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# Disability Benefits Available Under the Social Security Disability Insurance (SSDI) and Veterans Disability Compensation (VDC) Programs

Umar Moulta-Ali  
*Congressional Research Service*

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# Disability Benefits Available Under the Social Security Disability Insurance (SSDI) and Veterans Disability Compensation (VDC) Programs

## **Abstract**

[Excerpt] Social Security Disability Insurance (SSDI) and Veterans Disability Compensation (VDC)—administered by the Social Security Administration (SSA) and the Department of Veterans Affairs (VA) respectively—are two of the largest federal disability programs, but strongly differ along several dimensions, including the populations served, how each program defines a “disability,” as well as varying eligibility requirements.

This report provides a description and comparative analysis of the SSDI and VDC programs. These issues will be of particular interest to Congress because of the expected increase in the numbers of SSDI and VDC claims. The recent economic decline and aging baby-boomers have continued to place a strain on SSA’s resources. The aging of the veteran population and expansion of *presumptive conditions* policies have contributed to the increase in VDC claims.

## **Keywords**

Social Security Disability Insurance, SSDI, Veterans Disability Compensation, VDC, disability, veterans, claims

## **Comments**

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# Disability Benefits Available Under the Social Security Disability Insurance (SSDI) and Veterans Disability Compensation (VDC) Programs

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## Summary

Social Security Disability Insurance (SSDI) and Veterans Disability Compensation (VDC)—administered by the Social Security Administration (SSA) and the Department of Veterans Affairs (VA) respectively—are two of the largest federal disability programs, but strongly differ along several dimensions, including the populations served, how each program defines a “disability,” as well as varying eligibility requirements.

First, SSDI is an insurance program that replaces a portion of earnings for an eligible worker whose illness or injury—while not necessarily caused by a work-related incident—results in an inability to work. SSDI is one of several federal programs funded through the Federal Insurance Contributions Act (FICA) payroll tax and the Self-Employment Contributions Act (SECA) tax to which all workers and employers in covered occupations (including military personnel) and self-employed individuals make contributions. On the other hand, VDC is not insurance, but is a compensation program in that payments are made to veterans who develop medical conditions that are related to their service in the military. VDC is non-contributory and neither veterans nor active military personnel pay into the program, which is funded through a mandatory appropriation as part of the VA annual budget.

Second, while the purpose of both SSDI and VDC is to provide income security, SSDI provides a financial “safety-net” to eligible civilian and military workers due to their inability to work as a result of long-term or terminal injury or illness. Conversely, VDC provides veterans with tax-free, cash benefits specifically for service-connected illnesses or injuries. The ability to work is not factored into VDC disability determinations, although additional compensation is available for veterans who are unemployable as the result of a service-connected condition(s).

Third, SSDI only compensates workers that are fully disabled, whereas VDC compensates veterans for both partial and fully disabling injuries and illnesses. The VA is further guided by a principle that views disability compensation as an obligation, owed to veterans, for injuries impacting employment that were incurred or aggravated by their service to the country. SSDI benefits are granted solely on medical and economic grounds and other noneconomic factors are not considered. Eligibility requirements generally tend to be more stringent for SSDI than VDC, and most veterans will not likely meet the criteria for both programs.

Both SSA and the VA have faced challenges in the administration of benefits and have been criticized for a lack of interagency coordination, processes that are “out-of-sync” with modern conceptions of disability, and extensive processing delays for claims and appeals. These are a few issues which led, in part, to a Government Accountability Office (GAO) investigation and determination of federal disability programs as “high risk.” Both agencies have made efforts to address issues surrounding pending claims and appeals, but differ in their responses to other recommendations.

This report provides a description and comparative analysis of the SSDI and VDC programs. These issues will be of particular interest to Congress because of the expected increase in the numbers of SSDI and VDC claims. The recent economic decline and aging baby-boomers have continued to place a strain on SSA’s resources. The aging of the veteran population and expansion of *presumptive conditions* policies have contributed to the increase in VDC claims.

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## Introduction

Social Security Disability Insurance (SSDI) replaces a portion of earnings for an eligible worker whose illness or injury—while not necessarily caused by a work-related incident—results in an inability to work. As an insurance program, workers (including active military) and employers in covered occupations, as well as self-employed individuals, contribute to the program through the Federal Insurance Contributions Act (FICA) payroll tax and the Self-Employment Contributions Act (SECA) tax.<sup>1</sup> Currently, 94% of all workers are covered by Social Security. Conversely, Veterans Disability Compensation (VDC) provides payments to veterans for illnesses and injuries that are caused or aggravated by military service. VDC is a compensation program funded through a mandatory appropriation as part of the Department of Veterans Affairs (VA) annual budget. VDC is not insurance and therefore, neither veterans nor active military personnel contribute directly toward the funding of the program.

SSDI and VDC—administered by the Social Security Administration (SSA) and the VA, respectively—are two of the largest federal disability programs.<sup>2</sup> In August 2012, there were more than 8.7 million disabled workers receiving payments through SSDI at a cost of over \$9.7 billion per month. The number of veterans receiving disability compensation was less than half that amount at the end of FY2011, with more than 3.3 million recipients. Total monthly receipts for VDC were just under \$3.3 billion in FY2011.<sup>3</sup>

Although SSDI and VDC both serve the goal of providing income security for individuals with disabilities, these programs fundamentally differ in how they define “disability” and determine eligibility for benefits. For example, an individual must be unable to work to be eligible for SSDI benefits, yet employability is not a factor in VDC disability determinations.<sup>4</sup> Indeed, veterans that receive a disability rating from the VA will not necessarily be eligible for SSDI benefits, unless their particular condition prevents them from entering the civilian workforce under specific SSA guidelines.

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<sup>1</sup> 26 U.S.C. §3507 (FICA), 26 U.S.C. §1401 (SECA). FICA and SECA taxes also fund Medicare in addition to the retirement and survivor benefit components of the Old Age, Survivors and Disability Insurance (OASDI) program.

<sup>2</sup> The federal government provides a wide-array of assistance programs for persons with disabilities across most executive departments. For the “Disability Assistance” list, see <http://www.benefits.gov/benefits/browse-by-category/category/DIA>.

