

Module 4 – Understanding Disability Compensation and How to Apply

Topics Covered in This Module

- Rules for Establishing Service Connection
- 18 Common Claims Found In The Textbook
- Examples Of Establishing Service Connection
- Using Our Method For Filing Claims
- Understanding Disability Ratings
- Aid And Attendance And Housebound Ratings
- Special Monthly Compensation
- Special Benefits



Claims Questions?

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Introduction to Disability Compensation

Meet the duty status of a veteran and

#1 – Establish evidence of incurrence of illness, injury, or aggravation in service

#2 – Establish evidence of a current condition or disease

#3 – Establish evidence that the incurrence in service caused the current condition or disease

(If the link between #1 and #2 is defined in the regulations as a presumptive service connection, #3 is not required)

Disability Compensation Rate Table for 2019 (In Dollars)

Percent	10%	20%	30%	40%	50%	60%	70%	80%	90%	100%
Veteran Alone	140.05	276.84	428.83	617.73	879.36	1,113.86	1,403.71	1,631.69	1,833.62	3,057.13
Vet & Spouse			479.83	685.73	964.36	1,215.86	1,522.71	1,767.69	1,986.62	3,227.58
A&A Spouse			47.00	62.00	78.00	94.00	109.00	125.00	141.00	156.32

If veteran has a spouse who requires A&A, add "A&A for spouse" to the amount of dependency & rate code above.

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Incurring or Aggravating a Condition, Injury or Disease In-Service

- Direct Service Connection
 - Continuity of symptoms from service and after discharge
 - Incurred in service with symptoms many years after discharge
- Presumptive Service Connection
 - 69 conditions that manifest at least 10% within one year of discharge and about 50 or more conditions that can show up at any time after discharge
 - Herbicide exposure for service in the Republic of Vietnam
 - Camp Lejeune 1953 through 1987
 - Gulf War syndrome
 - Others
- Secondary Service Connection
- Evidence required for types of claims above

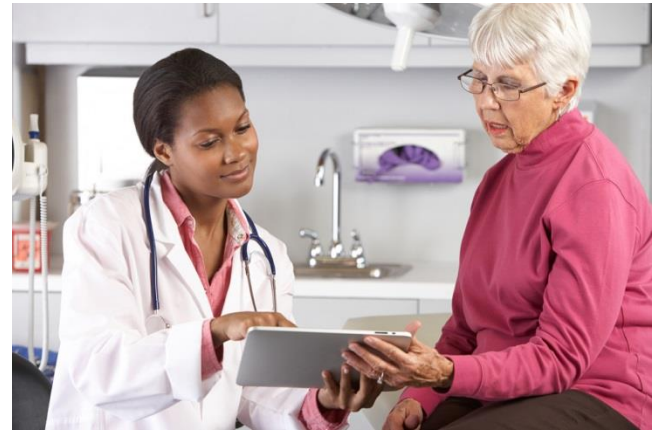


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Disability Benefits Questionnaires – DBQs

- Currently there are 69 different multipage evaluation reports for various diseases and conditions
- DBQ's are found on the Claim Support Disc that comes with the textbook or online at www.supportdisc.com
- VA uses these reports for determining disability ratings when medical records are not sufficient to determine disabilities
- Results of DBQ's are entered into a VA software program that determines the disability rating
- VA typically orders DBQ's through its network of contract examiners
- Claimants can also submit their own DBQ's filled out by physicians, nurse practitioners or physician's assistants



When Medical Opinions Are Needed

- Lack of continuous symptomology from service to present day, especially when it has been many years since discharge. Examples might be delayed development of PTSD or delayed development of musculoskeletal conditions from an in-service injury
- Indirect evidence of incurrence in service such as hazardous exposure, PTSD, sleep apnea, hearing loss or sexual assault
- When symptoms show up many years after discharge, and it is difficult to determine whether those symptoms are incident to aging or are service-connected. Such as cancer, heart disease, other diseases or hearing loss
- For any secondary service connected claim
- Work assessment or psychological assessment for PTSD or individual unemployability
- Claim for a current condition that does not appear to be service-connected to an incident in service



Presumptive Conditions That Must Manifest Soon after Discharge

- Anemia, primary.
- Arteriosclerosis.
- Arthritis.
- Atrophy, Progressive muscular.
- Brain hemorrhage.
- Brain thrombosis.
- Bronchiectasis.
- Calculi of the kidney, bladder, or gallbladder.
- Cardiovascular-renal disease, including hypertension.
- Cirrhosis of the liver.
- Coccidioidomycosis.
- Diabetes mellitus.
- Encephalitis lethargica residuals.

