without disabilities. All housing providers in New York City have the responsibility to make a reasonable accommodation if it is necessary for a person with disabilities to have equal opportunity to use and enjoy a dwelling. This is true regardless of whether you live in a private apartment, co-op, condominium, public housing or in an apartment with a Section 8 subsidy. For an individual with disabilities to qualify, they must have a physical or mental impairment that substantially limits one or more major life activities. Major life activities include seeing, hearing, walking, eating, breathing, normal cell growth (impaired in those diagnosed with cancer), sleeping and other activities central to daily life.

What is a reasonable accommodation?

Reasonable accommodations can include modifications to your apartment, grounds or common spaces, making communications accessible, or permitting a third party to make rent payments for a tenant with a mental disability. You can make a request for an accommodation from any housing provider at any time, not just at the beginning or end of your lease. A landlord may deny a reasonable accommodation request if they can prove that it would impose an undue financial burden on them. If this is the case, your housing provider is responsible for discussing and implementing possible alternatives that are not too financially burdensome. Note that if you live in a rent-regulated apartment, and your reasonable accommodation includes a move to another rent-regulated unit, your new apartment will still be rent-regulated, but it may have a higher rent than your old apartment.

Your landlord may require that you provide proof of your disability from a medical professional to support your request for a reasonable accommodation. This proof can be a letter from a doctor or therapist – you do not need to hand over your medical records.

How do I request a reasonable accommodation?

If you are a resident of public housing, you may request a reasonable accommodation at the Development Management Office or through the NYCHA Department of Equal Opportunity (Services for People with Disabilities Unit) at (212) 306-4652. If you participate in NYCHA Section 8, you may contact NYCHA's Customer Contact Center at (718) 707-7771; if you have HPD Section 8, request an accommodation by calling 311; if you have HUD Section 8, request an accommodation by calling (800) 669-9777. If you have a private landlord, contact an attorney to request a reasonable accommodation directly from the landlord.

What if the landlord, NYCHA or Section 8 refuses my request?

If any landlord refuses to provide you with a reasonable accommodation and refuses to discuss a cost-effective alternative, you may file a complaint with the federal Department of Housing and Urban Development, the New York State Division of Human Rights, the New York City Commission on Human Rights, or in state or federal court. To do so, contact an attorney who specializes in this area of law. When you meet with the attorney, bring evidence of your disability and written documentation that explains your accommodation request.

Occupancy and Succession of a NYCHA Apartment

Occupancy of a NYCHA apartment

If you are the tenant of record in a NYCHA public housing development apartment and you want to permanently add a family member to your lease, you must make a Permanent Occupancy Permission Request in writing to your development housing manager.

NYCHA will grant a Request to permanently add an occupant to a lease only if: 1) the tenant of record currently occupies the apartment and is in good standing; 2) the request is for a spouse, domestic partner, biological or adopted child, grandchild, parent, sibling or grandparent of the tenant, including in-laws, half-relatives, and step-relatives; 3) the proposed occupant passes a criminal background check if they are 16 or older; and 4) the addition of the new occupant does not “overcrowd” the apartment. If the addition of the new occupant would “overcrowd” the apartment, it is advisable to apply for a transfer to a larger unit at the same time that you request to permanently add the occupant. If you are successful in adding an occupant to your lease, the income of the additional person will be added to family income for rent calculation purposes.

If you need a family member or friend to live with you temporarily (generally less than one year), you may request temporary permission from your development manager. Temporary occupants’ incomes are not added to the family income to calculate your rent, and they do not “count” for overcrowding purposes. However, temporary occupants have no right to succeed to the apartment if the tenant of record dies or leaves the unit.

Succession to a NYCHA apartment

If the primary tenant of a NYCHA apartment lease moves out or dies, NYCHA regulations limit who may continue to live in the apartment to qualifying remaining family members who are otherwise eligible for the apartment. Qualifying family members include those in any of the three following groups: 1) family members who (a) originally resided in the apartment with the primary tenant (and were on the housing application), and (b) who lived in the apartment continuously for at least one year before the primary tenant’s death or departure; 2) family members who were (a) born or adopted into the family, and (b) who lived in the apartment continuously for at least one year before the primary tenant’s death or departure; and 3) family members who both (a) have received written permission from Management to live there (by the occupancy process laid out above) and (b) who lived with the primary tenant after they received permission from NYCHA for at least one year prior to the primary tenant’s death or departure. In addition, the remaining family member must be legally competent to sign a lease, pass a criminal background check, and have a valid source of income either through employment or a public benefit. If you are seeking succession of a NYCHA apartment, it is advisable to contact an attorney to investigate your claim.

If you believe that NYCHA has improperly denied your petition for occupancy or succession, you have a right to a grievance hearing with the development housing manager. While it is not required that you have legal representation at the grievance, it may be beneficial to seek legal representation or advice prior to your hearing.

Succession of Rent-Controlled and Rent-Stabilized Apartments

If you live in a rent-controlled or rent-stabilized apartment, you may have succession rights to the tenant of record's lease. This means you may have the right to keep living in the apartment.

Who has succession rights in rent-controlled or rent-stabilized apartments? Rent controlled and rent stabilized apartments have similar rules for succession rights. They involve two categories of family members: "traditional" and "non-traditional." People who do not fall into either category will not have succession rights.

- "Traditional" family members who have succession rights include spouses, children, parents, step-children, step-parents, brothers, sisters, grandparents, grandchildren, parents-in-law, and children-in-law. Aunts, uncles, nieces, nephews, and cousins are **not** included, so if these people are to succeed, they must meet the standards of "non-traditional" family (below).
- "Non-traditional" family members are individuals who do not have the "traditional" relationship, but who have the same kind of relationship as traditional family members. For example, this category could cover unmarried or "common law" couples, domestic partners, an uncle who raised you as his daughter, or senior citizens and disabled persons living together as family units, even if they are not romantically involved.

What are some of the factors in determining whether a "non-traditional" family member has succession rights? The court looks to see if there was enough financial and emotional interdependence to prove such a family relationship. Factors considered (all are not required) include: shared finances (joint credit cards, bank accounts) and household expenses; holding yourselves out as family members to the outside world; the length of the relationship; sharing a household budget for purposes of receiving benefits; attending family-type functions such as holidays, celebrations, vacations or social occasions; formalized legal arrangements such as naming the other in a will or life insurance policy; and performing family functions such as caring for each other or for each other's extended family, or raising children together.

What else do I have to prove to get succession rights to the apartment? You also have to show that you have lived in the apartment for the required length of time.

- Senior citizens and disabled persons must have lived in the apartment for one year before the legal tenant left or died.
- For most other people, you must have lived in the apartment as your primary residence for at least two years immediately before the tenant died or left the apartment.
- You are also entitled to succession rights if you moved into the apartment with the named tenant when the tenant first moved in, or have lived in the apartment since the beginning of your relationship with the tenant, even if you have not lived there for one year.
- The minimum residency rules will not be interrupted by any period during which the "family member" temporarily relocates because they serve in the military; are a full-time student; due to a court order; for employment reasons; are hospitalized; or other reasonable grounds.

Can the landlord raise the rent when a person succeeds to the lease? The landlord may raise the rent according to the rent guidelines for the apartment, but is not entitled to a "vacancy allowance" increase unless your claim is the second succession claim of the tenancy.

Housing Options and Programs in New York City

HUD/VASH Section 8 Vouchers: HUD/VASH is a joint program between the VA and the Department of Housing and Urban Development. It provides Section 8 vouchers to vulnerable veterans. To be eligible, you must be eligible for VA healthcare and be chronically homeless. Each VA Medical Center has a HUD/VASH unit that will be able to help you apply; call (877) 424-3838 in order to be connected with the HUD/VASH unit nearest you. If you are admitted to the program, a HUD/VASH case worker will be assigned to you. The case worker will help you obtain a HUD/VASH Section 8 housing voucher and locate housing in the community, as well as connect you with other services.

NYCHA Section 8 Vouchers: Due to lack of availability, Section 8 is only taking applications for people who are: 1) a defined “intimidated witness”; 2) a victim of domestic violence; or 3) referred by the Administration for Children's Services. For more information or to apply, call (718) 707-7771. If you are trying to succeed to a Section 8 voucher, contact an attorney.

NYCHA housing development apartments: To apply for a NYCHA apartment, your income may not exceed \$48,350 (for a single person) and “your admission to a public housing development will not endanger the welfare and safety of other residents” (NYCHA will request your criminal record). The waiting list is currently many years long. Call (718) 707-7771 for more information or to apply.

If you have a mental illness: If you are homeless and have a mental illness, you may be eligible for supportive housing. Call the Center for Urban Community Services’ intake line at (212) 801-3333 for more information.

If you have HIV/AIDS: If you are homeless or at-risk of homelessness and have HIV/AIDS, you may be eligible for housing benefits through HASA. If your case is approved, HASA will appoint a case manager who will assist you in locating housing. Call HASA at (212) 971-0626.

Temporary shelters: Temporary shelters are located around the City but intake must be done at the following locations. These locations also have case managers who may be able to help you apply for supportive housing or find other housing options. All of the following shelters are open 24 hours a day, seven days a week. Call 311 to get more information or directions to shelters or drop-in centers that provide hot meals, showers, laundry, etc.

- All single adult males must apply at: **30th Street Intake Center**, 400-430 East 30th Street, NY, NY (Entrance is now at 30th Street and 1st Avenue).
- All single adult women must apply at one of the following locations: **HELP Women's Shelter**, 116 Williams Avenue (between Liberty Ave. and Glenmore Ave.), Brooklyn, NY; or **Franklin Shelter**, 1122 Franklin Ave. (near 166th Street), Bronx, NY.
- **The Adult Family Intake Center** is located at, 400-430 East 30th Street, NY, NY 10016.

Office of Client Advocacy: The Office of Client Advocacy provides crisis intervention for people at-risk of becoming homeless and helps mediate conflicts between shelter staff and clients. Call (800) 994-6494 for more information.

New York City Housing Court Addresses and Telephone Numbers

Bronx Housing Civil Court

1118 Grand Concourse
Bronx, NY 10456
(646) 386-5750

Harlem Community Justice Center (housing)

170 East 121st Street
New York, NY 10035
(646) 386-5750

Manhattan Housing Court

111 Centre Street
New York, NY 10013
(646) 386-5750

Kings County (Brooklyn) Housing Court

141 Livingston Street
Brooklyn, NY 11201
(646) 386-5750

Queens County Housing Court

89-17 Sutphin Boulevard
Jamaica, NY 11435
(646) 386-5750

Redhook Community Court (housing)

88 Visitation Place
Brooklyn, NY 11231
(646) 386-5750

Richmond County (Staten Island) Housing Court

927 Castleton Avenue
Staten Island, NY 10310
(646) 386-5750

VA Benefits and Programs

In this section, you will find information on the following topics:

- VA Compensation Claim Process: Initial Application
- VA Compensation Claim Process: Appeal from Denial
- Discharge Upgrade Information
- Character of Service Determination
- Programs and Resources for Survivors of Military Sexual Trauma
- VA Compensation for Military Sexual Trauma
- Radiation Exposure Compensation Claim
- Agent Orange Compensation Claim
- Camp Lejeune Water Contamination
- Non-Service Connected Pension
- Aid and Attendance
- Fiduciary Program for VA Benefits

The VA Compensation Claim Process: Initial Application

A veteran with a service-connected disability is entitled to receive compensation from the VA for the disability.

In order to apply for VA compensation benefits, the veteran should file form VA Form 21-526. The veteran should do so immediately in order to preserve the date of application. For help filling out the form, the veteran may visit the VA Regional Office at 245 West Houston Street in Manhattan, call (800) 827-1000, or visit a Veterans Service Organization (“VSO”). If you have already applied and seek to add information to your claim, fill out VA Form 21-4138 (“Statement in Support of Claim”). Always mark additional pages with your name, VA file number, C/CSS number and Social Security number. If approved, benefits are payable back to the date that the veteran filed the claim.

To obtain VA compensation, the veteran must show:

- Medical evidence of a current physical or mental disability; **AND**
- Evidence of an event, injury or disease in service; **AND**
- Evidence of a link between your current disability and the event, injury, or disease in military service. This link can be causal (for example, broken arm during service caused current arm pain), can show aggravation (for example, my depression prior to entering the service was worsened during my service), or can be secondary to an existing service connection (for example, hip injury during service caused current depression).

To apply, the veteran may submit (in addition to VA Form 21-526) the following: 1) evidence of the current medical condition; 2) any information relating to the initial onset of the injury; and 3) evidence of the link between the current condition and in-service injury. Affidavits from friends and family, healthcare workers’ letters, and medical records are useful to establish the link. Note that the evidentiary standards have been liberalized for claims of both Posttraumatic Stress Disorder and Military Sexual Trauma, which means that the VA may approve your claim even without evidence of your in-service injury from your personnel records (see page 18 for more information about filing a VA claim involving Military Sexual Trauma). The VA will review the veterans’ military personnel records during the claim process.