<sup>3</sup> The total monthly payment figure for the SSDI program is calculated by multiplying the average monthly payment by the number of disabled worker recipients, which excludes dependent and survivor recipients. The total monthly payment figure for the VDC program is calculated by multiplying the number of VDC beneficiaries by the estimated average payment amount for FY2011 divided by 12 months. *Sources:* For SSDI, see Beneficiary Data for disabled workers available online at <http://www.ssa.gov/OACT/ProgData/icp.html>. For VDC data, see page 5 of the Veterans Benefits Administration Annual Benefits Report, Fiscal Year 2011 available online at <http://www.vba.va.gov/REPORTS/abr/index.asp>.

SSA reports updated payment and recipient data for the SSDI program every month, whereas the VA reports payment and recipient data at the end of each fiscal year. Therefore, the most recent available SSDI payment data is August 2012 and the most recent available data for VDC is for FY2011. SSDI figures for August 2012 are referenced later in this report; however, SSDI figures for the end of September 2011 (the end of the federal fiscal year) are also used in this report for comparisons with VDC.

<sup>4</sup> Except when making a determination under Individual Unemployability (IU) rules, as discussed later in this report under “100%/Total Disability Ratings.”

This report seeks to clarify why one group of individuals with disabilities may be eligible for benefits under VDC, but ineligible for benefits under SSDI (and vice versa), through a description and comparison of several distinguishing characteristics of the SSDI and VDC programs. This report concludes with a discussion of the challenges facing the administration of both programs, including processing delays for pending claims and appeals.

These issues will be of particular interest to Congress because of the increasing numbers of SSDI claims resulting from a combination of the recent economic decline, an increase in the number of baby-boomers approaching retirement age and their most disability-prone years, as well the extension of *presumptive conditions* that have expanded the pool of veterans eligible for VDC.<sup>5</sup>

## Social Security Disability Insurance

### Eligibility Requirements

SSDI was established in 1956 as a component of the Old Age, Survivors and Disability Insurance (OASDI) program. Its primary purpose is to replace a portion of an insured workers' earnings, should a medically determinable illness or injury impede his or her ability to work. For SSDI benefits, an individual must have a sufficient work history<sup>6</sup> and must be unable to engage in any employment that brings income in excess of the *substantial gainful activity* (SGA) threshold,<sup>7</sup> as a result of one or more medical conditions that is expected to last 12 months or longer, or result in death.<sup>8</sup>

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<sup>5</sup> For example, diabetes mellitus (Type II, adult onset) was granted *presumptive condition* status for in-country Vietnam veterans (38 C.F.R. §3.309(e)) effective in late FY2001. Prior to the new regulation, 1,183 veterans began receiving disability compensation during FY2000 for Type II diabetes; that number quadrupled to 4,741 during FY2001. By FY2002, an additional 111,932 veterans began receiving disability compensation for Type II diabetes. At the end of FY2011, a total of 354,581 veterans are receiving VDC for Type II diabetes. Also, 1,501,078 World War II (191,425), Korean Conflict (148,180) and Vietnam-era veterans (1,161,473 made up largely of baby-boomers) are receiving disability compensation and comprise 44.7% of all VDC recipients.

For more information on the *presumptive conditions* policy, see CRS Report R41405, *Veterans Affairs: Presumptive Service Connection and Disability Compensation*, coordinated by Sidath Viranga Panangala.

<sup>6</sup> Requires 40 quarters of coverage (generally 10 years), or one quarter of coverage for each year after 1950 or from the age of 21 up to the onset of a disability. In addition, the individual must have at least 20 quarters of coverage in the 40 quarters preceding the onset of disability (recency of work test). Workers under the age of 31 need to have credit in one-half of the quarters during the period between when they attained the age of 21 and when they became disabled, with a minimum of six quarters. For additional information, see "Eligibility Requirements" in CRS Report RL32279, *Primer on Disability Benefits: Social Security Disability Insurance (SSDI) and Supplemental Security Income (SSI)*, by Umar Moulta-Ali.

<sup>7</sup> Under Social Security law, an individual is eligible for benefits only if he or she is unable to engage in employment activity in excess of the SGA threshold determined by the commissioner of SSA. The SGA amount is adjusted annually to reflect the growth in average wages, and in 2012, this amount is set at \$1,048 a month. However, individuals disabled by blindness are only considered to be engaging in SGA if their earnings exceed \$1,690 a month. For additional information, see CRS Report RS20479, *Social Security: Substantial Gainful Activity for the Blind*, by Umar Moulta-Ali.

<sup>8</sup> For additional information on benefits, determination processes and financing for SSDI, see CRS Report RL32279, *Primer on Disability Benefits: Social Security Disability Insurance (SSDI) and Supplemental Security Income (SSI)*, by Umar Moulta-Ali.



## SSDI Benefits

To ensure that a condition is long-term, a worker only becomes eligible to apply for SSDI five months after the onset of a disability, and the worker is further evaluated to determine if the disability will last longer than 12 months or result in death. Once payments commence, claimants may be eligible for up to 12 months of retroactive benefits for the period between the date of disability-onset and their benefits application date.<sup>9</sup> Monthly payments are determined based on a worker's past earnings and can be supplemented if the claimant has qualifying dependents. Individuals with disabilities become eligible to receive health care benefits through Medicare, 24 months after becoming eligible for SSDI.<sup>10</sup> Benefit payments continue until the individual: (1) dies; (2) reaches the retirement age, at which point his or her benefits remain the same, but are paid out of the Old-Age and Survivors Insurance (OASI) trust fund;<sup>11</sup> or (3) experiences an improvement in his or her medical condition, enabling him or her to return to the workforce. In August 2012, approximately 8.7 million disabled workers were receiving an average of \$1,111.36 per month in SSDI cash benefits.<sup>12</sup>

## SSDI Determination Process

Disability determinations for SSDI benefits entail a five-step process (see **Figure 1**). First, an applicant files for benefits with the SSA at the agency's website, a field office, or through a toll-free phone line. The responsibility for adjudicating the application then shifts to medical and vocational experts at state-level Disability Determination Services (DDS) agencies. A disability examiner from the DDS will then determine if the claimant's

- income falls below the SGA threshold (Step 1),
- condition is current and expected to last longer than 12 months or result in death (Step 2), and
- condition meets the SSA medical listings (Step 3),

If the first three steps are satisfied, the claimant is deemed eligible to receive SSDI benefits. If the claimant's condition does not meet—or is not equal in severity to—a condition in the SSA medical listings, he or she can be further evaluated for SSDI eligibility by examining whether the claimant's

- remaining capacities would enable him or her to perform their past work (Step 4), and
- condition would still enable him or her to work in other jobs that exist within the national economy (Step 5).