- Endocarditis. (This term covers all forms of valvular heart disease.)
- Endocrinopathies.
- Epilepsies.
- Hansen's disease.
- Hodgkin's disease.
- Leukemia.
- Lupus erythematosus, systemic.
- Myasthenia gravis.
- Myelitis.
- Myocarditis.
- Nephritis.
- Other organic diseases of the nervous system.
- Osteitis de Formans (Paget's disease).
- Osteomalacia.
- Palsy, bulbar.
- Paralysis agitans.

- Psychoses.
- Purpura idiopathic, hemorrhagic.
- Raynaud's disease.
- Sarcoidosis.
- Scleroderma.
- Sclerosis, amyotrophic lateral.
- Sclerosis, multiple.
- Syringomyelia.
- Thromboangiitis obliterans (Buerger's disease).
- Tuberculosis, active.
- Tumors, malignant, or of the brain or spinal cord or peripheral nerves.
- Ulcers, peptic

TROPICAL DISEASES

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Presumptive Conditions That Can Show up Any Time after Discharge

Amyotrophic Lateral Sclerosis (ALS), also known as Lou Gehrig's Disease can appear any time after separation from service and is covered.

IONIZING RADIATION

- All forms of leukemia (except for chronic lymphocytic leukemia);
- cancer of the thyroid, breast, pharynx, esophagus, stomach, small intestine, pancreas, bile ducts, gall bladder, salivary gland, urinary tract (renal pelvis, ureter, urinary bladder and urethra), brain, bone, lung, colon, and ovary;
- bronchiolo-alveolar carcinoma;
- multiple myeloma;
- lymphomas (other than Hodgkin's disease), and
- primary liver cancer (except if cirrhosis or hepatitis B is indicated).

AGENT ORANGE EXPOSURE (HERBICIDE)

- AL amyloidosis,
- chloracne or other acne form disease similar to chloracne – **10% < 1 year**,
- porphyria cutanea tarda – **10% < 1 year**,
- soft-tissue sarcoma (other than osteosarcoma, chondrosarcoma,
- Kaposi's sarcoma or mesothelioma),
- Hodgkin's disease,
- multiple myeloma,
- respiratory cancers (lung, bronchus, larynx, trachea),
- non-Hodgkin's lymphoma,
- prostate cancer,
- acute and subacute peripheral neuropathy – **10% < 1 year**,
- diabetes mellitus (Type 2),
- all chronic B-cell leukemias (including, but not limited to, hairy-cell leukemia and chronic lymphocytic leukemia),
- Parkinson's disease, and
- ischemic heart disease.

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Presumptive Conditions That Can Show up Any Time after Discharge

GULF WAR ILLNESS – Extended through December 31, 2021 (Symptoms during active duty and ill at least 6 months or more)

- chronic fatigue syndrome,
- fibromyalgia,
- irritable bowel syndrome,
- fatigue,
- signs or symptoms involving the skin,
- skin disorders,
- headache,
- muscle pain,
- joint pain,
- neurological signs or symptoms,
- neuropsychological signs or symptoms,
- signs or symptoms involving the respiratory system (upper or lower),
- sleep disturbances,
- gastrointestinal signs or symptoms,
- cardiovascular signs or symptoms,
- abnormal weight loss, and
- menstrual disorders.