A veteran may be able to apply for VA compensation with the VA’s Fully Developed Claim (“FDC”) procedure to get a faster decision from the VA. To apply through the FDC process (which may expire in 2015 if not extended), log on to www.ebenefits.va.gov. Hit “Save & Continue” to preserve the date from which VA will pay you if your claim is approved. You have a year from this start date to gather evidence and submit the claim. Alternatively, a VSO may be able to assist you in filling out an FDC paper application.

In order to find records for your application, use the following forms:

- Request Military Personnel Records (includes DD 214s/Separation Documents, service records found within the Official Military Personnel File, and medical records): SF-180
- Request VA Medical Records: VA Form 10-5345
- Request VA Claim File Records from past VA compensation applications: VA Form VA-3288

The VA Compensation Claim Process: Appeal of Denial

If the initial VA compensation claim is denied, a veteran may appeal the denial by filing VA Form 21-0958 (“Notice of Disagreement”) with the VA. This form must be filed within one year of the date of denial. On the form, write the following:

- Include the date of the denial letter and ratings decision.
- State that you disagree with the denial letter and ratings decision.
- State that you intend to appeal.
- Request review by a Decision Review Officer (“DRO”) (which you can also write on the election form sent out following the VA’s receipt of the Notice of Disagreement without such a request).

On appeal, the veteran may submit additional information, such as current medical records, affidavits, or healthcare workers’ letters. These documents may be submitted after the Notice of Disagreement using Form 21-4138 (“Statement in Support of Claim”).

The DRO will then review the appeal. If the DRO finds against service connection, you will receive a Statement of the Case with more information on why the Notice of Disagreement was denied.

In order to appeal the Statement of the Case, the veteran must file VA Form 9 within 60 days of receipt of the Statement of the Case. VA Form 9 will be submitted to the Board of Veterans Appeal (“BVA”) to review; at this stage, the veteran may request an in-person hearing.

If the veteran did not appeal the initial denial within one year of the date of denial, the veteran may only apply for VA benefits for the same condition again by showing “new and material” evidence that was not presented during the first, denied application.

In order to find records for an appeal, use the following forms:

- Request Military Personnel Records (includes DD 214s/Separation Documents, service records found within the Official Military Personnel File, and medical records): SF-180
- Request VA Medical Records: VA Form 10-5345
- Request VA Claim File Records from past VA compensation applications: VA Form VA-3288

You should be represented in your appeal by an attorney or Veterans Service Organization, so you should seek assistance as soon as you receive notice of the denial of your initial VA compensation application.

Application for Discharge Upgrade

A veteran with a discharge status of any type other than an Honorable discharge may apply for a discharge upgrade.

This process is initiated using DD Form 293 if the discharge is less than 15 years old. If the discharge is more than 15 years old, apply for a Correction of Military Records using DD Form 149.

A discharge upgrade will be granted if a veteran convinces the Discharge Review Board that the discharge reason or characterization was “inequitable or improper.”

- For example, an “inequity” would be: “My discharge was inequitable because it was based on one isolated incident in 36 months of service.”
- An “improper” discharge might be: “The discharge is improper because the applicant’s pre-service civilian conviction, properly listed on enlistment documents, was used in the discharge proceedings.”

Discharge upgrades are difficult to win. To improve your chances of a discharge upgrade, a veteran may include:

- His or her own personal statement;
- Affidavits from persons in chain of command, chaplain, or anyone else with direct knowledge of your military service;
- Healthcare providers’ letters, if the veteran is claiming that he or she was influenced by an undiagnosed medical condition that caused problems during service;
- Evidence of improper procedure during the discharge process;
- Evidence of good conduct after leaving the military.

To request Military Personnel Records (such as DD 214s/Separation Documents, service personnel records found within the Official Military Personnel File, and medical records) that may help your discharge upgrade case, use VA form SF-180.

You should consult a lawyer or Veterans Service Organization if you are considering an application for a discharge upgrade. Veterans who are represented in their discharge upgrade application have a significantly higher rate of success than those that apply without guidance.

Character of Service Determination

If you left the military with “bad paper”—a discharge that was less than fully Honorable—you may still be able to get VA benefits, even if your discharge hasn't been upgraded (see page 15 more information on discharge upgrades).

If your discharge was General (Under Honorable Conditions), you are eligible for most VA benefits. You are not eligible for education benefits under the G.I. Bill, which requires a fully Honorable discharge.

If you have a discharge that was neither Honorable nor General, you can ask the VA for a Character of Service Determination (“CSD”). If the VA rules in your favor, you will still have “bad paper”, but you will be eligible for most VA benefits, such as disability compensation, pension, and healthcare. A CSD is an alternative to a discharge upgrade. CSD requests are usually processed more quickly than discharge upgrade applications; favorable CSD rulings are also currently more common than successful discharge upgrade applications.

But not everyone is eligible for a CSD. In some cases, the VA can't even consider the request. Among the ineligible are:

- Discharges following a conviction at a General Court-Martial
- Veterans who accept an Undesirable discharge to avoid a court-martial
- Veterans discharged for an offense involving moral turpitude (conviction of a felony)
- Veterans discharged for “willful and persistent” misconduct
- Veterans discharged for “homosexual acts involving aggravating circumstances” (however, if you were discharged for such a reason, contact a NYLAG attorney at (212) 613-7342)
- Veterans discharged for mutiny or spying, desertion; conscientious objectors; and officers who resigned for the good of the service
- AWOL for a period of 180 or more days without a “good reason why”

In some other cases, the VA has more leeway. For example, if you received an Other Than Honorable discharge after being AWOL continuously for at least 180 days, by regulation, you're ineligible for VA benefits—unless the VA finds there were “compelling circumstances to warrant the prolonged unauthorized absence.” When you ask the VA to make a CSD, you are asking it to consider the complete history of your military service, such as length of service, periods of creditable service, and possible undiagnosed medical issues you had prior to discharge. The VA must decide if it is fair to deny benefits based upon all the facts.

How do I apply for a CSD?

The simplest way to trigger a CSD is to apply for VA disability compensation or pension. The VA will respond to your application with a letter telling you what information you should submit in support of your request for a favorable CSD. To respond to the letter, you will need a copy of your Official Military Personnel File which you can request with VA form SF-180. You may also need a court-martial transcript or military investigative records; letters or affidavits from members of your former military unit could also be helpful. A lawyer or a Veterans Service Organization can provide further assistance.

Resources for Survivors of Military Sexual Trauma

Military sexual trauma (“MST”) has been labeled an epidemic that violates the service and honor of military men and women who survive their trauma. The U.S. military and VA have recently recognized the trauma and unique hardships that MST survivors face, and therefore have developed a number of resources and administrative changes for MST survivors.

MST is defined by Title 38 U.S. Code 1720D as “psychological trauma resulting from a physical assault of a sexual nature, battery of a sexual nature, or sexual harassment which occurred while the veteran was serving on active duty, active duty for training, or inactive duty training.” Sexual harassment is defined as “repeated, unsolicited verbal or physical contact of a sexual nature which is threatening in character.”

VA Compensation and MST

The VA has changed its application process and rules for VA compensation claims related to MST (see page 18 for more information).

Special VA Health Benefits considerations

The VA provides free healthcare for physical and mental health conditions related to experiences of MST, even if a veteran has not won their VA compensation claim for MST-related experiences. No documentation of the MST experiences or disability compensation rating is required to receive this free healthcare. Veterans may be able to receive free MST-related healthcare even if they are not eligible for other VA care. Veterans are also not required to pay copayments to the VA for this medical treatment.

MST Coordinators at VA Medical Centers

The VA has MST coordinators at VA Medical Centers who coordinate counseling and other services for MST Survivors:

Military Sexual Trauma Coordinators at New York-area Medical Centers	
<p>VA James J. Peters Bronx Medical Center Lynn A. Repasky, LCSW (718) 584-9000 ext. 6847</p> <p>VA Hudson Valley Healthcare System Fran Gitlin, RN (914) 737-4400 ext. 3330</p> <p>VA New Jersey Healthcare System Risa Goldstein, PsyD (973) 676-1000 ext. 2671</p> <p>VA Northport Medical Center Gary Sandler, CSW (631) 261-4400 ext. 2505</p>	<p>VA New York - Manhattan Campus Marion Creasap, NP (212) 686-7500 ext. 7704</p> <p>VA New York - Brooklyn Campus Dr. Shalini Sehgal (718) 836-6600 ext. 6479</p> <p>St. Albans Community Living Center Annie Lee Jones, Ph.D. (718) 526-1000 ext. 2308</p>

VA Compensation for Military Sexual Trauma

Military Sexual Trauma (“MST”) can cause Post-traumatic Stress Disorder (“PTSD”) and other mental health and physical disabilities. You may therefore apply for VA compensation for disabilities that result from MST. Read this page for more information.

What evidence can support a VA compensation claim for PTSD from MST?

Department of Defense forms used in reporting incidents of sexual assault or harassment, as well as investigative reports during military service, are direct evidence to support these claims. However, the VA knows that events involving sexual trauma are not always officially reported. Therefore, PTSD claims related to MST VA have liberalized evidentiary requirements and the VA looks for “markers” (*i.e.* signs, events, or circumstances) that provide some indication that the traumatic event happened. These include, but are not limited to:

- Records from law enforcement authorities, rape crisis centers, mental health counseling centers, hospitals, or physicians
- Pregnancy tests or tests for sexually transmitted diseases
- Statements from family members, roommates, fellow servicemembers, clergy members, or counselors
- Requests for transfer to another military duty assignment
- Deterioration in work performance
- Substance abuse
- Episodes of depression, panic attacks, or anxiety without an identifiable cause
- Unexplained economic or social behavioral changes
- Relationship issues, such as divorce
- Sexual dysfunction

VA regulations state that evidence from non-military sources may be used to corroborate the veteran’s account of the MST. When direct evidence of MST is not available, the VA may request a medical opinion to consider a veteran’s account and any “markers” to corroborate the occurrence of the event as related to current PTSD symptoms.

Re-Evaluation of Old Denied Claims

If your original claim was submitted before December 2011 and denied, you can request a re-evaluation from your local VA regional office. Veterans who want the VA to review their previously denied MST-related PTSD claim can start by calling (800) 827-1000, logging into their eBenefits account at eBenefits.va.gov, or visiting the Regional Office at 245 West Houston Street, NY, NY, 10014. The VA will accept new evidence to be reviewed when a claim is re-evaluated. In addition, you can send new evidence with your request for re-evaluation.

How Veterans are Granted VA Compensation for MST

Veterans are not awarded compensation for the traumatic event itself, but are granted VA compensation for conditions that result from MST. For more information about applying for VA compensation and how to demonstrate the connection between a service-connected event and current disability or condition, see page 13.

Radiation Exposure Compensation Claims

The Radiation Exposure Compensation Act (“RECA”) offers monetary compensation to individuals who have contracted certain cancers and other serious diseases:

- Following their exposure to radiation released during the atmospheric nuclear weapons tests; or
- Following their occupational exposure to radiation while employed in the uranium industry during the Cold War arsenal buildup.

Claimants qualify for compensation if they establish the diagnosis of a listed compensable disease after working or residing in a designated location for a specific period of time. The following persons qualify for a lump sum payment:

- Uranium miners, millers, and ore transporters – \$100,000;
- “Onsite participants” at atmospheric nuclear weapons tests – \$75,000; and
- Individuals who lived downwind of the Nevada Test Site (“downwinders”) – \$50,000.

To request a RECA form to apply for benefits, and for a list of compensable diseases, visit www.justice.gov/civil/request-reca-claim-form or the VA’s Regional Office at 245 West Houston Street, NY, NY 10014. You should also contact an attorney or VSO for further information.

Agent Orange Compensation Claims

The Agent Orange Act of 1991 expanded the traditional VA compensation claim framework for veterans that were exposed to Agent Orange during the Vietnam War era.

In order to qualify for these benefits, a veteran must show the following:

- A medical diagnosis of a disease related to Agent Orange (see below);
- Proof of service (even just one day) in Vietnam during the period of January 1962 to May 1975 or in or near the demilitarized zone (DMZ) in Korea from September 1967 to August 31, 1971; and
- Evidence that the disease began within the deadline specified by the VA for the particular disease being claimed (for most diseases, date of onset is not considered, but see www.publichealth.va.gov/exposures/agentorange/conditions/ for more information on date of onset evidentiary requirements).

Medical Diagnoses Related to Agent Orange

The following medical diagnoses are considered “related to Agent Orange” and VA compensation will be presumptively awarded if proof of service and date of onset requirements are met: AL Amyloidosis, Chronic B-cell Leukemias, Chloracne (or similar acneform disease), Diabetes Mellitus Type 2, Hodgkin’s Disease, Ischemic Heart Disease, Multiple Myeloma, Non-Hodgkin’s Lymphoma, Parkinson’s Disease, Peripheral Neuropathy (Early-Onset), Porphyria Cutanea Tarda, Prostate Cancer, Respiratory Cancers (Cancers of the lung, larynx, trachea, and bronchus) and Soft Tissue Sarcomas (other than osteosarcoma, chondrosarcoma, Kaposi’s sarcoma, or mesothelioma).

Who is eligible?