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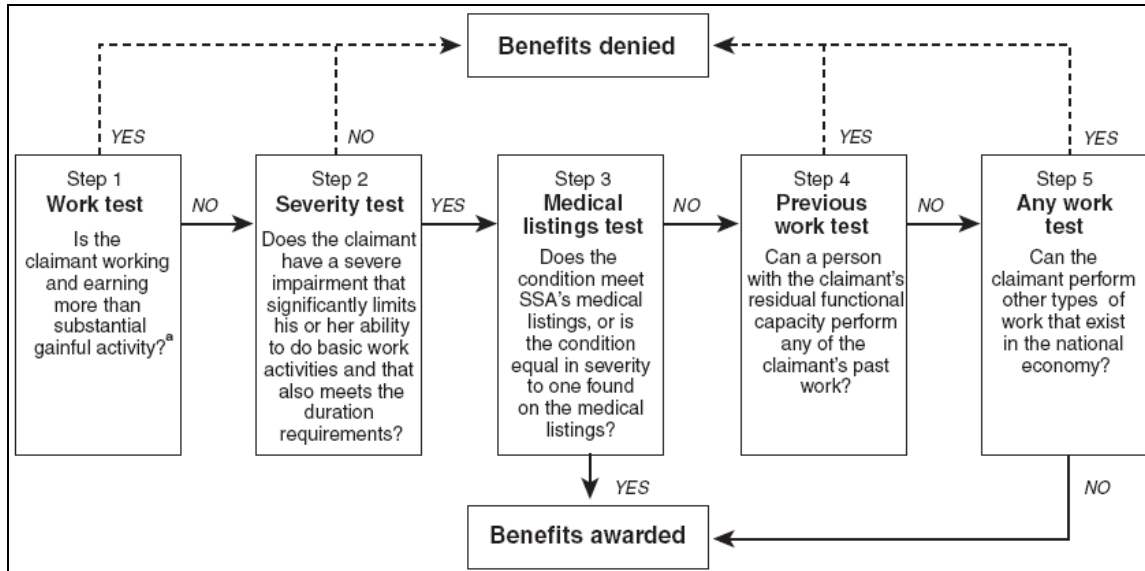
<sup>9</sup> See CRS Report RS22220, *Social Security Disability Insurance (SSDI): The Five-Month Waiting Period for Benefits*, by Umar Moulta-Ali.

<sup>10</sup> Individuals become eligible for SSDI five months after the onset of a disability, so eligibility for Medicare entails at least a 29-month waiting period from disability-onset. See CRS Report RS22195, *Social Security Disability Insurance (SSDI) and Medicare: The 24-Month Waiting Period for SSDI Beneficiaries Under Age 65*, by Umar Moulta-Ali.

<sup>11</sup> Under Title II of the Social Security Act, SSA operates two separate trust funds: (1) the Federal OASI trust fund for eligible retirees and (2) the Federal Disability Insurance (DI) trust fund for eligible individuals with disabilities.

<sup>12</sup> Includes only disabled workers and excludes dependents and survivors. August 2012 data available through the SSA Beneficiary Data site at <http://www.ssa.gov/OACT/ProgData/icp.html>.

**Figure 1. Social Security Administration's Five-Step Sequential Evaluation Process for Determining Disability**



**Source:** Adapted from GAO Report GAO-09-511 *IT Testimony Before the Subcommittees on Income Security and Family Support and Social Security, Committee on Ways and Means, House of Representatives. Social Security Administration: Further Actions Needed to Address Disability Claims and Service Delivery Challenges.*

**Notes:** In 2012, the SGA threshold is \$1,690 per month for blind recipients and \$1,048 per month for individuals with other disabilities.

If a disability examiner decides that an individual meets the requirements for a particular step, the application proceeds to the next step for further review. With the exception of Step 3, if an individual does not meet the requirements at any step in the process, their application is denied. If an SSDI claimant reaches Step 3 of the evaluation process, a DDS official has already determined that the claimant's earnings do not exceed the SGA threshold and that the condition is both long-term and limits the claimant's ability to work. If the claimant's condition meets, or is equal in severity to, the SSA's Medical Listings (at Step 3), the claimant is deemed eligible to receive benefits. If the claimant's conditions does not meet SSA's Medical Listings, the claimant can still meet eligibility requirements if he or she is unable to perform past work (Step 4) or other types of work that exist in the national economy (Step 5).

The disability determination process can be long and complex and is largely contingent upon receipt of all necessary documents by SSA. Processing time for initial application decisions averaged 109 days in FY2011.<sup>13</sup> If, at any point in the assessment process, a claimant's application is denied by the state DDS, that individual can begin the appeals process.

## SSDI Four-Step Appeals Process

If an application for SSDI benefits is denied at any point in the five-step determination process, a claimant can appeal the ruling up to four possible levels (see **Figure 2**). The appeals process

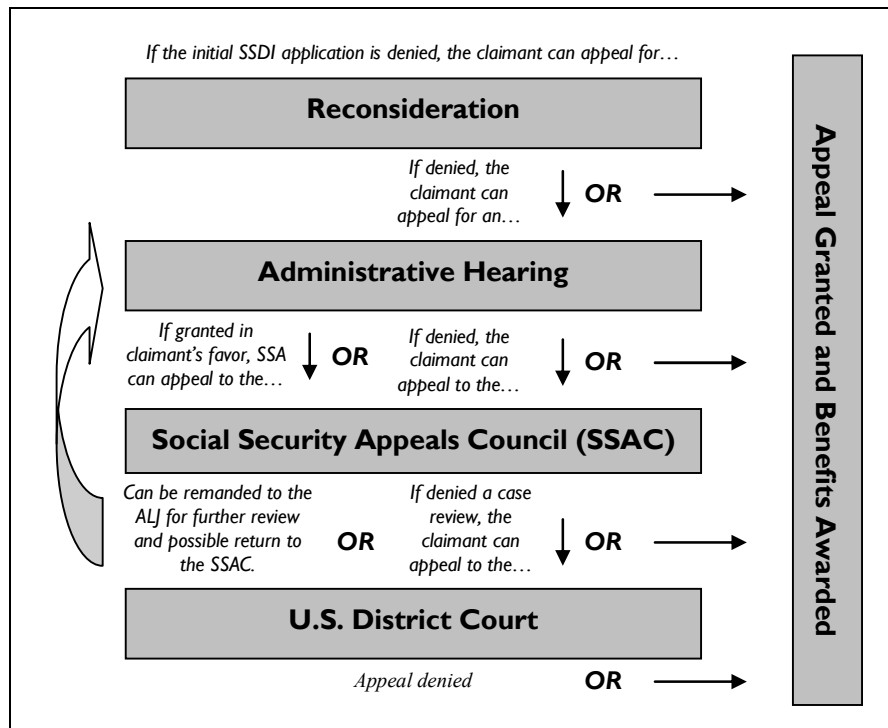
<sup>13</sup> SSA's FY2011 Performance and Accountability Report, p. 15, at <http://www.ssa.gov/finance/>.