CAMP LEJEUNE – 1953 through 1987

- Adult leukemia
- Aplastic anemia and other myelodysplastic syndromes
- Bladder cancer
- Kidney cancer
- Liver cancer
- Multiple myeloma
- Non-Hodgkin's lymphoma
- Parkinson's disease

MUSTARD GAS OR LEWISITE

FORMER PRISONER OF WAR

BURN PITS

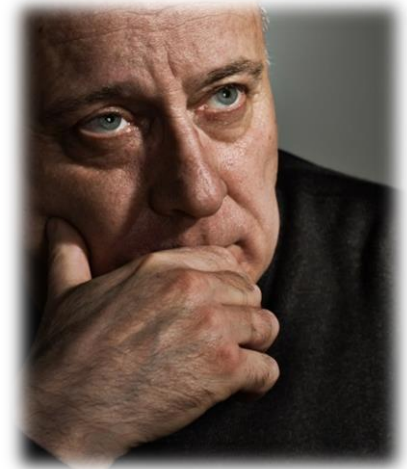
AFGHANISTAN WAR ILLNESS
(Infectious Diseases – symptoms during active duty)

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18 Common Types of Compensation Applications Found in the Textbook

1. Specific Chronic Conditions Presumed Service-Connected with a Time Limit
2. Prisoner of War – Chronic Conditions, Service-Connected with No Time Limit
3. Ionizing Radiation – Chronic Conditions Presumed Service-Connected
4. Agent Orange – Chronic Conditions, Service-Connected with No Time Limit
5. Disability Caused by Illness, Combat or Other Injury Incurred in the Service
6. Secondary Service Connection or Aggravation of a Preservice Condition
7. Exposure to Hazards, Chemicals and Harmful Environmental Conditions
8. PTSD – Posttraumatic Stress Disorder
9. Hearing Loss with or without Tinnitus
10. PTIU – Permanent and Total Disability Due to Individual Unemployability
11. Sleep Apnea
12. Gulf War Disorders – Service Connection Is Presumed with a Time Limit
13. Request for Reevaluation for Increase or Change for an Existing Benefit
14. Section 1151 Claim
15. Tropical Diseases – Service Connection Is Presumed with a Time Limit
16. Special Monthly Compensation (SMC)
17. Specific Ancillary Benefits, Allowances and Grants
18. HISA (Housing Improvement and Structural Alterations) Grants



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Example of Direct Service Connection with Continuity of Symptoms

A combat veteran from the the conflict in Afghanistan is claiming 4 different disability events. The first is a cervical spine injury due to whiplash from a vehicular accident in service, the second is a lumbar spinal injury incurred while moving a wounded comrade out of harms way, the third is PTSD and the fourth is a result of the other 3 – a claim for individual unemployability.

Each of these events has numerous disability issues. The cervical spine injury has resulted in limited motion of the head, static pain, numbness, pain and weakness in the right arm. The lumbar spinal injury has resulted in limited motion from back pain, myofascial pain in the buttocks and down the back of the legs and weakness in the legs. PTSD was a result of a stressor in combat. And finally individual unemployability is a result of not being able to maintain gainful employment because of all of the other issues combined. These combat related disabilities do not require medical evidence from service as long as the lay statement is consistent. This is an exception in the rules for combat veterans only. In this case, we will use 4 different VA 21-4138's for each event. There are at least 8 or 9 individual disability issues.

SECTION IV of VA Form 21-526EZ

SECTION IV:	
16. LIST THE CURRENT DISABILITY(IES) OR SYMPTOMS THAT YOU CLAIM A <i>(If applicable, identify whether a disability is due to a service-connected disability; confine War environmental hazards; or a disability for which compensation is payable under 38 U. NOTE: List your claimed conditions below. See the following three examples for</i>	
EXAMPLES OF DISABILITY(IES)	EXAMPLES OF E TYPE
Example 1. HEARING LOSS	NOISE
Example 2. DIABETES	AGENT ORANGE
Example 3. LEFT KNEE, SECONDARY TO RIGHT KNEE	
CURRENT DISABILITY(IES)	IF DUE TO EXPOSUR INJURY, PLEASE (e.g., Agent Orange)
1. See attached VA Form 21-4138 entitled "Explanation of Cervical Spine Injury"	
2. See attached VA Form 21-4138 entitled "Explanation of Lumbar Spine"	
3. See attached VA Form 21-4138 entitled "Explanation of PTSD"	
4. See attached VA Form 21-4138 entitled "Explanation of Individual Un"	