Any veteran who served in Vietnam during the period of January 1962 to May 1975 or in or near the DMZ in Korea from September 1967 to August 31, 1971—even for just one day—is eligible for these benefits if they have a medical diagnosis related to Agent Orange. Additionally, servicemembers who served on certain vessels that operated in the inland waterways of Vietnam are also eligible for these benefits. For a list of qualifying vessel designations, visit: www.publichealth.va.gov/publichealth/exposures/agentorange/shiplist/index.asp.

Blue Water Veterans

“Blue Water Veterans” who served aboard vessels that did not operate in these inland waterways but that operated off the coast of Vietnam and Korea may be presumptively granted VA compensation for non-Hodgkin’s Lymphoma only. However, Congress is currently debating a bill to expand the eligibility of Agent Orange Compensation benefits to Blue Water Veterans, so these veterans should watch for developments.

Camp Lejeune Water Contamination: VA Benefits and Healthcare

VA compensation benefits and/or healthcare may be available to veterans and their family members who resided at Camp Lejeune between 1953 and 1987. The water contamination at Camp Lejeune was caused by two on-base water distribution systems that contained volatile organic compounds. The sources of the contamination were likely on-base equipment cleaning agents, an off-base dry cleaner, and/or on-base leaking underground fuel tanks.

As a result of possible poisoning from these contaminants, veterans who served on active duty at Camp Lejeune between August 1953 and 1987 may receive VA compensation benefits for service-connected health conditions. These benefits are available to those whose current health conditions were as likely as not caused by contaminated water at Camp Lejeune. The VA is also in the process (as of August 2015) of adding a presumption of service connection due to Camp Lejeune water exposure for a limited number of conditions: kidney cancer, angiosarcoma of the liver, and acute myelogenous leukemia. Veterans with these conditions who served at Camp Lejeune should file for VA compensation immediately. Veterans with other conditions should be aware that the VA may add to the list of diseases for which a presumption of service connection will be awarded for Camp Lejeune water exposure.

In order to file the VA compensation claim, the veteran must have a current disease and a medical opinion that states the disease is a result of exposure to the contaminated water at Camp Lejeune. The veteran must also have been discharged under conditions other than dishonorable. See page 13 for more information about applying for VA compensation.

Additionally, VA health benefits may be awarded to veterans and family members who resided at Camp Lejeune between January 1, 1957 and December 31, 1987. They must have resided at Camp Lejeune for at least 30 days between the effective dates. If they establish residency at Camp Lejeune, they are eligible for medical care for 15 health conditions:

- Esophageal cancer
- Breast cancer
- Kidney cancer
- Multiple myeloma
- Renal toxicity
- Female infertility
- Scleroderma
- Non-Hodgkin's lymphoma
- Lung cancer
- Bladder cancer
- Leukemia
- Myelodysplastic syndromes
- Hepatic steatosis
- Miscarriage
- Neurobehavioral effects

“Neurobehavioral effects” is a vague category that captures many symptoms, including but not limited to fatigue, difficulty sleeping, personality changes, headaches, and depression.

The VA will reimburse the veteran or family member for eligible out-of-pocket expenses for the 15 covered conditions starting on October 24, 2014. The applicant must keep receipts for healthcare he or she paid for a covered condition on or after March 26, 2013, the date when Congress began to fund this program. The VA will only pay for claims after the applicant has received payment from all other health plans.

VA Pension for Non-Service-Connected Disability (“VA Pension”)

The VA Pension provides monthly supplemental income to disabled or elderly veterans who served during a war time period. VA Pension benefits are based on several factors: 1) wartime service (does not have to be related to combat) that ultimately results in a discharge under other than dishonorable conditions; 2) permanent and total disability (or at least 65-years-old); and 3) demonstrated need. Veterans should note the difference between the VA Pension and VA compensation benefits: to earn VA compensation benefits, a veteran does not need to be totally disabled, or show a low-income or wartime service, but the veteran must connect their disabilities to their period of service. To qualify for VA Pension, a servicemember must meet all of the following:

- The veteran must be discharged under honorable, general (under honorable conditions) or other than honorable conditions (*i.e.* not a dishonorable or bad conduct discharge);
- The veteran must have limited income and net worth (see “Income Requirements” below);
- The veteran must be permanently and totally disabled on the date of application (may be demonstrated through SSI determination or doctor’s statement), or be 65-years-old or older;
- Permanent and total disability must not be due to willful misconduct on the veteran’s part;
- The veteran must have served during a “Qualifying Wartime Period” (see below);
- An individual who enlisted in the military service for the first time on or after September 8, 1980, is required to complete a minimum period of service, either twenty-four months of continuous active duty or the full period for which the veteran was called or ordered to active duty. The veteran must also have active service that includes a total of 90 days during a period of war; 90 or more consecutive days, one day of which is in a period of war; or at least one day of wartime service that results in discharge for a service-connected disability.

Income Requirements

- A Veteran alone must have countable income LESS than \$ 12,868 a year
- A Veteran with a spouse must have countable income LESS than \$16,851 a year
- A Veteran may work or receive other benefits while receiving a VA Pension, but may only earn up to the Maximum Annual Pension Rate (MAPR) which is \$12,868. If you receive a VA Pension and your income changes because you started working or earned a new benefit, notify the VA immediately in order to avoid a potential overpayment. You should call (877) 294-6380 and then submit VA form 21-4138 (“Statement in Support of Claim”) stating the change.

Qualifying Wartime Periods

- World War II (December 7, 1941 – December 31, 1946)
- Korean conflict (June 27, 1950 – January 31, 1955)
- Vietnam era (February 28, 1961 – May 7, 1975 for veterans who served in the Republic of Vietnam during that period; otherwise August 5, 1964 – May 7, 1975)
- Gulf War (August 2, 1990 – through a future date to be set by law or Presidential Proclamation)

To apply for a non-service connected VA pension, use VA Form 21-526.

Aid & Attendance/Housebound Benefits

Veterans who are eligible for a VA Non-Service Connected Pension (“VA Pension”) and require the aid and attendance of another person, or are housebound, may be eligible for an additional monetary payment. Note that this benefit is also available to surviving spouses of deceased veterans, but this fact sheet does not include information on such cases.

The Aid & Attendance, Housebound, and Basic Pension are best understood as three tiers of the same program for low-income veterans:

- The Basic Pension (also known as the VA Non-Service Connected Pension or VA Pension) is available to many low-income, disabled veterans (see page 22 for more information about the VA Pension). This is the Tier 1 benefit for disabled veterans.
- Housebound benefits are available to housebound veterans who also qualify for the basic pension. This benefit provides an additional sum of money to the Basic Pension. This is the Tier 2 benefit for disabled veterans.
- Aid & Attendance benefits are available to veterans who require the aid and attendance of another person who also qualify for the basic pension. This benefit provides an additional sum of money to the basic pension that is greater than the housebound benefit. This is the Tier 3 benefit for disabled veterans.

A veteran who is eligible for Tier 2 or Tier 3 benefits is classified as “catastrophically disabled,” which automatically puts the veteran in Priority Group 5 and entitles them to VA health benefits without copayments (see page 27 for more information about VA copayments).

To apply for the Aid & Attendance/Housebound Improved Pension, you will need all of the following:

- Discharge/Separation Papers (DD-214);
- Copy of current Social Security Award Letter if you receive Social Security (the letter that Social Security sends at the beginning of the year stating what your monthly amount will be for the following year);
- Net worth and resources information, including bank accounts, certificates of deposit, trusts, stocks, bonds, annuities, etc.;
- Proof of all income from pensions, retirement, interest income from investments, annuities, etc.;
- If you are a guardian of the veteran, a certified copy of the court order of the appointment;
- Proof of insurance premiums, medications, medical bills or any other medical expenses that are not reimbursed by insurance, Medicare, or Medicaid;
- Physician statement that includes current diagnosis, medical status, prognosis, name and address, ability to care for self, ability to travel unattended, etc. The physician must fill out VA Form 21-2680;
- Employment history (does not apply if you are over 65); and
- List of all doctors and hospitals visited in the last year.

Once you have this information compiled, you will need to complete VA Form 21-527EZ.

VA Fiduciary Program

What is the VA's Fiduciary Program?

The VA will only determine an individual to be unable to manage their financial affairs after receipt of medical documentation, or if a court of competent jurisdiction has already made the determination. If the VA concludes that you cannot handle your finances, then you may be appointed a fiduciary who will receive your service-connected disability benefits or non-service connected pension ("VA Pension"). The fiduciary will then use these benefits to make payments for you (rent, food, etc.) on your behalf; VA fiduciaries are only allowed to handle your VA benefits income, not any other benefits, money, or assets. You may also request a VA fiduciary if you do not feel that you are able to handle your finances by submitting your request, along with any supporting medical documentation, to the Regional Benefit Office at 245 West Houston Street, NY, NY 10014. For more information about the VA Fiduciary Program, call (888) 407-0144 (select Option 2 for the New York Fiduciary Hub in Indianapolis).

Who can be a fiduciary?

The VA will appoint a fiduciary upon determining that a beneficiary is unable to manage their financial affairs. The fiduciary is normally chosen by the beneficiary, but must undergo an investigation of their suitability to serve. This investigation includes a criminal background check, review of credit report, personal interview, and recommendations of character references. When friends and family are not able to serve as fiduciaries, VA looks for qualified individuals or organizations to serve as a fiduciary. These organizations are authorized to charge up to 4% of the VA benefit amount for their services. For more information, call (888) 407-0144 (select Option 2 for the New York Fiduciary Hub in Indianapolis).

What if the VA appoints a fiduciary but you do not believe you need one?

You can appeal the VA's determination that you need a fiduciary. To begin your appeal, write the VA a letter which states why you disagree with the decision and wish to appeal. This letter is called your "Notice of Disagreement" or "NOD." Send your NOD to the address of the fiduciary hub—veterans living in New York should send their NOD to the Indianapolis Fiduciary Hub, PO Box 441480, Indianapolis, IN 46244. You may also submit any additional evidence in support of your appeal, such as a doctor's note which states that you are mentally competent to handle your affairs. It may be helpful to seek an attorney or Veterans Service Organization in making this appeal.

What should you do if you have concerns about your fiduciary?

If you have concerns about a VA-appointed fiduciary, notify the VA by calling (888) 407-0144 (select Option 2 for the New York Fiduciary Hub in Indianapolis). You have the right to have a new fiduciary assigned to you at any time. If you believe that a fiduciary may be stealing from you, withholding money from you, or otherwise not handling your finances appropriately, or if the VA does not quickly replace a fiduciary you have requested to change, contact an attorney immediately.

Healthcare and VA Health Benefits

In this section, you will find information on the following topics:

- Medicare, Medicaid, and VA Health Benefits
- VA Copayments
- VA Transportation Benefits (for both the James J. Peters VA Medical Center in the Bronx and the NYHHCS VA Medical Center in Manhattan)

Medicare, Medicaid, and VA Health Benefits

Read this page for information about having VA Health Benefits and Medicare/Medicaid, and general information about VA Health Benefits, Medicare, and Medicaid.

Having VA Health Benefits with Medicare: The VA recommends that even if you have VA Health Benefits, you sign up for Medicare (Part A and Part B) when you are eligible. That way, you have the choice of receiving care at non-VA facilities, and have coverage if VA funding drops or if you need to attend a non-VA hospital for any reason. Plus, Medicare Part A and Part B enrollment may be free for you (call (888) 692-6116 for information about Medicare premium waivers). Part D is not as strongly recommended by AARP if you have VA Health Benefits because the VA prescription drug plan is usually better than Medicare's.

Eligibility for VA Health Benefits, Medicaid, and/or Medicare: You may be eligible for two or three of these programs, with increased insurance coverage from each program.

VA Health Benefits Eligibility: If you served in the military for even a day, you may be eligible. To apply for VA Health Benefits, call (877) 222-8387 or submit VA Form 10-10EZ.

Medicaid Eligibility: You are eligible for Medicaid if you receive SSI. You may also be eligible if you meet certain financial requirements or have high medical bills. Apply for Medicaid by visiting your local HRA Job Center or call HRA at (718) 557-1399. Even if you are above Medicaid's income limits, you may be eligible for Medicaid by "spending down" to the income limit, or creating a Pooled Trust. Contact a social worker or attorney for more information on these options.

Medicare Eligibility: Medicare has four "parts": Part A (hospital inpatient insurance); Part B (outpatient insurance); Part C (Medicare Advantage plans); and Part D (prescription drug plans). To apply for Medicare, call (800) 633-4227. Below is information on eligibility for Medicare:

Part A: People 65 or older automatically qualify for Medicare Part A. People younger than 65 qualify if they have certain health conditions (like kidney failure) or have received SSDI benefits for at least 24 months. Those with incomes up to \$1001/month (single, 2015 threshold) or \$1982/month (single, under 65, working, 2015 threshold) may be able to have their deductibles reimbursed/waived. Call (888) 692-6116 for more information.

Part B: Anyone enrolled in Part A can enroll in Part B by paying a monthly premium. Those living in New York City and with incomes up to \$1345/month (single, 2015 threshold) may be eligible to have the premium waived. Call (888) 692-6116 for more information.