includes three levels of administrative review through SSA before a case can then be appealed to the U.S. court system, in this order:

1. reconsideration of the claimant’s application by the state DDS office,
2. a hearing by an Administrative Law Judge (ALJ),
3. a review by Social Security Appeals Council (SSAC), and
4. filing suit against SSA in U.S. district court.

If a claimant’s initial application or subsequent appeal is denied, he or she must request an appeal to the next level, in writing, within 60 days of receiving the prior decision.<sup>14</sup> Claimants can also present any additional evidence or comments to support their cases at any step in the administrative appeals process. U.S. district court is generally the final level of appeal pursued in SSDI cases. On rare occasions, SSDI cases can be appealed beyond U.S. district court to the U.S. court of appeals and, ultimately, the U.S. Supreme Court.

**Figure 2. SSDI Appeals Process**



**Source:** Congressional Research Service figure with information on the SSDI appeals process provided from *How the Disability Appeals Process Works* at <https://secure.ssa.gov/apps6z/iAppeals/msg002.jsp>.

**Notes:** U.S. district court is generally the final level of appeal pursued in SSDI cases. On rare occasions, SSDI cases can be appealed beyond U.S. district court to the U.S. court of appeals and, ultimately, the U.S. Supreme Court.

<sup>14</sup> In counting the 60 days, SSA assumes that a claimant has received the decision via postal mail within five days. If a filing deadline is missed, a claimant’s case may be dismissed, forfeiting his or her right to further appeal. Claimants can make a written request to SSA to have this deadline extended.

### **Step 1 in the SSDI Appeals Process (Reconsideration)**

Upon receipt of the initial appeal request, the state DDS office will “reconsider” the application, which involves a review by a disability examiner who was not involved in the initial application process. To have a case reconsidered, the claimant completes and submits a Request for Reconsideration and an Appeal Disability Report (online or a paper form) to SSA. SSA will then send the case to the state DDS office, although 10 states currently do not conduct the reconsideration step.<sup>15</sup> A DDS official—other than the person who made the first determination—reviews the claimant’s medical records along with any additional evidence provided and makes a new determination about the claimant’s disability. After a review of the medical records, the claimant is notified in writing of the decision. If the claimant disagrees with the reconsideration decision, he or she may then request a formal hearing with an Administrative Law Judge (ALJ).

### **Step 2 in the SSDI Appeals Process (Administrative Hearing)**

If a claimant disagrees with the reconsidered judgment, he or she can appeal the decision by completing and submitting a Request for Hearing by an ALJ and an Appeal Disability Report (online or a paper form) to SSA. SSA will then send the request to the Office of Disability Adjudication and Review, where claimants can request a face-to-face meeting with the ALJ assigned to their case.<sup>16</sup> After talking with the claimant and his or her representative, the claimant will be notified in writing of the ALJ’s decision on the case. If the ALJ rules against the claimant, the case can be further appealed to the Social Security Appeals Council (SSAC). SSA can also bring a case to the SSAC, even if the ALJ has ruled in the claimant’s favor.

### **Step 3 in the SSDI Appeals Process (Social Security Appeals Council)**

A claimant whose appeal is denied by an ALJ can complete and submit a Request for Review of Decision/Order of Administrative Law Judge (in paper form) to SSA, who forwards the request to the Office of Disability Adjudication and Review. An official from the SSAC will review the claimant’s medical records and will either remand the case back to the ALJ for further review, deny the request to review the case, or make a new independent determination. Claimants will be notified in writing of the decision on the case. If a claimant disagrees with the decision of the SSAC, or the claimant’s request for appeal is denied, he or she can file a civil suit in U.S. district court for further review and judgment.

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<sup>15</sup> In 1999, SSA eliminated the Reconsideration step in 10 states as part of the Disability Redesign Prototype initiative which included Alaska, Alabama, California (Los Angeles West and North Branches), Colorado, Louisiana, Michigan, Missouri, New Hampshire, New York, and Pennsylvania. Although SSA expected the initiative to result in earlier decisions and shorter wait-times for claimants, the opposite has been true. In FY2011, SSA reinstated the Reconsideration step in the state of Michigan and is evaluating potential reinstatements in Colorado and other states. *Source:* Congressional testimony of Michael Astrue, Commissioner of Social Security Administration to the House Committee on Ways and Means, Subcommittee on Income Security and Family Support and Subcommittee on Social Security, 111<sup>th</sup> Cong., 2<sup>nd</sup> sess., April 27, 2010, at [http://www.socialsecurity.gov/oig/communications/testimony\\_speeches/04272010testimony.htm](http://www.socialsecurity.gov/oig/communications/testimony_speeches/04272010testimony.htm).

<sup>16</sup> Federal ALJs preside at formal adjudicatory and rulemaking proceedings conducted by executive branch agencies. For more information, see CRS Report RL34607, *Administrative Law Judges: An Overview*, by Daniel T. Shedd.

## **Step 4 in the SSDI Appeals Process (U.S. District Court)**

Although legal representation is optional through other parts of the appellate process, the claimant must hire an attorney if he or she decides to file a civil suit against SSA in U.S. district court. The case will be heard by a district court judge who will notify the claimant in writing of the decision on the case.