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Direct Service Connection Causing Secondary Service Connection Showing up Later in Life

SECTION IV of VA Form 21-526EZ

SECTION IV: CLAIM	
16. LIST THE CURRENT DISABILITY(IES) OR SYMPTOMS THAT YOU CLAIM ARE RELIABLY SERVICE-CONNECTED. (If applicable, identify whether a disability is due to a service-connected disability; confinement as a result of war environmental hazards; or a disability for which compensation is payable under 38 U.S.C. 115.) NOTE: List your claimed conditions below. See the following three examples for guidance.	
EXAMPLES OF DISABILITY(IES)	EXAMPLES OF EXPOSURE TYPE
Example 1. HEARING LOSS	NOISE
Example 2. DIABETES	AGENT ORANGE
Example 3. LEFT KNEE, SECONDARY TO RIGHT KNEE	
CURRENT DISABILITY(IES)	IF DUE TO EXPOSURE, EVENT, OR INJURY, PLEASE SPECIFY (e.g., Agent Orange, radiation)
1. See attached VA Form 21-4138 entitled "Explanation of My Claim"	
2.	
3.	

Summary of My Claim for Compensation

I injured my foot severely when I was in the service in 1975 at Fort Benning, Georgia. This required surgery to repair the foot, but it did not heal properly and over the years I have not been able to walk properly because of the foot injury. I am furnishing the service medical records from that incident. The inability to walk properly has put undue pressure on my left hip and my orthopedic doctor tells me that my hip is deteriorating because of this foot injury. He also tells me that this hip deterioration is a direct result of the foot injury that happened while I was in the service. He has provided a letter stating this fact that the foot injury and the hip deterioration are service-connected and detailing my hip condition and the causes of it. I also include my current medical records relating to the foot injury and the hip condition. I also include the pertinent Disability Benefit Questionnaire for hip condition filled out by my orthopedic doctor.

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Establishing Service Connection with Scant Evidence of Incurrence in Service



- As of 2017 – out of a total of 4,552,224 veterans on claim for Compensation – 2,944,565 veterans were receiving benefits for hearing loss or tinnitus or both. This represents 64.7% of all veterans on claim for Compensation.
- Hearing loss due to noise exposure or sudden pressure changes, very rarely shows up during service and often shows up later in life for elderly veterans.
- Late-development hearing loss due to noise exposure requires evidence of an assignment in service that resulted in the exposure and an opinion from a licensed medical professional that the current hearing loss is service-connected to noise or pressure change exposure experienced in service.
- Noise induced hearing loss almost always includes tinnitus.
- There is currently no medical test for tinnitus and VA must take the word of the veteran that he or she has tinnitus and that it is service-connected and grant a 10% disability rating due to the requirement under the reasonable doubt rule of **38 CFR § 3.102 Reasonable doubt**.

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Establishing Secondary Service Connection



The veteran is currently on claim for type II diabetes at 40% due to requiring insulin with a restricted diet and regulation of activities. He was stationed in the Republic of Vietnam from 1969 through 1970 and after 2 years of service he was discharged honorably.

He developed type II diabetes in 2008. In 2012 he discovered that he was entitled to Compensation due to his being presumed to have been exposed to herbicides (Agent Orange) while he was stationed in Vietnam. Type II diabetes is a presumptive condition for exposure to Agent Orange. After submitting a copy of his discharge, application for Compensation and evidence of his service in Vietnam, he was awarded Compensation at 20% based on his management of diabetes at that time. He did not have to prove service connection. At the time, he was maintaining control of the disease with diet and oral medication.

In 2017, due to a worsening of his condition, he requested a reevaluation of his rating based on submission of a new claim as well as his medical records at that point. He was awarded a 40% disability rating as of the first date where medical records showed his change in condition. This was due to his requirement for insulin injections, restriction in diet and regulation of activities.

