



## **WHAT TO EXPECT AT YOUR HEARING**

The Appeals and Hearings Process is an important part of the VCF claims process, with hundreds of hearings held every year. This document provides information to help you understand what to expect during your hearing. For a full explanation of the Appeals and Hearings process, see Section 4 of the VCF Policies and Procedures online at <https://www.vcf.gov/policy/appeals-and-hearings>.

There are two different points in the VCF claims process when hearings are held. First, at the Eligibility stage, you have the right to appeal and come to a hearing if you are found ineligible for compensation because you did not meet the eligibility criteria as defined in the VCF statute. Second, at the Compensation stage, you have the right to appeal and come to a hearing if you believe the VCF made an error in calculating your award.

Hearings are held in a non-adversarial manner, and are conducted by a Hearing Officer from the Special Master's office. These Hearing Officers are qualified individuals who have been trained specifically for VCF hearings. Other VCF staff who support the appeals process will also attend the hearing.

The objective of the hearing is to give you a chance to present information or evidence that you believe is necessary to support your appeal. You are allowed, but are not required, to bring witnesses to your hearing, including expert witnesses. During the hearing, the Hearing Officer will ask you about documentation you submitted with your claim, including anything you provided in your appeal packet. The Hearing Officer may also ask your witnesses about any written statements they provided in support of your claim.

### **WHAT TO EXPECT:**

#### **Is this going to be the same as going to court?**

**No.** There may be some parts of the hearing that seem similar to court proceedings, but VCF hearings are not the same as going to court. Our process is meant to be non-adversarial, and is an opportunity for you to talk with us about details related to your claim. You can expect to see a Hearing Officer, the court reporter, and one or two other representatives from the VCF. You and any witnesses you bring to your hearing will be sworn in by the court reporter, and your testimony is given under oath and under penalty of perjury. The court reporter will document the hearing in a transcript, which then serves as the official record of the hearing. The Special Master is then able to refer to the transcript when deciding your appeal. **No one is permitted to record the hearing.**

#### **Do I need an attorney for my hearing?**

**No.** Just like the rest of the VCF claims process, you do not need legal representation at your hearing. However, if you were not working with an attorney when you submitted your Appeal Request Form, and you have since decided to work with one for purposes of your appeal, please notify the VCF in advance no later than two weeks before your hearing. If you are represented by an attorney for your VCF claim, you should talk with your attorney about his or her role during the hearing.

#### **Can I have someone else in the room with me during the hearing?**

**No.** When the pandemic required us to begin conducting hearings by video, we worked hard to try to re-create in a virtual setting the privacy and integrity of our in-person hearings process. During the actual proceeding, you may not have anyone, including spouses, children, or others,



in the same room as you while you testify. If you feel you have special requirements or needs for your hearing that require someone to be with you, please inform the VCF of these needs, in writing, in advance of your hearing. You can provide that information in your Pre-Hearing Questionnaire.

**Can I be somewhere other than my home for my hearing?**

**Yes.** You can participate in the hearing from any location where you have privacy and a strong, uninterrupted Wi-Fi signal. “Privacy” typically means somewhere you can close a door. When deciding where you will be located, keep in mind that the Hearing Officer will need to be able to see and hear you clearly. This means you need a place with good lighting and minimal background noise. The VCF expects that you will be somewhere private and safe during your hearing. For example, the VCF will not hold your hearing if you join while driving your car, or are somewhere public, such as a coffee shop or shared work space. This expectation is the same for any witnesses you bring to your hearing.

**How long will my hearing last?**

**45-60 minutes.** You can expect your hearing to last from 30 minutes to one hour, depending on the issue(s) being discussed at the hearing and the number of witnesses.

**Do my witnesses have to stay the whole time?**

**Yes.** The Hearing Officer typically listens to you first, and then your witnesses. You should prepare your witnesses to be available for the entire hour, even if their testimony only takes 10-15 minutes. Once they testify, they will be dismissed and do not need to remain available for the remainder of the hearing. You should also prepare your witnesses for the possibility that their testimony may not be needed. This may happen if the Hearing Officer determines, based on what has already been said during the hearing, that a specific witness’s information is no longer needed. If your witness has a time restriction and prefers to testify first, please inform the VCF in writing in advance of your hearing. The Hearing Officer may accommodate the request at his or her discretion.

**Will I be asked questions during the hearing?**

**Yes.** The hearing is the opportunity for you to tell your story to the VCF, and to present an argument as to why you are appealing the decision. This process is non-adversarial, but the Hearing Officer will ask questions to be sure we understand everything we need to know in support of your claim. This is not a cross-examination, but more of a conversation. Below are some examples of questions you may be asked during your hearing:

For Eligibility Hearings:

- Where were you on September 11, 2001? If applicable, where were you on other dates you provided in your claim between September 12, 2001, through May 30, 2002?
- Who were you with when you were there?
- What were you doing when you were there?
- What sensory memories do you have from that time (smell, sight, etc.)?

For Compensation Hearings:

- How have your conditions worsened over time?
- What medications do you take and what side effects have you had, if any?
- Have your conditions resulted in surgeries or hospitalizations?
- If applicable, how have your conditions resulted in your inability to work?



**What if I have additional questions about the hearings process or my claim?**

The VCF Helpline is available to answer your questions:

**Toll-free 1-855-885-1555**

**Hearing impaired 1-855-885-1558 (TDD)**

**Outside the United States 1-202-514-1100**

If you are working with an attorney for your VCF claim, you should contact your attorney with any questions.