# **Veterans Disability Compensation**

## **Background in Brief**

Prior to World War I, disability compensation was part of a pension system based on service during a particular conflict.<sup>17</sup> The current ratings system for disabilities began in the 1940s and, with adjustments, is still in use today. The current system relies on ratings (0% to 100% in 10% increments) for one or more disabling injuries or illnesses resulting from—or aggravated by—military service, with a total percentage rating determining the level of compensation.<sup>18</sup>

## **VDC Eligibility Requirements**

Eligibility for VDC benefits is determined using a two-step process. First, a claimant must prove that he or she is a veteran, defined as a “... person who served in the active military, naval, or air service, and who was discharged or released there from under conditions other than dishonorable,” which is determined largely upon official military service records.<sup>19</sup> Second, claimants must demonstrate that injuries, diseases, or other medical conditions are related to military service.

Although veterans must adhere to time restrictions for several other VA benefits and services, there are no time limits on filing claims for compensation related to most disabilities.<sup>20</sup> The VA and Veterans Service Organizations (VSO) assist veterans in the application process.

## **VDC Determination Process**

A veteran who suffers from an injury or illness will apply for disability compensation with the VA.<sup>21</sup> The initial VA disability assessment focuses solely on determining whether a condition(s)

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<sup>17</sup> Omar N. Bradley, Clarence G. Adamy, and William J. Donovan, et al., *Veterans Benefits in the United States*, President’s Commission on Veterans’ Pensions, April 1956 (cited hereafter as “Bradley Report”). The Bradley Report provides a comprehensive overview of the evolution of veterans’ benefits programs.

<sup>18</sup> See CRS Report RL34626, *Veterans’ Benefits: Benefits Available for Disabled Veterans*, by Christine Scott, Carol D. Davis, and Libby Perl.

<sup>19</sup> 38 U.S.C. §101(2); 38 C.F.R. §3.1(d). For an expanded discussion on the definition of “veteran,” eligible “discharge criteria,” and the “active service” requirement for VA benefits, see CRS Report R42324, “*Who is a Veteran?*”—*Basic Eligibility for Veterans’ Benefits*, by Christine Scott.

<sup>20</sup> There is a time limit (one-year) from the date a claim is filed with the VA for the claim to be completed (fully developed), that is all required information must be provided.

<sup>21</sup> Disabled servicemembers separating from military service have to undergo two separate evaluations, initially through the Department of Defense (DOD) and then through the VA, post-separation. The DOD evaluation simply (continued...)

was caused or aggravated by military service.<sup>22</sup> For VDC evaluations, veterans are given the benefit of the doubt when there is equal evidence that an injury or illness is, or is not, service-connected.<sup>23</sup> If an injury, illness, or combination thereof is determined to be service-connected, the condition(s) are then evaluated based on the Veterans Affairs Schedule for Rating Disabilities (VASRD), a scale that ranges from 0% to 100% in increments of 10%. A “zero percent” rating means that a service-connected disability exists, but is not so disabling that it entitles the veteran to compensation payments, whereas a 100% rating means that the veteran is totally disabled by VDC standards. Claimants must receive at least a 10% rating based on the VASRD to be eligible for any compensation under VDC.<sup>24</sup>

Veterans who are severely disabled due to a service-connected condition(s) can also be considered for *Special Monthly Compensation* (SMC), which provides additional payments for (1) disabilities deriving from the loss of use of certain organs or extremities, and (2) veterans with a 100% disability rating who are so severely disabled that they require aid and attendance or are otherwise housebound.<sup>25</sup>

Ratings can be changed over time, as a result of a new condition(s), or if a condition(s) worsens over time.

### **100%/Total Disability Ratings**

There are two ways for a veteran to receive a total (i.e., 100%) disability rating determination. The first possibility involves receiving a 100% disability rating based solely on the severity of a service-connected condition or combination of conditions.<sup>26</sup> The second possibility is to qualify for an Individual Unemployability (IU) determination, which allows certain veterans to receive compensation at the 100% disabled rate, even if their disabilities (individually or combined) are not rated at that level. To qualify for the IU benefit, a veteran must be unable to work and (1)

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(...continued)

identifies whether a servicemember is “fit” for military duty. If determined to be unfit, the servicemember usually separates from military service and will then be evaluated by the VA for veterans benefits. DOD and VA jointly launched the Benefits Delivery at Discharge (BDD) and Quick Start programs to accelerate receipt of VA disability payments to servicemembers using one comprehensive medical evaluation. BDD allows servicemembers to file claims for most VA benefits (including disability compensation) 60 to 180 days prior to separation from military service (less than 60 days under the Quick Start program). For an expanded discussion on the DOD and VA disability evaluation process, see CRS Report RL33991, *Disability Evaluation of Military Servicemembers*, by Christine Scott and Don J. Jansen. For additional information on the BDD and Quick Start programs, see <http://www.vba.va.gov/bln/21/topics/predischarge/quickstart.htm>.

<sup>22</sup> See CRS Report RL34626, *Veterans’ Benefits: Benefits Available for Disabled Veterans*, by Christine Scott, Carol D. Davis, and Libby Perl.

<sup>23</sup> 38 U.S.C. §5107(b).

<sup>24</sup> Disability compensation ratings of 30% will be increased if the veteran has a spouse or dependents.

<sup>25</sup> 38 U.S.C. §1114(k); 38 C.F.R. §3.350. Criteria for determining need for aid and attendance and “permanently bedridden” can be found at 38 C.F.R. §3.352(a).

<sup>26</sup> Ratings for multiple disabilities are each given an individual rating based on the VASRD, and are combined (not added) for a total score based on the ratio between the disability ratings and the remaining level of “efficiency” of the veteran. For example, a veteran with a 30% rating is considered to have 70% efficiency. The effect of an additional 20% disability rating is considered to leave only 80% of the efficiency remaining, or 56% (i.e., 70 multiplied by .80). For the separate ratings of 20% and 30%, the veteran will not receive a total rating of 50%, but a combined rating of 44% (the inverse of the level of efficiency or 100-56), which is rounded to 40%. *Source*: 38 C.F.R. Ch.1 §4.25.

have one service-connected disability rated at least 60%, or (2) have two or more disabilities with one disability rated at least 40%, and a combined rating of at least 70%.<sup>27</sup>

