

## **Traumatic Brain Injury (TBI) Claims**

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As most veterans that have suffered from a TBI know, the rating system used by the VA is anything but easy. Most of these same veterans and their families also know that the VA finally admitted to performing “improper” screenings on at least 25,000 veterans. This admission did result in major changes to the TBI screening and rating process, but it is still far from perfect.

What a lot of TBI victims or their families do not realize is that there are multiple other “disabilities/impairments” that come into play when dealing with a TBI and the VA rating system. The VA often just messes up when evaluating these medical problems due to the underlying TBI. These problems might be mental, physical or neurological. The VA uses a Manual called the M21-1 Compensation and Pension Manual. This “manual” is basically the “Bible” for the VA in working claims. It has 11 “Parts” but we are really only concerned about “Part III” which is further broken down into numerous Sub-parts, Chapters, Sections and Sub-Sections. I bet a lot of heads are spinning already and we have only just started! Anyway, we are going to look at “M21-1, Part III, Subpart iv, Chapter 4, Section G-Neurological Conditions and Convulsive Disorders”. This “part” of the M21-1 discusses TBI’s.

What happens in a lot of TBI claims before the VA, the veteran (or his family member) has filed a claim for a “TBI” or maybe even just said “head injury” or “brain injury”. However, there are other problems that often go along with a TBI that MIGHT be entitled to a disability rating which is IN ADDITION to the rating for the TBI itself. Things such as migraines, generalized anxiety disorders, memory problems, self-care, pain, vision or hearing problems and many, many others are associated with a TBI, and could result in additional compensation for the veteran.

The VA, in making their evaluations of the other diagnosis associated with a TBI will always rely upon the “C&P” medical exam/opinion that they have requested. The Doctors writing the opinions will sometimes take the easy way out when preparing their report and ends up causes problems for the veteran.

For example: The C&P exam finds that the veteran has a TBI and adjustment disorder with anxiety & depression. However, the Doctor finds that he/she is not able to tell the difference (differentiate) in what portion of each symptom was due to each diagnosis. So, seeing this finding, the VA Rater might issue out a Rating Decision that says the TBI is entitled to 10% and the Adjustment Disorder with anxiety & depression is 50%, BUT since the Doctor can’t tell which symptoms are related to which diagnosis, the veteran is only entitled to the higher rating of 50%, NOT to 10% AND 50%. This would short change the veteran 10% in benefits.

The veteran will be confused for sure with this type of finding. Especially since IF the “Rating Decision” sheet is included with the “Notification of Award” sheet that is sent to the veteran, and the Notification of Award letter says the veteran is entitled to 30% for “TBI and adjustment disorder with anxiety & depression”, yet the Rating Decision findings say he is entitled to 10% for the TBI and makes a separate finding of 30% for the Adjustment Disorder with anxiety & depression.

So, again, in the above example, the veteran is awarded 50% total instead of 60%.

TBI claims are very complex and the VA follows very complex regulations and policies when evaluating these injuries. I would always strongly recommending that the veteran or family member assisting the veteran contact an experienced and accredited representative after receiving an award for a TBI. In fact, contacting someone before filing your claims COULD make a huge difference in the outcome. While it is possible to “win” a TBI claim on your own, it is one of the very few claims that I believe require at least the input of an experienced and accredited representative. It normally should cost the veteran nothing to at least get some pointers before filing the claim.

Have you had problems filing your TBI claim? **Speak with veterans law attorney Roger Hale today!**