Part C: If you receive Part A and Part B, you can sign up for Part C with a private insurer. This additional-cost plan will cover benefits that would not be covered by Part A and Part B.

Part D: If you receive Parts A and B, or Part C, you may sign up for this prescription drug plan. It will cost roughly \$0-\$50 a month. You may join Part D if you already have VA prescription coverage, but you will not be able to use both types of coverage to pay for the same prescription.

If you are denied VA Health Benefits, Medicare or Medicaid, contact an attorney.

Copayments for VA Healthcare

The amount of your VA copayments is determined by your VA Priority Group, 1-8. To find out your Priority Group, call (877) 222-8387.

If you are required to make a copayment and cannot, the VA will not withhold treatment or medications. If you are unable to pay, you may apply for a hardship, waiver, compromise or repayment plan. Call (877) 222-8387 for these options. The following provides an incomplete list of important differences in VA copayments depending on your Priority Group:

- **Medications:** Veterans in Priority Group 1 (50% or more service-connected or unemployable due to service-connected conditions) do not pay for medications no matter their income; veterans in Priority Group 2-6 pay \$8 per medication for a non-service-connected condition, with an annual cap of \$960, and nothing for a service connected condition; veterans in Priority Group 7-8 pay \$9 for each 30-day or less supply of medication for treatment of a service-connected condition, without an annual cap, and nothing for a service-connected condition.
- **Outpatient Services:** Veterans who are 50% or more service-connected, former POWs, or veterans deemed catastrophically disabled by a VA provider do not pay outpatient copayments. Most other veterans pay the same amount for services: \$15/visit for Basic Care Services (primary care) and \$50/visit for Specialty Care Services.
- **Inpatient Services:** Priority Group 7 and Priority Group 8 veterans are responsible for various charges for inpatient stays. Priority Group 6 and below do not have a copayment for inpatient services.
 - Some veterans may qualify for reduced inpatient copayment rates. Call (877) 222-8387 for more information.
- **Geriatrics and Extended Care:** Long Term Care copays are based on three levels of care:
 - Inpatient: Up to \$97 per day (Community Living (Nursing home), Respite, Geriatric Evaluation)
 - Outpatient: \$15 per day (Adult Day Healthcare, Respite, Geriatric Evaluation)
 - Domiciliary: \$5 per day
 - Note: copayments for Long-Term Care services start on the 22nd day of care during any 12-month period — there is no copayment requirement for the first 21 days. Actual copayment charges will vary from veteran to veteran depending upon financial information submitted on VA Form 10-10EC.

Private Health Insurance: Note that if you have private health insurance, the VA is required to bill private health insurance providers for medical care, supplies and prescriptions provided for treatment of non-service-connected conditions.

The following are some conditions exempt from copayments: counseling and care for military sexual trauma; care related to a VA-rated service-connected disability; readjustment counseling and related mental health services; individual or group smoking cessation or weight reduction services; care potentially related to combat service for veterans that served in a theater of combat operations after November 11, 1998; laboratory and electrocardiograms; hospice care.

VA Transportation Benefits

VA NY Harbor Healthcare (Manhattan) VA Medical Center

Who qualifies for Transportation Benefits at the Manhattan VA?

If you receive a VA Pension (non-service-connected), or if your income is under \$12,652/year (for a single person without dependents), you will qualify for the ambulette service if your VA physician completes a request. They will only do so if you require two-person assistance to get into and out of the ambulette. If your physician does not think that you require two-person assistance, you qualify for reimbursement for public transportation, mileage (if you drive), and tolls. The VA will not reimburse for taxis to Manhattan or parking. Visit the Travel Office on the 1st Floor of the Manhattan VA for more information, or call the travel office at (212) 686-7500 ext. 3646. You will not be required to pay a transportation deductible.

If you are 30% or more service-connected, you automatically qualify for ambulette service no matter what your income is if a physician at the VA completes a request. They will only do so if you require two-person assistance to get into and out of the ambulette. If your physician does not think that you require two-person assistance, you qualify for reimbursement for public transportation, mileage (if you drive), and tolls. Visit the Travel Office on the 1st Floor with your receipts. The VA will not reimburse for taxis to Manhattan or parking. Visit the Travel Office on the 1st Floor of the Manhattan VA for more information, or call the travel office at (212) 686-7500 ext. 3646. You may be required to pay a \$3 deductible each way.

If you are under 30% service-connected (20% or 10%), you will qualify for ambulette service if your appointment is for the specific service-connected injury and your physician completes the request. They will only do so if you require two-person assistance to get into and out of the ambulette. If your physician does not think that you require two-person assistance, you qualify for reimbursement for public transportation, mileage (if you drive), and tolls. The VA will not reimburse for taxis to Manhattan or parking. Visit the Travel Office on the 1st Floor of the Manhattan VA for more information, or call the travel office at (212) 686-7500 ext. 3646. You may be required to pay a \$3 deductible each way if your income is over \$12,652/year for a person without dependents.

All other veterans will not be able to receive VA transportation benefits, except for shuttle service between VA medical centers.

Shuttle service: All veterans qualify for shuttle service between VA medical centers. Visit the Travel Office on the 1st Floor of the Manhattan VA or call (212) 686-7500 ext. 3646 for more information about shuttle service between VA medical centers.

VA Transportation Benefits

James J. Peters (Bronx) VA Medical Center

Who Qualifies for Transportation Benefits at the Bronx VA?

If you receive a VA Pension (non-service-connected), or if your income is under \$12,652/year (for a single person without dependents), you will qualify for the ambulette service if your physician completes the request. They will only do so if you are wheelchair-bound. If your physician does not think that you are wheelchair-bound, you qualify for reimbursement for public transportation, mileage (if you drive), and tolls. Visit the Travel Office in Room 1B05. The VA will reimburse for taxi service only if you qualify in advance and if you have a medical condition that does not allow you to travel on public transit. Visit the Travel Office in Room 1B-05, or call at (718) 584-9000 ext. 5323, for more information. You will not be required to pay a transportation deductible.

If you are 30% or more service-connected, you automatically qualify for ambulette service no matter what your income is if a physician at the VA requests one for you. They will only do so if you are wheelchair-bound. If your physician does not think that you are wheelchair-bound, you qualify for reimbursement for public transportation, mileage (if you drive), and tolls. Visit the Travel Office in Room 1B05. The VA will reimburse for taxi service only if you qualify in advance and if you have a medical condition that does not allow you to travel on public transit. Visit the Travel Office in Room 1B-05, or call at (718) 584-9000 ext. 5323, for more information. You may be required to pay a \$3 deductible each way.

If you are under 30% service-connected (20% or 10%), you will qualify for ambulette service only if your appointment is for the specific service-connected injury and your physician requests one for you. They will only do so if you are wheelchair-bound. If your physician does not think that you are wheelchair-bound, you qualify for reimbursement for public transportation, mileage (if you drive), and tolls; visit the Travel Office in Room 1B05. The VA will reimburse for taxi service only if you qualify in advance and if you have a medical condition that does not allow you to travel on public transit. Visit the Travel Office in Room 1B-05, or call at (718) 584-9000 ext. 5323, for more information. You may be required to pay a \$3 deductible each way if your income is over \$12,652/year for a person without dependents.

All other veterans will not be able to receive VA transportation benefits except for shuttle service between VA medical centers.

Shuttle service: All veterans qualify for shuttle service between VA medical centers. Visit the Travel Office in room 1B-05 or call (718) 584-9000 ext. 5545 for more information about shuttle service between VA medical centers.

Social Security and Other Public Benefits

In this section, you will find information on the following topics:

- General Social Security Information
- Representative Payee for Social Security
- Overpayments (of a number of public benefits, including VA benefits, SSI/SSD, TANF, SNAP, and Unemployment Insurance)

SSI, SSD, and Social Security Information

The Social Security Administration (“SSA”) manages Supplemental Security Income (“SSI”), Social Security Disability Insurance (“SSD” or “SSDI”) and Social Security Retirement.

SSI pays benefits based on financial need for disabled and elderly people. To qualify for SSI, the beneficiary must either be disabled, blind, or age 65 or older. In addition, there are resource limits: \$2000 if living alone and \$3000 for a couple. In 2015, an SSI beneficiary living alone in New York State can receive \$820 per month, and a beneficiary living with others can receive \$756 per month. SSI recipients automatically receive Medicaid and may qualify for Supplemental Nutrition Assistance Program (“SNAP” – call (877) 472-8411 for SNAP information). Veterans eligible for SSI should consider applying for a VA Pension, which is a larger benefit (see page 22 to see if you are eligible for a VA Pension).

If you receive SSI and your income or resources change, you must report the new information by calling (800) 772-1213 or visiting a SSA office. Changes include new income from VA benefits, employment wages, marriage, or any other source. Keep a print out of your call or a receipt from the SSA office. If you do not notify SSA, you may have an overpayment and be required to pay back SSA (see page 33 for more information about overpayments).

SSD provides benefits for individuals whose disability limits their ability to work. Unlike SSI, SSD is not income tested; you can therefore receive SSD and VA compensation at the same time. To qualify for SSD, an applicant must have paid Social Security taxes, worked long enough (usually 10 years), and the disability must be found within roughly five years of when the applicant last worked. You may be eligible for VA compensation but not SSD, or vice versa. VA compensation is granted based on service-connected disability, and not one’s ability to work.

To meet SSD’s disability requirement, you must prove that you cannot do the work you did before and are now unable to do all basic work-related activities. Medical record evidence will be required. SSD (not SSI) beneficiaries are eligible for Medicare after receiving SSD for two years. Medicaid is not automatically provided with SSD. However, an applicant may be eligible for Medicaid if he or she qualifies for SSI or applies for Medicaid with a spend-down.

Social Security Retirement is available to persons at least 62 years-old who have worked at least 10 years; you will be penalized with smaller monthly payments if you apply before 65, and will be rewarded with larger monthly payments the longer you wait to apply, up to age 70. The spouses of people who worked may also be eligible, even if they have not worked.

To apply for SSI, SSD, or Social Security, go to your local SSA office or call (800) 772-1213. You will have to complete an application. For SSD, you must provide all medical records to SSA as soon as possible. If denied, you have two months from the date on the denial letter to appeal by filing a “Request for Hearing” at your local SSA office.

Working: You may work while receiving SSI, SSD, or Social Security, but the amount you can earn is limited and may affect your benefits. You should consult an attorney before you return to work so that your benefits do not cease or decrease.

Social Security Representative Payee Program

If you are unable to manage your benefits, then the Social Security Administration (“SSA”) may require you to have a representative payee for your Social Security, SSD or SSI benefits. You may also decide that you should not manage your benefits on your own. Call (800) 772-1213 for more information.

What is Social Security’s Representative Payee Program?

A payee acts on behalf of the beneficiary (the person who earns the Social Security benefits). A payee is responsible for everything related to Social Security benefits that a capable beneficiary would do. The following are the required duties of a payee:

- Determine the beneficiary’s needs and use their payments to meet those needs;
- Save any money left after meeting the beneficiary’s current needs in an interest bearing account or savings bonds for the beneficiary’s future needs;
- Report any changes or events which may affect the beneficiary’s eligibility for benefits or payment amount;
- Keep records of all payments received and how they are spent and/or saved;
- Provide benefit information to agencies or medical facilities that serve the beneficiary;
- Help the beneficiary get medical treatment when necessary;
- Notify SSA of any changes in your (the payee’s) circumstances that would affect your performance or continuing as payee;
- Complete written reports accounting for the use of funds; and
- Return any payments to which the beneficiary is not entitled to SSA.

Who can be a representative payee?

A family member or friend can be your representative payee. They should contact their local SSA office to apply to be a payee. The payee must submit an application and documents to prove their identity. SSA usually requires them to complete the payee application in a face-to-face interview. If an individual like a friend or family member, as opposed to an organization, serves as payee, they cannot collect a fee for serving as payee. If you do not want a friend or family member to serve as payee, you can request to have an organization be your payee, for a small fee (maximum of \$41/month in nearly all cases); visit your local Social Security Office for a list of fee-for-service payee organizations. Call (800) 772-1213 for more information.

What if Social Security appoints a payee but you do not believe you need one?

You have the right to appeal either the decision that you need a representative payee, or the person or organization SSA has chosen as your representative payee. You have 60 days to appeal a decision by contacting SSA. Contact your local Social Security office or call SSA (800) 772-1213. It may be helpful to be represented by an attorney in this appeal.

What do you do if you have concerns about your payee?

If you believe your payee may be stealing from you, or if you have other concerns that you do not feel you can talk to your payee about directly, contact Social Security immediately by calling (800) 772-1213 or visit your local Social Security Office. Social Security will investigate the allegations of misuse. You may also wish to contact an attorney for further actions.

Overpayment of Benefits

If you receive any public benefit, including VA healthcare or a VA Non-Service-Connected Pension, SSI or SSD, Food Stamps, Unemployment Insurance, or TANF, and your income or amount of resources changes (for example, if you begin working, earn new benefits, move to a new home, marry, inherit money or win a lawsuit), then this must be reported to the appropriate agency as soon as possible in order to avoid “overpayments” or “over-issuances” which you will have to pay back. To fight a determination of overpayment, you should seek legal assistance.