## **Presumptive Conditions**

The *presumptive conditions* policy of the VA entitles certain veterans, and/or survivors and dependents, to a presumption of service-connection for certain diseases or conditions related to certain conflicts or military service situations. Eligibility for presumptive disability benefits varies depending on the circumstances of a veteran's active-duty service and the type of diagnosis. Current groups include former POWs; Vietnam veterans exposed to Agent Orange; Atomic veterans exposed to ionizing radiation; Gulf War veterans with undiagnosed illnesses; veterans diagnosed with certain chronic diseases within one year of release from active duty; and veterans, with 90 days or more of continuous service, diagnosed with Lou Gehrig's disease following discharge from active duty.<sup>28</sup>

## **VDC Benefits**

Disability compensation pays a monthly cash benefit to disabled veterans who are at least 10% disabled as a result of military service. Benefit payment amounts are contingent upon the claimants' level of disability based on the VASRD as determined by the VA. The claimants' marital status, number of children or other dependents, and certain disabilities (qualifying for SMC) are additional factors that will affect payment.<sup>29</sup> At the end of FY2011, approximately 3.4 million veterans were receiving VDC benefits.<sup>30</sup>

## **VDC Appeals Process**

Currently, there are four levels of appeals that a claimant could potentially undergo (see **Figure 3**). Regional VA offices make the first determination to allow or disallow veterans' claims, and claimants can initially appeal unsatisfactory VA office decisions to the Board of Veterans' Appeals (BVA), an internal administrative body to the VA. Appeals usually relate to a disagreement on the service-connectedness of a condition or dispute over a rating determination. If a claimant wishes to appeal the decision of the BVA, the case then moves outside of the VA to the Court of Appeals for Veterans Claims (CAVC), a federal court. CAVC decisions can be appealed to the Court of Appeals for the Federal Circuit and ultimately, the Supreme Court.<sup>31</sup>

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<sup>27</sup> For additional information on IU rules and eligibility criteria, see the VA Fact Sheet at <http://www.vba.va.gov/VA/benefits/factsheets/serviceconnected/iu.doc> and the October 27, 2005 testimony from Daniel L. Cooper, VA Under Secretary for Benefits to the Senate Committee on Veterans' Affairs <http://www4.va.gov/OCA/testimony/svac/05102720.asp>.

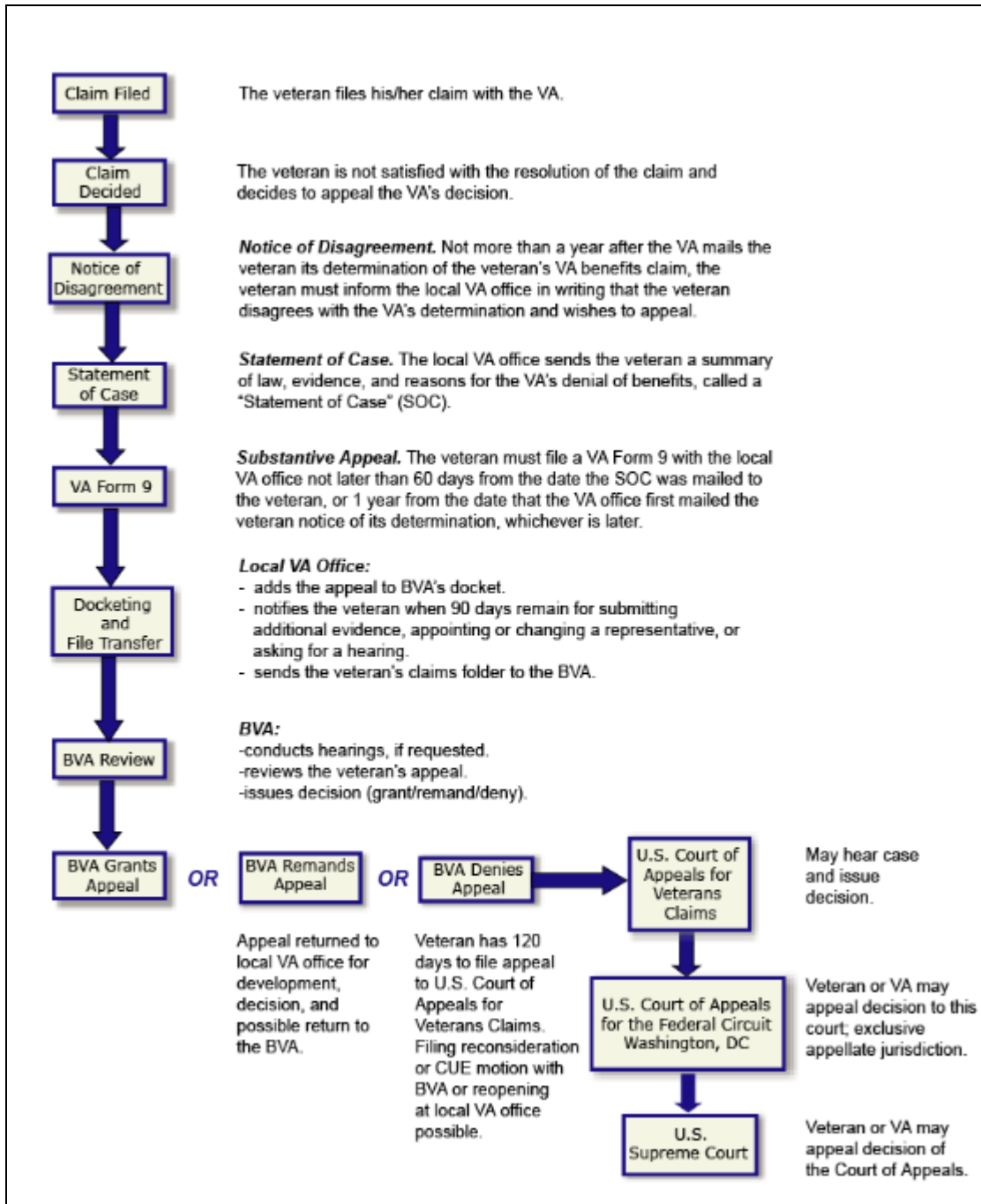
<sup>28</sup> For a comprehensive list of "Presumptive" conditions, see the VA Fact Sheet at <http://www.vba.va.gov/VBA/benefits/factsheets/serviceconnected/presumptive.doc>.

<sup>29</sup> See *Veterans Compensation Benefits Rate Tables* <http://www.vba.va.gov/bln/21/Rates/comp01.htm>. For an explanation of rate tables see *How to Read Compensation and SMC Benefits Rate Tables* <http://www.vba.va.gov/bln/21/Rates/comp01b.htm>.