In 2018 he stepped barefooted on a sharp object which resulted in an infection in his foot. His medical team was unable to control the infection due to his diabetes. The staphylococcus infection spread to the bones in his feet resulting in chronic osteomyelitis. Unable to stop the spread of the condition, his medical staff amputated his foot above the ankle.

He is currently applying for secondary disability. Secondary disability is a non-service-connected disability proximately due to a service-connected disability – which in this case is type II diabetes. He will need to submit a new application with medical records and an opinion from his doctor that the amputation is proximately due to the diabetes. If he does not submit such an opinion, VA will order an examination to obtain that opinion.

Loss of a foot is rated at 40%. He will retain his current rating of 40% due to the diabetes and a new rating of 40% which results in a combined rating of 70%. Individual ratings are not additive so this may confuse you. We will explain the rating system further on in this module.



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Requesting an Increase in Rating



The veteran retired in 1985 after 25 years of military service in the Air Force at the age of 44. He originally started his career in aircraft maintenance and eventually became an NCO supervisor of an Air Force aircraft maintenance squadron. In 2010 he was diagnosed with an aggressive form of prostate cancer. Over a period of a year, he received a radical prostatectomy and was treated with directed beam radiation therapy which put the cancer in remission. When he developed cancer, he submitted a claim for service-connected disability based on his exposure to hydrocarbon aromatic solvents that during his early years were used in aircraft maintenance. After 2 years of fighting VA with medical records, service personnel records, numerous lay statements and several private medical opinions he was awarded service connection for his prostate cancer.

He received an initial award and payment at 100% disability for the year of treatment and based on a later reevaluation, his rating was reduced to a combined rating of 40% due to a 20% rating for frequent voiding and a 20% rating for incontinence due to the prostatectomy. His military retirement pay has also been reduced by the equivalent amount of VA disability pay due to the concurrent payment rule.

He was recently diagnosed with metastatic prostate bone cancer. He is undergoing treatment which includes directed beam radiation and androgen hormone therapy. To increase his rating to 100%, while he is receiving treatment, he must produce medical evidence of his new condition, the treatment he is receiving and his doctor's statement verifying that the prostate bone cancer is proximately due to a new flareup of his original prostate cancer.

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Our Approach to a More Successful Compensation Claim or Appeal

- Make sure the claim is fully developed
 - Service treatment records and/or service hospital records (where applicable)
 - Service personnel records (where applicable)
 - Claimant-obtained Disability Benefits Questionnaires (where applicable)
 - Post-service medical records
 - Claimant-obtained medical opinions (where applicable)
 - Well written, thorough and competent lay statements and buddy statements
 - Convincing medical literature evidence (where applicable)
- Bypass SECTION IV of the 21-526EZ with more detail on a 21-4138
- Let VA know that the claim is fully developed and not to develop it
- Provide a thorough summary of the claim
- Provide a thorough description of the disability issues being claimed
- Provide a complete list of all documents submitted with the claim
- Provide a well-written, thorough and competent lay statement

SECTION IV of VA Form 526 EZ

SECTION IV:	
16. LIST THE CURRENT DISABILITY(IES) OR SYMPTOMS THAT YOU CLAIM A <i>(If applicable, identify whether a disability is due to a service-connected disability; confine War environmental hazards; or a disability for which compensation is payable under 38 U.S.C. 5621.)</i> NOTE: List your claimed conditions below. See the following three examples for	
EXAMPLES OF DISABILITY(IES)	EXAMPLES OF E TYPE
Example 1. HEARING LOSS	NOISE
Example 2. DIABETES	AGENT ORANGE
Example 3. LEFT KNEE, SECONDARY TO RIGHT KNEE	
CURRENT DISABILITY(IES)	IF DUE TO EXPOSUR INJURY, PLEASE (e.g., Agent Orange)
1. See attached VA Form 21-4138 entitled "Explanation of Cervical Spine Injury"	
2. See attached VA Form 21-4138 entitled "Explanation of Lumbar Spine"	
3. See attached VA Form 21-4138 entitled "Explanation of PTSD"	
4. See attached VA Form 21-4138 entitled "Explanation of Individual Un"	
5.	
6.	