VA Benefits: If you earn new benefits, receive money or property from any source, if your income changes, or if you marry or move (even if you move from one place to another within New York State) at any point while you have VA healthcare or a Non-Service-Connected Pension (“VA Pension”), notify the VA immediately in order to avoid a potential overpayment. If you receive a VA Pension, you should call (877) 294-6380 and then submit VA form 21-4138 (“Statement in Support of Claim”) stating the change. If you receive VA healthcare, notify the VA by calling (877) 222-8387 and then submit VA Form 10-10EZR.

If you have an overpayment, the VA will notify you of its overpayment first in a letter from the VA, followed by a letter from the VA Debt Management Center (DMC), which will state how much the VA thinks you have been overpaid and that the VA will withhold this amount from future payments. At this point, see an attorney to fight the VA’s overpayment determination.

Within 30 days of receiving the DMC letter you should submit a Waiver Request in order to avoid having the VA immediately deduct funds from future benefit payments. You have 180 days to file the request, though if you file it after 30 days, the VA will likely begin deducting money from your benefits while it considers your waiver request. The request letter should contain information about the hardship that lower VA benefits will place on you. At the same time you submit your waiver request, you should also file a written dispute of the overpayment if you think it is incorrect. You also must submit VA Form 5655 (Financial Status Report Form). In letters to the VA, always include your full name, Social Security Number, and VA file number. Call the DMC at (800) 827-0648 for more information.

SSI and SSD: SSI or SSD overpayments might be caused, for example, by a return to work, a change in living situation, or marriage. If you receive SSI, overpayments may also be caused by beginning to receive other benefits, like VA compensation or VA Pension. Thus you must notify the Social Security Administration (“SSA”) if you return to work, move, marry, or begin receiving other benefits. Notify SSA of any of these changes immediately by calling (800) 772-1213 or by visiting or calling your local Social Security Office. If SSA believes you have received an overpayment, SSA will send a formal Notice of Overpayment, which will explain the amount of overpayment, the reasons, and several options for how to correct the issue. If you disagree that you were overpaid, you must file a Request for Reconsideration within 60 days, but you should submit this request within 30 days to request that no money be withheld from your benefits until a decision is made. Alternatively, if you agree that you were overpaid, but you believe it was not your fault and are not able to repay the amount, you must file a Request for Waiver. If you receive SSI, it is assumed that you cannot afford to repay any overpayments. SSA’s form to request this waiver is available at [socialsecurity.gov/forms/ssa-632.pdf](https://www.socialsecurity.gov/forms/ssa-632.pdf).

Overpayment of Benefits (continued)

Temporary Assistance for Needy Families (“TANF”): If you receive Temporary Assistance (also known as cash assistance), any changes in income, child support, resources or assets, who lives with you, or changes in residence, must be reported to HRA within 10 days of the change. A change will not necessarily make you ineligible for TANF, but the rules on eligibility are confusing, so being cautious and reporting any change is strongly advisable. If you receive TANF for a child and know that the child will be absent from home for 45 days or more, you must report that change within five days of knowing that the child will be absent for that long. To notify, call HRA (718) 557-1399 or visit your local HRA Job Center. Make sure you obtain and save proof that you have notified HRA of the change.

If HRA determines that you have been overpaid, they will notify you by letter with information about how much you were overpaid and the period during which the overpayment occurred. The office will try to recover the amount overpaid either through direct repayment or by reducing the amount paid out in future benefits. The overpayment will be recovered from someone in the household who received the overpayment, any subsequent household an overpaid individual joins, or any individual who left the household after the overpayment occurred. If you are no longer a recipient of TANF, then you will receive a similar notification of overpayment, and you will have at least 10 days before collection activities proceed. You may request a fair hearing during this 10-day period. Additionally, if the total overpayment was less than \$125 and not due to fraud, then it is possible the recovery will be waived.

SNAP (Food Stamps): If you receive SNAP (sometimes called Food Stamps) in New York City, any changes in income, child support, resources or assets, who lives with you, or if you move, must be reported to HRA within 10 days of the change. A change will not necessarily make you ineligible for SNAP, but the rules on eligibility are confusing, so erring on the side of caution and reporting any change is strongly advisable. However, if you receive SNAP for a child and you know that the child will be absent from home for 45 days or more, you must report that change within five days of knowing that the child will be absent for that long. To notify, call HRA at (718) 557-1399 or visit your local HRA Job Center. Make sure you obtain and save proof that you have notified HRA of the change.

If HRA determines that you have been overpaid, then all adult members of the household who received benefits are responsible for repayment, even if they have left the household. The form of repayment might be different as well. For example, if the household continues to receive SNAP, their benefits may be reduced to repay the agency, though an adult who was previously in the household might be required to make cash payments to the agency.

Unemployment Insurance: In New York, any money paid to you while you received Unemployment Insurance that you were not entitled to is considered an “overpayment.” For example, if you mistakenly and/or incorrectly reported your wages, begin working again without reporting it, are not actually seeking employment, or do not complete the required activities, you will not be found to be entitled to benefits, meaning any benefits received will be overpayments. To report any of these changes, call the Telephone Claims Center immediately at (888) 209-8124.

Family Law

In this section, you will find information on the followings topics:

- Divorce
- How to File for Visitation and Custody
- Child Support Debt and Modifications
- Domestic Violence and Safety Planning
- Orders of Protection
- Family Court Addresses and Telephone Numbers

Divorce

In New York, only the Supreme Court can handle a divorce; Family Court cannot issue divorces. There are two ways to obtain a divorce: uncontested and contested. A divorce is uncontested only if you and your spouse agree on all the financial and custodial issues set forth below. Generally a divorce is uncontested if the marriage is short-term, there are no children of the marriage and the parties don't have property together. Court forms and instructions for uncontested divorces are available at www.nycourts.gov/divorce/info_faqs.shtml.

Before a divorce can be granted, the following issues must be resolved either by a court or by agreement between the parties: (1) child custody, if there are children under 18; and (2) financial issues, which include (a) child support for children under 21, (b) maintenance (aka alimony), and (c) division of marital assets and marital debts. In New York, consent of both spouses to the divorce is not necessary once custody and financial issues are resolved.

If you were married in New York State, you may start your divorce as long as one of the spouses has lived in New York State for at least one year, and still lives here. If you were married outside of New York State, then you may file for divorce after one of the spouses lives in New York State for two or more years, and continues to live here. You need to have been married for six months before you can file for a "no-fault" divorce based on irreconcilable differences.

New York requires personal service in divorce cases – in other words, somebody (not you) will need to hand deliver the documents to your spouse. If you cannot locate your spouse after a diligent search, you can file a motion for permission to serve by publication. You must document your efforts to locate your spouse, including visiting their last known address, internet searches, requests to friends and relatives, and written requests to the United States Military, NYC Board of Elections in each borough, Department of Motor Vehicles, Post Office, and telephone directories. Divorce by publication can be difficult and costly.

Uncontested Divorce: A divorce is "uncontested" if there are no "ancillary" issues to be resolved by the court, either because 1) child support and custody orders are already in place and the spouses have agreed to the division of any property; or 2) there are no child support, custody, or property issues to consider. Matrimonial Clerks in each borough's Supreme Court have free copies of the Uncontested Divorce Packet with fill-in forms and a dedicated clerk to assist you. It usually takes 6-12 months to obtain a final judgment in an uncontested divorce.

Contested Divorce: A divorce is "contested" if the court's assistance is required to decide issues of custody or finances. Courts offer mediation programs in contested divorce cases if the parties agree, and there is no domestic violence. If you are poor, you may ask the judge for a court-appointed attorney, but only for issues of child custody or orders of protection, not financial issues. If your divorce is contested you will likely need a lawyer.

Filing Fees: An uncontested divorce will cost at least \$335 in filing fees. You may file a form for "poor person relief" to have these court fees waived if you cannot afford them. Attach information about your income and any public benefits you receive (for example, VA benefits, SSI, SSD, and SNAP) to the form.

How to File for Custody or Visitation of your Child

How do I get a court order for custody or visitation?

If your child lives in New York State (or lived here for more than six months), then New York courts can decide custody and visitation. To do so, go to Family Court in the borough where the child lives (see page 41 for addresses and telephone numbers of New York City Family Courts). You do not have to be married or divorced in order to file for custody or visitation.

To get a custody or visitation order from Family Court, you have to file a petition. A petition is a form that tells both the Court and the other parent what you want. Family Court has special clerks to help you fill out the petition and file the case. In Family Court, it does not cost any money to start a case.

Courts will determine what is in the best interests of the child to determine custody and visitation. In NYS, the Court will likely appoint an attorney for the child, who will meet with the child outside of court and represent the child's stated wishes.

What is the difference between legal and physical custody?

"Legal custody" refers to who makes important decisions, such as medical treatment or educational decisions. "Physical custody" refers to who the child lives with. Custody can be shared; for example, parents can have joint legal custody when only one parent has physical custody; alternatively, parents can have joint legal and physical custody.

What if I cannot afford a lawyer?

It can be helpful to have a lawyer in a custody or visitation proceeding. A parent has the right to a lawyer in a custody or visitation case in either the Family Court, or Supreme Court as part of a divorce. A court will appoint you an attorney if you cannot afford one. Bring proof of income and especially any information about government benefits, such as VA benefits, SSI, SSD, SNAP, etc. when you ask for a court-appointed attorney.

Does a mother have more right to custody or visitation than a father?

No. The court's standard is "best interests of the child," which includes many factors including but not limited to: (a) keeping siblings together; (b) keeping children with the parent who has been their primary caretaker; (c) exposure to domestic violence or child abuse; (d) keeping the child's life as similar as possible to before the break-up, like keeping the same school and friends; (e) the child's wishes; (f) maintaining access to both parents; and (g) a parent's emotional or mental capacity, or psychological well-being. Almost anything is relevant in a custody determination. Custody and visitation are not connected to paying child support.

Courts generally find that most parents are entitled to visitation. Visitation may be supervised by an agency or family member if the Court believes the child's safety is at risk.

Child Support Debt and Modifications

Child Support Debts

If you fail to pay court-ordered child support, you can lose your driver's license, passport, and professional licenses. Your income, including wages and VA and Social Security benefits, may be garnished. Your property may be seized. You could be found in contempt of court and incarcerated. Child support arrears (child support payments that you owe) are not dischargeable in bankruptcy. Courts will rarely take away or change what you owe from the past and the only way to change the amount is to file a modification petition (see below).

What to Do if Your Income or Circumstances Change Significantly

If your income or circumstances change significantly (*i.e.* your income has gone down by more than 15%, or if the child has begun living with you), you should file a Support Modification Petition immediately. Child support orders will not automatically change if your income or needs change unless you file an Upward or Downward Support Modification Petition with Family Court or the Supreme Court that determined your child support (see below for more information). If the court grants a child support modification or change, it will be effective from the date you filed a petition with the court, but not before. For example, if your income drops in 2015, but you do not file a petition until 2017, the court can only reduce your child support from 2017 onward.

How to Modify Child Support Orders

You may go to the Family Court that issued your support order. You can also file for modification in Supreme Court if it determined your child support in a divorce, but Family Court may be faster and easier, and is available for people whose orders originated in either Family Court or Supreme Court. When you go to Family Court (see page 41 for addresses and telephone numbers of New York City Family Courts) to file your petition, bring photo identification. There, you will need to complete a Support Modification Petition form. If your original support order was issued outside of New York City, you must also bring a certified copy of your support order. You should bring the original support order or Judgement of Divorce when filing in the Family Court.

If you have large child support arrears that you cannot afford, the court still has to enforce these arrears. The court will only consider reducing accumulated arrears in very exceptional circumstances: if the petitioner had been living below the poverty line and was unable to work (for example, due to a disability) during the time of an active court order. If you believe you were in such a circumstance, you should contact an attorney for help.

Usually you do not need a lawyer for a child support modification case. The Family Court clerks will help you file the necessary forms. You will need to fill out and swear to a financial disclosure statement (which can be found online at www.nycourts.gov/forms/familycourt/pdfs/4-17.pdf). There are no fees associated with filing petitions for modifications in Family Court. You will need to arrange for another person over the age of 18 to serve – hand deliver – your Summons and Petition on the other party.

Domestic Violence and Safety Planning

What is Domestic Violence?

Domestic violence (“DV”) is a pattern of behavior used to establish power and control over another person through fear and intimidation which often includes the threat or use of physical, emotional, or sexual violence. Domestic abuse can happen to anyone regardless of gender and sexual orientation. Examples of DV include:

- **Physical violence:** hitting, strangling, cutting, pushing, etc. Physical abuse does not always leave marks.
- **Emotional/psychological/verbal:** verbal degradation, cursing, putting down, threats, intimidation, isolation; putting someone in constant fear; threatening to harm children.
- **Sexual:** high correlations between physical and sexual abuse; sex can be non-consensual in intimate relationships and marriages.
- **Financial abuse:** preventing someone from working; taking someone’s paycheck; limiting access or control over partner’s or families’ finances.