<sup>30</sup> Veterans Benefits Administration Annual Benefits Report, Fiscal Year 2011 at [http://www.vba.va.gov/REPORTS/abr/2011\\_abr.pdf](http://www.vba.va.gov/REPORTS/abr/2011_abr.pdf). Excludes dependents and survivors.

<sup>31</sup> For more information, see CRS Report R42609, *Overview of the Appeal Process for Veterans' Claims*, by Daniel T. Shedd, which traces the appeals process for veterans from the initial application to the Supreme Court.

Figure 3. Flow Chart of the Various Steps in the VA Appeal Process



**Source:** Adapted from *How Do I Appeal?* published by the Board of Veterans Appeals, Department of Veterans Affairs; VA Pamphlet I-02-02A (April 2002). See <http://www.bva.va.gov/docs/Pamphlets/010202A.pdf>.

**Notes:** As noted in CRS Report R42324, "Who is a Veteran?"—*Basic Eligibility for Veterans' Benefits*, these filing time limits for appeals apply in most cases. However, they do not apply to "simultaneously contested claims," when more than one person is trying to receive benefits that only one person is entitled to, such as life insurance proceeds. See *Board of Veterans' Appeals, Understanding the Appeal Process*, published by the Department of Veterans Affairs; VA Pamphlet 01-00-1 (January 2000) p 1.



## Distinctions Between SSDI and VDC Programs

There are clear differences in the general goals of SSA and VA disability compensation programs that have likely evolved from the SSDI focus on administering benefits primarily for a civilian work population, which contrasts with the VDC focus on compensating individuals for the adverse health conditions connected to military service.

### Comparison of Recipient Populations

As observed in **Table 1**, which draws comparisons between the populations of SSDI and VDC recipients, the SSDI program is more than twice as large as the VDC program, in terms of the number of recipients served. An SSDI recipient receives less than half the amount in cash payments as a comparable VDC recipient.<sup>32</sup> Additionally, although the male-to-female ratio of SSDI recipients is relatively even, over 90% of all VDC recipients are men. The most prevalent disabilities for SSDI recipients are mental disorders and medical issues related to the musculoskeletal system, whereas the most prevalent conditions among VDC recipients are auditory-related. Both programs tend to serve populations approaching retirement age as the typical VDC and SSDI recipients are all over the age of 55.

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<sup>32</sup> Drawing comparisons of payments to SSDI recipients and VDC recipients presents a unique challenge because of the varying rules and policies that govern the payment schedules for each program. For example, the average monthly payment for an SSDI recipient at the end of FY2011 was \$1,110.50, excluding additional possible payments for a spouse and/or children. The typical SSDI recipient either cannot work, or is earning less than the *substantial gainful activity* threshold as a result of a long-term disability. A comparable VDC recipient who cannot work as a result of a service-connected condition(s), or is making less than the *gainful employment* threshold has likely (1) received a 100%/total disability rating based on the VASRD, or (2) received benefits at the 100%/total disability level under *individual unemployability* provisions. Presumably, this comparable individual would earn the maximum VDC benefit in FY2011 of \$2,769 (tax-free) before including any additional possible payments for a spouse, dependents and/or *special monthly compensation*. While others have compared average payments to SSDI and VDC recipients—across-the-board—without accounting for the various nuances in program rules, the “Comparable Monthly Payments” figures presented in **Table 1** represent a more equivalent measure.

**Table 1. Comparison of SSDI and VDC Recipients, End of FY2011**

	SSDI	VDC
<b>Primary Recipients</b>	Insured Workers (Includes Civilians and Military Servicemembers)	Former Military Servicemembers
<b>Number of Recipients</b> (excludes dependents and/or survivors)	8.58 million	3.21 million
<b>Comparable Monthly Payments<sup>a</sup></b>	\$1,110.50 (average monthly benefit)	\$2,769 (maximum monthly benefit)
<b>Most Prevalent Disabilities</b>	(1) Musculoskeletal System and Connective Tissue (2) Mood Disorders (in December 2011)	(1) Tinnitus (2) Hearing Loss
<b>Modal Age Category</b>	60-64 (2.2 million recipients)	55-74 (1.5 million recipients)
<b>Male to Female Ratio</b>	1.1	10.9 (estimate)

**Sources:** Information on SSDI disability prevalence comes from the Annual Statistical Report on the Social Security Disability Insurance Program, 2011 at [http://www.ssa.gov/policy/docs/statcomps/di\\_asr/2009/index.html](http://www.ssa.gov/policy/docs/statcomps/di_asr/2009/index.html). All other SSA figures are calculated using September 2010 data available through the SSA Beneficiary Data site at <http://www.ssa.gov/OACT/ProgData/icp.html>.

Information on VDC recipient male-to-female ratio comes from the October 28, 2009 Veterans Benefits Administration Presentation to the Advisory Committee for Women Veterans at <http://www1.va.gov/womenvet/docs/VBA.ppt>. All other VDC data and figures are from the Veterans Benefits Administration Annual Benefits Report, Fiscal Year 2011 at <http://www.vba.va.gov/REPORTS/abr/index.asp>.

**Notes:** Unless otherwise noted, SSDI data and figures are from calendar year 2011 and VDC data and figures are from FY2011.

- a. For SSDI, this figure excludes additional possible payments for a spouse or children. For VDC, this figure excludes additional possible payments for a spouse, dependents, or *special monthly compensation*. See footnote 32 under "Comparison of Recipient Populations" for an explanation of why the *average* SSDI monthly benefit is compared with the *maximum* VDC monthly benefit.

## SSDI and VDC Program Administration

A side-by-side comparison of important SSDI and VDC administrative rules is presented in **Table 2**. As mentioned earlier in this report, both programs have separate funding sources (FICA and SECA taxes for SSDI vs. mandatory congressional budget appropriations for VDC), differing definitions of a disability, as well as agency-specific tools for determining program qualifications and eligibility. In addition, SSA does not provide benefits for individuals with short-term or partial disabilities, whereas the VDC program is non-contributory with benefits based on the severity of each service-connected condition(s) rather than earnings history.