Sample Case Using Our Method of Filing FDC Compensation Claims



- The veteran severely injured his right foot jumping out of a helicopter, during a training exercise at Fort Benning, Georgia in 1975
- The injury required surgery to reattach torn ligaments
- The injury healed improperly and left the veteran with a permanent limp which produced an abnormal gait
- Over the years, the abnormal gait has led to deterioration of the left hip joint, requiring the occasional use of crutches due to pain
- The veteran will use our claim method to obtain a monetary award for disability



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Understanding the Disability Rating System

Veteran has a rating of 30% for PTSD, a rating of 10% for hearing loss with tinnitus and a rating of 20% for back injury. First step is to order ratings from highest to lowest – 30%, 20%, 10%

Next step – Calculate remaining efficiency for gainful employment. $100\% - 30\% = 70\% \times .20 = 14\% + 30\% = 44\%$

Next step – Calculate again remaining efficiency for gainful employment. $100\% - 44\% = 56\% \times .10 = 5.6\% + 44\% = 49.6\%$

Round up or down to the nearest 10% resulting in a combined rating of 50%. The combined rating is not additive for individual ratings and so is not 60% as one would surmise.

We have included on the Claim Support Disc, “**38 CFR Part 4 – Schedule for Rating Disabilities.**” This 243 pages of material covers over 700 different conditions and how they are assigned various disability ratings. Each of these 700 or so different conditions is assigned a four digit code which VA calls a “Disability Code” (DC). For instance tremor has one of either of these codes: Tremor – 8105 or 8103

VA does not calculate rates by hand, but instead uses a computer program that feeds off of the results of Disability Benefits Questionnaires to determine Disability Codes, determine individual ratings and calculate the combined rating based on the hand method above.

Disability Compensation Rate Table for 2019 (In Dollars)

Percent	10%	20%	30%	40%	50%	60%	70%	80%	90%	100%
Veteran	140.05	276.84	428.83	617.73	879.36	1,113.86	1,403.71	1,631.69	1,833.62	3,057.13

Aid and Attendance and Housebound Allowances with Compensation



- Definitions for aid and attendance and housebound are found in the textbook
- Detailed instructions for application are found in the textbook
- Aid and attendance allowance for the disabled spouse
- Aid and attendance allowance for 100% disabled – SMC Schedule (L)
- Housebound allowance for 100% disabled – SMC Schedule (S)
- Special aid and attendance allowance under SMC Schedule (R)

Disability Percent	10%	20%	30%	40%	50%	60%	70%	80%	90%	100%
A&A for Spouse			47.00	62.00	78.00	94.00	109.00	125.00	141.00	156.32

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Special Benefits and Death Benefits

- Combat-Related Special Compensation (CRSC) – Full retirement benefit
- Housing Adaptability Grants
- Temporary Residence Adaptation (TRA)
- Applying for a HISA Grant
- Automobile Allowance
- Clothing Allowance
- Medal of Honor Pension

Burial and Plot Rate Table 2019 – Effective October 1, 2018

A service-connected death is one where the veteran was receiving monthly payments for Disability Compensation and the death was due to the disability or condition for which the veteran was receiving pay. It is also possible to receive a service-connected death if the disability or condition was not the direct cause but the disability or condition contributed substantially to the death.

A non-service-connected death is one where the veteran was receiving monthly payments for Disability Compensation or Veterans Pension but the death was due to some other cause not related to the disabilities or conditions for which the veteran was receiving pay.

SERVICE CONNECTED DEATH	\$2,000
NON-SERVICE CONNECTED DEATH (Reimbursement; veteran dies while hospitalized by VA)	\$780
NON-SERVICE CONNECTED DEATH (Reimbursement for Veterans not hospitalized by VA)	\$300
NSC DEATH STATE CEMETERY (Paid to a state veterans cemetery for the plot/burial)	\$780
NSC DEATH PLOT ALLOWANCE (This amount paid to reimburse for a private-paid plot)	\$780
NSC HEADSTONE OR MARKER ALLOWANCE (If not provided by the Department)	\$195

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