Victims of DV live in fear not only for their own safety and well-being, but often for the safety and well-being of their children as well. DV victims face high rates of depression, anxiety, sleep disturbance, and are frequently isolated emotionally and financially from their community, friends and family. If you are experiencing DV of any kind, one of the best ways to keep yourself safe and avoid feelings of isolation and depression is to develop a safety plan.

How to Create a Safety Plan

- Call the police if you ever fear for your safety or the safety of your children.
- Consider moving to a shelter or other safe place.
- Have important phone numbers available, including the police at 911, the 24-hour DV Hotline at (800) 621-4673, and friends or relatives.
- Keep a copy of any Order of Protection with you at all times (see page 40 for more information about Orders of Protection). File a copy with the police precinct and your child’s school, and give copies to babysitters and a neighbor.
- Tell child care providers and school officials the names of the people who have permission to pick up your children. Instruct them not to release the children to anyone else.
- If the abuser violates the Order of Protection, call the police immediately.
- Ask neighbors to call the police if they see the abuser near your home or if they hear any suspicious activity coming from your apartment.
- Plan an escape route out of your home in case of an emergency.
- Pack a bag with important documents and other things you would need if you had to leave in a hurry, and put it in a safe place.
- Consider changing the locks to your home or apartment and getting locks for the windows. Safe Horizon will change your locks for free. Call (800) 621-4673.
- Call the DV Hotline at (800) 621- 4673 for information about DV shelters and housing, safety planning, counseling, and access to courts and advocates.
- Consider getting an unlisted telephone number, and use caller ID to screen your calls.
- Change your regular travel habits; shop and bank at different places.

Orders of Protection

There are three courts that issue orders of protection (also known as restraining orders): Family Court, Supreme Court (in a divorce action) or Criminal Court.

What is an Order of Protection? An order of protection is issued by the court to limit the behavior of someone who harms or threatens to harm another person. It is used to address various safety issues, which include, but are not limited to, situations that involve domestic violence. An order of protection may direct the offending person not to injure, threaten or harass you, your family, or any other person(s) listed in the order. It may include, but is not limited to, directing him/her to: stay away from you and your children; move out of your home; award temporary custody or child support; not have a gun; or not communicate with you in any way.

You can file for an Order of Protection in Family Court if:

- You are related by blood or marriage (for example, step-parent or brother) to the other person
- Married to the other person
- You have a child or children in common with the other person
- You are in an “intimate relationship” (which does not need to be a sexual in nature) with the other person, regardless of whether you lived together at any time

Where can you file an order of protection in Family Court? You can file for an order of protection in Family Court in the borough where the incident occurred or where you or the abuser reside (see page 41 for locations of New York City Family Courts). You may wish to speak with an attorney before filing. There is a Safe Horizon office at each Family Court where advocates can help you file and provide a safe space to wait. Child care is available. Arrive early and plan on being in Court for most of the day.

In your petition, be sure to include the first, worst and most recent incident that happened to you. Include any injuries you sustained. Also include any weapons or dangerous objects that were used and whether your children were present.

The court can appoint you an attorney if you cannot afford one. This will typically happen on the next court date. The summons, petition for an order of protection and temporary order of protection must be personally served – handed to – the respondent. Any person over 18 years old, except you, may serve these papers. The police, the Sheriff, a friend or relative can serve the papers, or you can hire a process server. You may not serve the papers yourself. Papers for an order of protection may be served any day of the week, at any time of the day or night.

What can you do if someone violates an order of protection? It is a crime to violate a temporary or final order of protection. If the subject of the order of protection does not obey the order, you can call the police and they will arrest the perpetrator. You can also file a violation of the order in Family Court.

Criminal and Supreme Court Orders of Protection: Criminal Court orders of protection may only be issued when a person is charged with a crime. Supreme Court orders of protection may only be issued as part of a divorce proceeding.

New York City Family Court Addresses and Telephone Numbers

Bronx County

900 Sheridan Avenue, Bronx, NY 10451 (corner of 161 Street)
(718) 618-2098

Kings County (Brooklyn)

330 Jay Street, Brooklyn, NY 11201 (downtown Brooklyn)
(347) 401-9610

New York County (Manhattan)

60 Lafayette Street, New York, NY 10013 (in lower Manhattan, between Franklin and Leonard Streets)
(646) 386-5200

Queens County

151-20 Jamaica Avenue, Jamaica, NY 11432 (across from the Rufus King Park)
(718) 298-0197

Richmond County (Staten Island)

100 Richmond Terrace, Staten Island, NY 10301 (two blocks west of St. George Terminal)
(718) 675-8800

Advance Planning

In this section, you will find information on the following topics:

- Healthcare Proxies and Living Wills
- Powers of Attorney
- Wills

Healthcare Proxies and Living Wills

Both living wills and healthcare proxies are important legal documents that ensure that healthcare providers will follow your wishes. Read this page for more information.

What is a Healthcare Proxy?

The healthcare proxy is a simple document that allows you to name someone you trust (an “agent”) – for example, a family member or close friend – to make healthcare decisions on your behalf if you are unable to make or communicate decisions yourself. Hospitals, doctors, and other healthcare providers must follow your agent’s decisions as if they were your own. You may give your agent a lot of authority, or a little authority, allowing them to make all healthcare decisions or just certain ones. The healthcare proxy only becomes active, and the agent is only able to make your healthcare decisions on your behalf, if you are unable to make or communicate decisions to healthcare providers.

What is a Living Will?

A living will, also called a medical directive to physician or advance directive, is a statement of one’s wishes with respect to one or a number of potential medical decisions. It is used when you can no longer make decisions about the medical care you wish to receive. It holds only when you have an incurable, terminal, end-stage condition, and are persistently unconscious. A living will should not be used as a substitute for a healthcare proxy, which is the preferred method for expressing your medical wishes in New York State. If you do not have anyone to appoint as a healthcare agent, then you should complete a living will. You may also complete a living will in addition to a healthcare proxy.

More Important Information

While healthcare proxies and living wills both relate to end-of-life planning and medical treatment, they are different. The healthcare proxy names a person you trust—who you have informed of your end-of-life healthcare wishes, and who you believe would make the right decision for you on your behalf—to make healthcare decisions for you. The living will, on the other hand, specifically lays out various end-of-life healthcare treatments and requires you to decide in advance whether you would accept or reject them, if you did not have the power to communicate or make the decisions later.

Living wills and healthcare proxies must both be legally valid documents. It is important that they contain all of the important choices that people should think about when making end-of-life decisions. Thus you should visit an attorney, healthcare provider, or end-of-life planning expert in order to create a healthcare proxy and/or living will and for more information.

Organ Donation

While planning your living will and/or healthcare proxy, you may also consider becoming an organ donor. Every year, organ donation saves thousands of lives in the United States. You can indicate your wishes regarding organ donation on your healthcare proxy.

Power of Attorney

A power of attorney is a legal document that gives someone (the “agent”) that you choose the power to act in your place. The powers granted usually allow the agent to make financial decisions for you (the “grantor”). The powers can be very specific—for example, limited to the power to pay your rent on your behalf—or very broad—like the power to make all of your financial decisions. The agent cannot act outside of the powers that you give them. Note that only a grantor with legal capacity may create a power of attorney. You should contact an attorney in order to execute a power of attorney.

Two Types of Power of Attorney

There are two types of power of attorney. The first type remains effective even if the grantor loses the mental capacity to make decisions. This type of power of attorney is called a “durable” power of attorney. It is best to choose someone you really trust to be your agent for a durable power of attorney because if you do not have mental capacity, you will not be able to monitor their actions.

The second type of power of attorney will remain effective only as long as the grantor has mental capacity. If the grantor loses the mental capacity to make decisions, the agent will not be able to exercise the power of attorney. You can revoke this power of attorney at any time, and it will be against the law for the agent to act on your behalf after revocation.

Why to Get a Power of Attorney

If you have difficulty making financial decisions, or expect that at some point in the future you may have difficulty making financial decisions, a power of attorney can make it possible for another person to manage your affairs.

How to Revoke a Power of Attorney

There are two ways to revoke a power of attorney. The first way is to create a new power of attorney that expressly revokes prior powers of attorney (a new power of attorney may also extend powers to a new person without revoking previous powers of attorney). You may also write a written revocation of a power of attorney. You may wish to see an attorney for help with this process. After creating the document that revokes the prior power of attorney, you must notify anyone who holds copies of any old power of attorney. These people may include your landlord, banks, or healthcare providers.

How to Use a Power of Attorney

A power of attorney can be useful to allow your agent to make financial decisions or payments on your behalf. Most parties must see copies of your power of attorney in order to accept the agent’s authority. Always save the original power of attorney in a safe place, but you may wish to give copies to parties who will accept payment or other communications on your behalf from the agent, like your landlord, banks, or healthcare providers.

See a Lawyer

Naming an agent in a power of attorney is an important decision. You should seek a lawyer to properly execute the power of attorney.

Wills

Your will is a written document that directs how you want your property to be distributed after your death. New York has specific laws that you must comply with in order for your will to be valid.

In order to make a valid will in New York, you have to be at least 18-years-old, of sound mind and memory, and you must be making the will out of your own free will. There are also rules about witnesses, signing the will, and important legal language requirements. To make sure that a will is properly executed and therefore will be honored by a probate court after your death, you should consult an attorney who will execute the will in accordance with New York laws.

What to Think about when Planning a Will

You should make an inventory of all of your property, and decide to whom you would like it to go when you die. Examples of property include any money you have, personal property like jewelry, artwork, and automobiles, and real estate like your home, condo or co-op. You should decide which property should go to which family member, friend, or charity.

Finally, you should think about who you will name as executor of your estate. An executor is a person who you choose to carry out the terms of your will. When choosing the executor, who will be responsible for administering your estate through probate court, the most important thing is that you pick someone who is financially responsible, trustworthy, and stable.

Dying Without a Will

When a New York resident dies intestate, or with no will, the estate is divided in accordance with State laws. For example, if you are survived by a spouse and no children, your spouse will inherit the entire estate. However, if you have children as well as a spouse, your spouse will inherit the first \$50,000 and half of the rest of your property. The rest will be divided among your children. If you have neither spouse nor children, your estate will go to other relatives in order of their relationship to you. If no relatives can be located, everything will become the property of New York State.

Trusts

New York law allows for various kinds of trusts to be set up through a will. For example, you can set up a trust and appoint a trustee to manage property and money on behalf of minor children or adult children with disabilities. In these cases, the trustee is often a close family member or trustworthy friend who can be compensated from the money held in trust.

See a Lawyer

After thinking about your will and forming a plan, visit a lawyer to write the will and execute it in accordance with New York State laws.

Employment Law

In this section, you will find information on the following topics:

- Reasonable Accommodations for Employees with Disabilities
- Discrimination and Sexual Harassment in the Workplace
- Family and Medical Leave Act
- USERRA and SCRA: Civil Protections for Veterans and Servicemembers
- Employment Opportunities and Programs

Reasonable Accommodations for Employees with Disabilities

If you are a disabled employee of a private company, local or federal government, or any other employer, you may be entitled to a reasonable accommodation for your disability.

What is a “reasonable accommodation”? A reasonable accommodation is any change or adjustment to a job or work environment that permits a qualified applicant or employee with a disability to participate in the job application process, to perform the essential functions of a job, or to enjoy benefits of employment equal to those enjoyed by employees without disabilities. For example, reasonable accommodation may include: providing or modifying equipment; job restructuring; modified work schedules; reassignment to a vacant position; modifying examinations, training materials, or policies; providing readers and interpreters; and making the workplace readily accessible to and usable by people with disabilities.

What is a “disability”? The term “disability” is defined in general terms rather than with a list of medical conditions. The definition of disability includes: 1) a person who has a physical or mental impairment that substantially limits one or more major life activities; 2) a person with a record of a physical or mental impairment that substantially limits one or more major life activities; and 3) a person who is regarded as having a physical or mental impairment that substantially limits one or more major life activities.

When does the employer have to provide an accommodation for a disability? An employer is required to provide a reasonable accommodation to a qualified applicant or employee with a disability unless the employer can show that the accommodation would be an undue hardship – that is, that it would require significant difficulty or expense.

Which employers must comply with the federal or New York law? Only “covered entities” must comply with Title I of the American with Disabilities Act (“ADA”), the federal employment disability law. “Covered entities” include private employers with 15 or more employees, employment agencies, labor organizations, joint labor-management committees, and state and local employers. Federal agencies are exempt from the ADA, but must comply with the Rehabilitation Act, which is almost identical to the ADA. Under New York City law, which is similar to the federal law, all employers that have four or more employees must comply; New York workers are also protected by similar New York State laws.

A reasonable accommodation request or complaint may be brought to your employer, the EEOC, or the NYC Commission on Human Rights. You may request a reasonable accommodation from your employer or union at any time. To do so, you will have to disclose some information regarding your health condition and submit a letter from your physician. If your employer fails to comply with a reasonable accommodation request, discrimination complaints based on the ADA should be brought to the U.S. Equal Employment Opportunity Commission at (800) 669-4000. Complaints based on violation of the similar New York City law can be brought to the NYC Commission on Human Rights at (212) 306-7420. Complaints based on violation of similar state law can be brought to the New York State Division of Human Rights at (888) 392-3644. Contact an attorney for more information about reasonable accommodation requests and complaints.

Discrimination and Sexual Harassment in the Workplace

Prohibited Discrimination in the Workplace

Federal, state and city laws prohibits discrimination in employment based on veteran status, race, color, creed, age, national origin, alienage or citizenship status, gender (including gender identity and sexual harassment), sexual orientation, disability (including pregnancy), marital status, or partnership status. In addition, these laws afford protection against discrimination in employment based on unemployment status, arrest or conviction record, and status as a victim of domestic violence, stalking, and sex offenses. Interns, whether paid or not, are considered employees under the law.

Sexual Harassment: One form of Discrimination

Sexual harassment is a form of gender-based discrimination. It involves unwelcome sexual conduct that creates an intimidating, hostile or offensive work environment or is used as the basis for hiring or other employment decisions, such as promotions, raises or job assignments. The harasser can be a supervisor, a co-worker or someone who is not an employee, such as a customer. Harassment is illegal when it is so severe or frequent that it creates a hostile or offensive work environment or if it results in an adverse employment decision, like termination.

What do you do if you have been discriminated against in the work place?

Follow employer procedures first. You should contact the person or office who may have been designated by your employer to receive discrimination complaints.

You should contact a civil rights or employment lawyer who can advise you and/or one or more of the following agencies listed below. Do so immediately because the amount of time that you have to bring a discrimination claim varies under city, state, and federal laws, but can be as little as 60 days from the date of the discrimination or harassment.

- If an employer has more than four employees, complaints may be filed with the NYS Division of Human Rights (“SDHR”) or the New York City Commission on Human Rights (“NYCCHR”). These agencies can investigate complaints and conduct hearings before an administrative judge. To file a claim, contact the SDHR at (718) 741-6400 and the NYCCHR at (212) 306-7450.
- If an employer has more than 15 employees, you may file a complaint with the U.S. Equal Employment Opportunity Commission (“EEOC”). This federal agency handles complaints of discrimination in the workplace. To file a complaint, call (800) 669-4000.

Other options: Court and the Police

You may also wish to retain an attorney and file a lawsuit against your employer in either state or federal court. Filing in federal court requires that you first file a complaint with the EEOC before bringing a lawsuit. No such requirement applies in New York State courts.

If the harassment involves physical touching, coerced physical confinement or coerced sex acts, the conduct may constitute a crime. If you believe you have been the victim of a crime, you should file a report at your local police department. However, the conduct need not be criminal in nature to constitute unlawful discrimination.

Family and Medical Leave

The Family and Medical Leave Act (“FMLA”) is a federal law that protects the jobs of employees who need to take time off from work to care for themselves or a sick relative. The employer is obligated to continue health insurance coverage during an employee’s FMLA leave, but any contribution the employee makes to their health insurance premium must continue during this period. Eligible employees are entitled to 12 workweeks of FMLA leave in a 12-month period. The three months do not have to be taken all at once; intermittent FMLA leave may be used for doctors’ appointments, treatment, and sick days when all sick leave from work has been used. Leave can be taken for any of the following reasons:

- the birth of a child and to care for the newborn child within one year of birth
- the placement with the employee of a child for adoption or foster care and to care for the newly placed child within one year of placement
- to care for the employee’s spouse, child, or parent who has a serious health condition
- a health problem that makes an employee unable to do the essential functions of their job
- any qualifying exigency (generally meaning deployment; visit www.dol.gov/whd/fmla/ for a list of qualifying exigencies) arising out of the fact that the employee’s spouse, son, daughter, or parent is a covered military member on covered active duty

What is a “covered employer” under the FMLA, and which employees are eligible? The FMLA is available to employees who work at public agencies, elementary or secondary schools, and companies with 50 or more employees within 75-miles of where the employee requesting leave works. Employees are eligible for FMLA leave if they have worked for the employer for at least 12 months and for at least 1,250 hours in the 12-month period preceding the leave.

Requesting FMLA Leave: Employees must comply with their employer’s usual requirements for requesting leave and provide information for their employer to determine whether the FMLA may apply to the request. Employees generally must request leave 30 days in advance. When the need for leave is foreseeable less than 30 days in advance or is unforeseeable, employees must provide notice as soon as possible and practicable under the circumstances.

Military Caregiver Leave under the FMLA: Eligible employees are entitled to 26 workweeks of leave during a single 12-month period to care for a covered servicemember or veteran with a serious injury or illness if the eligible employee is the servicemember or veteran’s spouse, son, daughter, parent, or next of kin. The 26 weeks do not have to be taken all at once. Military Caregiver Leave applies only to the family members of covered veterans and servicemembers with certain serious injuries and illnesses.

For more information about FMLA or Military Caregiver Leave, visit www.dol.gov/whd/fmla/, call the U.S. Department of Labor at (866) 487-2365, or contact an attorney.

Paid Sick Leave: New York City employers with 5 or more employees are required to provide paid sick leave for certain employees. Contact New York City’s Department of Consumer Affairs by calling 311, or visit an attorney for more information.

USERRA and SCRA: Civil Protections for Veterans and Servicemembers

Congress has enacted a number of laws specifically designed to protect the civil rights of servicemembers, both while they are on active duty and after they return to civilian life. These laws ensure that servicemembers will be able to return to their civilian employment after completing their service and have certain civil financial protections while on active duty.

USERRA and Employment Rights

The Uniformed Services Employment and Reemployment Rights Act (“USERRA”) protects the civilian employment rights of servicemembers and veterans. Among other things, under certain conditions, USERRA requires employers to put individuals back to work in their civilian jobs after military service. If you are eligible for reemployment, you must be restored to the position and seniority-based benefits that you would have attained or, in some cases, a comparable job, had you not been absent from work to perform your military service. USERRA also protects your private health insurance (including for up to two years while in the military) and pension benefits upon re-employment.

USERRA also protects servicemembers from discrimination in the workplace based on past military service, current military obligations, or intent to serve. An employer may not terminate you or deny you initial employment, retention in employment, promotion, or any other benefit of employment because of your status as a servicemember. An employer also may not retaliate against you or any other person for asserting, or assisting with the assertion of, USERRA rights.

Servicemembers who believe that they have been victims of employment discrimination based on their military service should contact an attorney or file a complaint with the Department of Labor (“DOL”). Call DOL at (866) 487-2365 or visit their website at www.dol.gov/vets/aboutvets/contacts/main.htm.

SCRA and Financial Protection for Active Duty Servicemembers

The Servicemembers Civil Relief Act (“SCRA”) is a federal law that provides a range of civil legal rights to active duty servicemembers. The law’s purpose is to postpone or suspend certain obligations so that active servicemembers can focus their full attention on their military career responsibilities without adverse consequences for them or their families. It covers issues such as rental agreements, security deposits, prepaid rent, eviction, installment contracts, credit card interest rates, mortgage interest rates, mortgage foreclosure, civil judicial proceedings, automobile leases, life insurance, health insurance and income tax payments.

The types of relief provided under the law include:

- Capping rate of interest for debts incurred before entering active duty to 6 percent
- Protecting servicemembers against default judgments, evictions, mortgage foreclosures, and repossessions of property
- Giving servicemembers the ability to terminate residential and automobile leases

If you think your rights under the SCRA may have been violated, contact an attorney.

Employment Opportunities and Programs

Securing stable employment allows people become financially secure, is empowering, and helps people stay connected with and active in their communities. If you are looking for job training or work placement opportunities, see below for different program options.

VA's Vocational Rehabilitation and Employment ("Voc. Rehab.") provides rehabilitation and employment services to help with job training, employment accommodations, and job seeking skills coaching. For eligibility information and to apply, consult and fill out VA Form 28-8832 and send it to the Regional Office at 245 West Houston Street, New York, NY 10014. If eligible, you will be invited to an orientation session at the Regional Office.

VA's Compensated Work Therapy ("CWT") program has successfully employed veterans in various competitive positions including, but not limited to, healthcare, information technology, manufacturing, warehousing, construction trades, clerical and office support, retail and services delivery. VA benefits, including service-connected compensation and non-service connected pensions, cannot be reduced, denied, or discontinued based on participation in CWT. Below are the contact numbers for the CWT programs in New York City:

- James J. Peters VA Medical Center (Bronx): (718) 584-9000 ext. 5154 or ext. 6847
- Manhattan and Brooklyn VA Campuses: (212) 686-7500 ext. 7247 or (718) 439-4314

Madison Strategies provides free job training and work placement. Participants in their Career Directions program must be over 18, work-authorized, and must speak working English. The Career Directions program consists of one morning orientation, which is offered twice a week, followed by a four-day training program in basic job preparedness. All participants are matched up with a case manager who aids them through Career Directions, job search, job placement, and follow-up. For more information, speak with a NYLAG attorney or call (646) 358-4748.

STRIVE New York is a free job training and job placement organization. Participants in STRIVE must have a high school diploma or GED, as well as proper documentation (State ID, birth certificate, or social security card) and proof of residence. STRIVE's Attitudinal and Job Readiness program consists of one orientation and a three- to five-week training program. Participants may choose to participate in the construction and maintenance program or the office operations and healthcare program. STRIVE also provides fatherhood training and women's empowerment programs. For more information, call (212) 360-1100.

Other resources include Brooklyn Workforce Innovations, available at (718) 237-2017; Workforce1, a NYC government workforce development program, available at www.nyc.gov/html/sbs/wf1/html/contact/contact.shtml; Project Renewal's Culinary Training Program, available at (212) 620-0340 or www.projectrenewal.com; Per Scholas, a 10-week intensive, selective IT training program, available at (718) 991-8400; NPower, a 22-week, selective IT training and internship program for young adults, available at (646) 480-2557; Nontraditional Employment for Women, which trains and places women in construction, utility, and maintenance careers, available at (212) 627-6252; and Easter Seals, available at (212) 943-4364 (participating veterans must be homeless or at risk of homelessness, have one day of active duty outside of training, not have a dishonorable discharge, and seek to work for 20+ hours a week).

Debt Management

In this section, you will find information on the following topics:

- Debt Collection
- Personal Bankruptcy
- Federal Student Loan Discharges

Debt Collection

Owing money to creditors can be a serious legal and financial burden. You should contact an attorney or financial counsellor for assistance if you feel that you are unable to pay your debts as they become due (see also page 54 for information about bankruptcy).

Owing Money to a Creditor

When you owe money to a creditor, which may include, among others, individuals, banks, credit card companies, or corporation, they may repeatedly contact you to try to make you pay them back. Eventually your creditor, or another entity that has purchased your debt from the original creditor, may serve you with court papers that seek to force you to pay off your debt. If you receive a court notice, you must go to court to defend yourself against the creditor's claims. If you fail to appear or to otherwise defend yourself, the court may enter a default judgment against you such that you will automatically lose the case.

You may consider hiring an attorney to represent you to defend yourself in court. The Civil Legal Advice and Resource Office ("CLARO") may be able to represent you for free. Visit CLARO's website at www.claronyc.org, or call CLARO at the following telephone numbers:

- Bronx: (212) 636-7671
- Manhattan: (212) 267-6646
- Brooklyn: (718) 624-3894
- Staten Island: (347) 927-3417
- Queens: (718) 739-4100

Collection on Judgments

In the event that creditors win a court judgment against you, they may be able to collect on the debt. Collection can include, among other actions, garnishing your bank accounts or earnings, or repossessing your property. However, certain sources of income are "collection proof" and cannot be garnished to satisfy the debt you owe to your creditors. Collection proof sources of income include, but are not limited to, Social Security, VA Benefits, Workers' Compensation, Public Assistance, Unemployment Insurance, and child support and alimony payments. If you have income or assets that are not "collection proof" and can be garnished or repossessed, then your creditors can begin seizing provided they have a court order allowing them to do so.

Sometimes debt collectors may claim that they can garnish "collection proof" sources of income or try to collect on debts that you have previously settled. If you believe that a debt collector is improperly threatening you, consult an attorney and/or submit a complaint to the Consumer Financial Protection Bureau online at www.consumerfinance.gov/complaint/ or by telephone at (855) 411-2372. You may, in fact, have a right to sue the debt collector for improper collection practices.

Student Loan Debt

One common source of debt is student loan debt, which can be garnished from VA compensation and Social Security benefits (but not SSI). Federal student loan debt may be forgiven if you are permanently and totally disabled or if your school closed, refused to pay refunds, falsely certified certain information, or defrauded students in other ways (see page 55 for information about federal student loan forgiveness).

Personal Bankruptcy

If you cannot afford to make payments on your debt with your current income, you may consider filing for bankruptcy.

How to File for Bankruptcy: To file for bankruptcy, you must file a petition in the appropriate Bankruptcy Court. If you live in Manhattan or the Bronx you will file petitions at the U.S. Bankruptcy Court for the Southern District of New York, located at One Bowling Green, New York, NY 10004; the Court's Help Line can be reached at (212) 284-4040. If you live in Queens, Brooklyn or Staten Island, you will file petitions at the U.S. Bankruptcy Court for the Eastern District of New York, located at 271-C Cadman Plaza East, Suite 1595, Brooklyn, NY 11201; the Court's Help Line can be reached at (347) 394-1700 (press 6). In order to file for bankruptcy, you must usually take a credit counselling course that is approved by your district's bankruptcy court with 180 days before the case is filed. A list of approved credit counselling agencies can be found online at www.justice.gov/ust/list-credit-counseling-agencies-approved-pursuant-11-usc-111 or by calling (202) 514-4100.

Two Different Types of Bankruptcy: There are two types of individual bankruptcy proceedings. In Chapter 7 proceedings, an individual's assets may be surrendered or liquidated in order to satisfy the debts owed to creditors, and the individual's debts are completely forgiven; there are many assets, however, that you may be able to keep, like jewelry, money in retirement and savings accounts, and your home equity, up to certain amounts. In Chapter 13 bankruptcy proceedings, an individual gets to keep his or her property but must propose for Bankruptcy Court approval a plan to repay all or part of the debt in the three to five years following the bankruptcy proceeding. To be permitted to file Chapter 7 proceedings, you may need to pass a "means test" that requires you to prove that your monthly income (and, if you are married, your spouse's monthly income) is below a certain amount. There are required court filing fees, but you may apply for a fee waiver which may be approved depending on your income, assets, and expenses.

Bankruptcy proceedings are complex and can have long-term financial consequences. For example, it can be more challenging to get affordable credit after filing for bankruptcy, and the bankruptcy may remain on your credit report for as long as 10 years. While your credit score is certainly affected when you file for bankruptcy, that does not mean that you will never be able to get a car, house, or loan again. With careful planning, you can earn a good credit record after bankruptcy. Note that while many debts will be discharged through bankruptcy, some debts, like student loans, child support arrears (back child support that you owe), and taxes, will usually not be forgiven.

See an Attorney: It is strongly advised that you seek the advice of an attorney before you file for bankruptcy. You should also be cautious of advisors or advertisements promoting the benefits of bankruptcy. Such "advisors" are often not licensed attorneys, and they may offer bad advice, be unable to represent you, and may even attempt to use your vulnerable financial position to extract unwarranted fees from you.

Federal Student Loan Discharges

The U.S. Department of Education allows Family Federal Education Loans (“FFEL”), Direct loans, and Perkins loans to be discharged because of a borrower’s disability, among other reasons. Parents with PLUS loans may apply for discharge based on their own disabilities, not those of their children. If two parents have a PLUS loan and one becomes disabled, the non-disabled parent still must repay the loan.

Who is eligible for a student loan discharge due to disability?

There are four different ways to qualify:

1. If you are a veteran, submit documentation from the VA showing that the VA has determined that you are unemployable due to a service-connected disability.
2. If you are a veteran, submit documentation from the VA showing that you have a service-connected disability rating of 100%.
3. If you receive Social Security Disability Insurance (“SSD” or “SSDI”) or Supplemental Security Income (“SSI”) benefits, submit the Social Security notice of award for benefits. You can request a copy of this notice from your local Social Security office; call (800) 772-1213 to find a local office near you. To be eligible, the notice of award for benefits must state that your scheduled disability review is within the next five to seven years. If your award notice does not contain a recertification date, contact your local office and request a benefit planning query.
4. If you do not meet the above criteria, you may submit certification from a doctor that you are totally and permanently disabled. You must follow this certification process even if you receive VA non-service-connected disability benefits (“VA Pension”). Your doctor must certify that you are not able to take part in any significant gainful activity because of a medically diagnosed physical or mental impairment that: 1) can be expected to result in death; 2) has lasted for a continuous period of not less than 60 months; or 3) can be expected to last for a continuous period of not less than 60 months.

How do I apply?

For more information, visit www.disabilitydischarge.com and click on apply now, or call (888) 303-7818. You can then choose to either submit your application by mail or online. After you have submitted the initial application, you should submit all required documents (doctor’s certification, SSD/SSI award letter, or VA compensation letter) to the loan servicer. There are tax and other consequences to discharges, so applicants should research the pros and cons or seek legal advice before applying.

Other federal loan discharges, including discharges due to school fraud:

Student loan borrowers may also be eligible for discharges under other circumstances, including if their schools closed, refused to pay refunds, or falsely certified certain information.

Additionally, the Department of Education alters loan discharge rules for specific schools that defrauded students in other ways, including for students and alumni of Corinthian Colleges. For more information, visit www.studentloanborrowerassistance.org or call (855) 279-6207. Current or former students of for-profit post-secondary college or trade schools who feel they have been defrauded by their educational institutions should contact NYLAG’s For-Profit Schools Project at (212) 946-0354 or FPSP@nylag.org.

Criminal Justice-Involved Veterans

If you are charged with a crime, you are entitled to an attorney. If you prove that you cannot afford an attorney, a public defense attorney will be provided for you. When you have been charged, you should begin looking for an attorney. You may also reach out to a Veterans Justice Outreach program near you for further assistance. You may be eligible to have your case heard in Veterans Court, a collaborative process that includes the prosecutor, defense counsel, judge, the VA and other community-based organizations.

If you later plead guilty or are found guilty—whether through a regular criminal court or Veterans Court—and are then incarcerated, your eligibility for VA benefits may change. Read this page for more information.

Veterans Justice Outreach

All VA Medical Centers in the country now have a Veterans Justice Outreach ("VJO") coordinator whose job is to liaise with veterans involved in the criminal justice system.

Veterans Justice Outreach at VA Medical Centers	
VA James J. Peters Bronx Medical Center Siobhan Morris (718) 584-9000 ext. 5329	VA New York - Manhattan Campus Denise Lukowski (718) 526-1000 ext. 2457
VA Harlem Clinic Myrtho Gardiner (212) 686-7500 ext. 8128	VA Northport Medical Center Eric Bruno (631) 261-4400 ext. 7167 Julie Bergstresser (717) 272-6621 ext. 5162

Important VA Benefits Information

More than 60 days post-conviction incarceration for a felony reduces a veteran's VA compensation entitlement (though they may be able to apportion – pay – some of these benefits to dependents with a demonstrated financial need). More than 60 days post-conviction incarceration for a felony or misdemeanor suspends entirely a veteran's eligibility for a VA non-service connected pension ("VA Pension"). Failure to report incarceration may create a VA overpayment that the veteran will be required to pay back.

In order to avoid an overpayment, all New York veterans receiving VA benefits who are to be incarcerated must notify the VA Regional Office through a letter (mailed return receipt requested) to the Regional Benefit Office at: 245 West Houston Street, New York, NY 10014. You must have a prison official fill out and submit VA Form 21-4193 ("Report of Incarceration") once your incarceration begins. Contact a Veterans Service Officer or attorney for help during this process. Once released from prison, you may receive VA benefits again, so you should contact the Regional Benefit Office in order to begin receiving your VA benefits.

Technology Resources

Access to phone and/or internet is crucial to all people in finding and keeping employment, maintaining financial solvency, sustaining strong social relationships, and dealing with legal issues. If you do not have access to phone or internet, read this page for possible resources.

VA Medical Centers offer free computer access. Call the Manhattan VA Club House at (212) 686-7500 ext. 3488 or the Bronx VA Library at (718) 584-9000 ext. 6924 for information.

Public libraries in New York City have computers with Internet and other technology resources:

- New York Public Library (“NYPL”) card-holders or visitors with passes can access the libraries’ computers and Internet. Registering for a card or a one-day visitor’s pass is free and requires just a photo ID and a mailing address. To find a NYPL library near you in the Bronx, Manhattan, or Staten Island, call (917) 275-6975.
- Brooklyn Public Library (“BPL”) card-holders or visitors with passes can access the libraries’ computers and Internet. Registering for a free card requires a valid photo ID and a home/ mailing address. To find a BPL library near you, call BPL Help at (718) 230-2100.
- Queens Public Library (“QPL”) card-holders and visitors with passes can access computers and Internet. However, QPL restricts computer use to one hour per day for card-holders and visitors alike. Registering for a free card requires a valid photo ID and a home/ mailing address. To find a QPL library near you, call (718) 990-0728.

Other resources include FedEx, which rents out computer workstations (call (800) 463-3339 for a location near you), and restaurants like Starbucks and McDonalds that offer free wireless Internet.

Free phones, also known as “Obamaphones” are available through the Lifeline program. This program provides free cell phones and roughly 250 free “airtime” minutes to people who receive Medicaid, food stamps, SSI, Section 8, LIHEAP, TANF, or if your income is below \$1324 per month (for a one-person household). If a Lifeline phone runs out of minutes before the monthly renewal date, users can purchase extra minutes from their service provider. Safelink, for example, offers 130 extra minutes for \$9.99. Safelink and Assurance are the largest Lifeline providers in New York. To get a Lifeline phone, apply at the office of any telephone company. Call (800) 723-3546 for Safelink, and (888) 898-4888 for Assurance.

Inexpensive Internet and laptops are also available. If you are enrolled in the Lifeline program, you may also be eligible for broadband Internet for as low as \$9.95 per month through programs such as Centurylink Internet Basics. This program and similar programs also offer laptop notebooks for as low as \$150. FCC is also hoping to soon expand the Lifeline phone program to include free broadband Internet. For more information on this, please visit cheapinternet.com.

Service Providers at VA Medical Centers

Legal Assistance

New York Legal Assistance Group’s LegalHealth division provides free legal assistance to veterans through on-site legal clinics at the James J. Peters (Bronx) VA Medical Center and the New York Harbor HCS (Manhattan Campus) VA Medical Center. These attorneys provide assistance with civil legal problems, including VA benefits, housing, family, Social Security, wills, and debt management issues. LegalHealth’s clinics are staffed by attorneys. If a LegalHealth attorney cannot assist you in a matter, they will assist you in finding someone who can. Appointments are required. Below is information on how to schedule an appointment with a LegalHealth attorney.

LegalHealth at New York City VA Healthcare Facilities	
Bronx VA Medical Center Schedule with Nickie Rodriguez (718) 584-9000 ext. 2658	VA New York - Manhattan Campus Schedule with Donna Rizzo (212) 686-7500 ext. 4120

Assistance Attaining Benefits and Other Services

Single Stop brings “one-stop,” comprehensive, peer-based service to help veterans and their families in New York City. Single Stop helps veterans and their families access public benefits, veteran’s benefits, jobs, housing, mental healthcare, education, and other social services at one location. These services are not available every day at the VA, so call or email the contacts below for more information.

Single Stop at New York-area VA Healthcare Facilities	
VA James J. Peters Bronx Medical Center Raquel Ogando Raquel.Ogando@cucs.org (212) 686-7500 ext. 5112 Chapel Street Veterans Healthcare Center Latina Vega Latina_Vega@GoodShepherds.org (718) 439-4392	VA New York - Manhattan Campus Raquel Ogando Raquel.Ogando@cucs.org (212) 686-7500 ext. 5112 Jahida Powell Jahida.Powell@cucs.org (212) 686-7500 ext. 5111 VA New York - Brooklyn Campus Jorlui Sillau Jorlui.Sillau@cucs.org (718) 836-6600 ext. 4418

Special Services for Military Sexual Trauma Survivors

The VA has Military Sexual Trauma (“MST”) coordinators at VA Medical Centers who coordinate counseling and other services for MST Survivors:

Military Sexual Trauma Coordinators at New York-area Medical Centers

<p>VA James J. Peters Bronx Medical Center Lynn A. Repasky, LCSW (718) 584-9000 ext. 6847</p>	<p>VA New York - Manhattan Campus Marion Creasap, NP (212) 686-7500 ext. 7704</p>
<p>VA Hudson Valley Healthcare System Fran Gitlin, RN (914) 737-4400 ext. 3330</p>	<p>VA New York - Brooklyn Campus Dr. Shalini Sehgal (718) 836-6600 ext. 6479</p>
<p>VA New Jersey Healthcare System Risa Goldstein, PsyD (973) 676-1000 ext. 2671</p>	<p>St. Albans Community Living Center Annie Lee Jones, Ph.D. (718) 526-1000 ext. 2308</p>
<p>VA Northport Medical Center Gary Sandler, CSW (631) 261-4400 ext. 2505</p>	

Special Services for Criminal Justice-Involved Veterans

All VA Medical Centers in the country now have a Veterans Justice Outreach (“VJO”) coordinator whose job is to liaise with veterans involved in the criminal justice system.

Veterans Justice Outreach at VA Medical Centers

<p>VA James J. Peters Bronx Medical Center Siobhan Morris (718) 584-9000 ext. 5329</p>	<p>VA New York - Manhattan Campus Denise Lukowski (718) 526-1000 ext. 2457</p>
<p>VA Harlem Clinic Myrtho Gardiner (212) 686-7500 ext. 8128</p>	<p>VA Northport Medical Center Eric Bruno (631) 261-4400 ext. 7167</p>
	<p>Julie Bergstresser (717) 272-6621 ext. 5162</p>