**Table 2. Comparison of Key SSDI and VDC Program Components**

	SSDI	VDC
<b>Source of Funding</b>	Federal Insurance Contributions Act (FICA) payroll tax on employers and employees, and the Self-Employment Contributions Act (SECA) tax on the self-employed.	Department of Veterans Affairs Budget (mandatory appropriation).
<b>Definition of Disability</b>	Long-term or terminal illness or injury that prevents an individual from working or engaging in <i>substantial gainful activity</i> (SGA).	One or more injuries or illnesses caused or aggravated by military service.
<b>General Qualifications</b>	Sufficient work history and FICA and/or SECA tax contributions.	Service in the active military and discharge or release under conditions other than dishonorable.
<b>Disability Determination Process</b>	See “SSDI Determination Process”  – If disability can be matched to the Medical Listings (three steps). – If disability cannot be matched to the Medical Listings (five steps).	See “VDC Determination Process”  – Verification of “veteran” status. – Establishing service connection of disability based on VA Schedule for Rating Disabilities (VASRD).
<b>Benefit Amounts Determined By</b>	Past Earnings. Additional benefits may be available for a spouse, and/or dependents.	Rating based on the VASRD. Additional benefits may be available for a spouse, and/or dependents, as well as through <i>individual unemployability</i> (IU), and/or <i>special monthly compensation</i> (SMC) provisions.
<b>Benefits for Partial Disability</b>	No	Yes
<b>Adjudicators</b>	Disability Determination Services (DDS, state government)	Veterans Benefits Administration (federal government)
<b>Healthcare Benefits</b>	Medicare is available, 24 months after the recipient becomes eligible for SSDI (eligibility for SSDI begins five months after the onset of a disability).	No-cost VA health care to treat service-connected conditions only. Healthcare benefits for non-service connected conditions may be subject to a copayment.
<b>2012 Income thresholds for: Substantial Gainful Activity (SSDI) and Substantially Gainful Employment (VDC)</b>	\$1,690. (monthly for blind) \$1,010. (monthly for non-blind)	\$11,702 per year (for IU determinations only).
<b>Levels of Appeal</b>	(1) Reconsideration by DDS (2) Hearing by an Administrative Law Judge (ALJ) (3) Review by the Social Security Appeals Council (SSAC) (4) U.S. district court	(1) Board of Veterans’ Appeals (2) Court of Appeals for Veterans Claims (CAVC) (3) Court of Appeals for the Federal Circuit (4) U.S. Supreme Court
<b>Program Issues</b>	Claims & Appeals Pending Reducing Improper Payments	Claims & Appeals Pending Update of VASRD Body Systems

Source: Table prepared by CRS.

**Notes:** See <http://www.ssa.gov/OACT/COLA/sga.html> for further information on SSA SGA rules. The VDC *substantially gainful employment* threshold is based on the 2011 Census poverty threshold for one person under 65 years old at <http://www.census.gov/hhes/www/poverty/data/threshld/index.html>. The VDC threshold is applicable for Individual Unemployability (IU) determinations only. There are no *substantially gainful employment* restrictions for other VDC recipients.

U.S. district court is generally the final level of appeal pursued in SSDI cases. On rare occasions, SSDI cases can be appealed beyond U.S. district court to the U.S. court of appeals and, ultimately, the U.S. Supreme Court.

## **Health Care Benefits for SSDI and VDC Recipients**

Both SSDI and VDC programs contain a health care component. Recipients of SSDI must wait 24 months from when they become eligible for SSDI to become eligible for Medicare. As stated earlier in this report, individuals must still wait an initial five months from the onset of a disability to become eligible for SSDI, generally resulting in a 29-month total wait-time for Medicare eligibility.<sup>33</sup>

Veterans do not pay premiums or enrollment fees for VA health care, and eligibility for VA health care is generally based on a variety of factors including, but not limited to, income, status as a former POW, and the existence of service connected conditions. Veterans can receive treatment for service-connected conditions without being required to make copayments; however, under current law, most veterans are required to make copayments for the treatment of nonservice-connected conditions.<sup>34</sup> Veterans who have a service-connected rating of 50% or more and are enrolled in the VA health care system do not pay copayments even for nonservice-connected care.<sup>35</sup>

## **Thresholds for Substantial Gainful Activity Under SSDI and Substantially Gainful Employment Under VDC**

SSDI and VDC apply similar restrictions (and terminology) for the level of earnings that certain beneficiaries are able to attain, while still maintaining eligibility for the programs. Both SGA (under the SSDI program) and *substantially gainful employment* (under the VDC program)<sup>36</sup> refer to the level of work that a person can perform to be considered a “productive” member of the workforce, and therefore ineligible to receive benefits meant to compensate for an inability to work. In 2012, SSDI recipients who earn \$1,010 per month (\$1,690 for blind recipients) or less can still maintain eligibility for benefits. Moreover, SGA regulations under SSDI allow recipients to possibly deduct certain impairment-related expenses such as medication, medical supplies, and devices from their monthly earnings.

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<sup>33</sup> The 24-month waiting period for Medicare eligibility begins after an individual is disabled for five months, regardless of when they are actually approved for SSDI benefits. For example, if it takes a person 20 months to receive approval for SSDI, his or her waiting period for Medicare would actually only be four months. Also, if the final decision on SSDI eligibility takes longer than 24 months, the individual is entitled to retroactive Medicare benefits and can submit any bills they paid themselves for reimbursement.

<sup>34</sup> 38 U.S.C. §1729.

<sup>35</sup> See “The VA Health Care System and Eligibility for Care” in CRS Report R41198, *TRICARE and VA Health Care: Impact of the Patient Protection and Affordable Care Act (ACA)*, by Sidath Viranga Panangala and Don J. Jansen.

<sup>36</sup> Referred to hereafter as *gainful employment*.

Under the VDC program, *gainful employment* determinations are only made for recipients of IU compensation; there are no earnings restrictions for other VDC recipients. *Gainful employment* is indexed against the census poverty threshold for a single person, which is \$11,702 per year for 2011. Figures for both SGA and *gainful employment* are adjusted annually to reflect growth in average wages.

### Differences in the Disability Evaluation Process

Differences also exist in the standards for SSDI and VDC disability determinations. For example, a military servicemember will generally undergo a disability evaluation through the DOD and VA before being considered for Social Security benefits. If he or she is determined to have sustained a service-connected condition, such as hearing loss, a rating percentage will be assigned and that servicemember will be compensated accordingly by the VA. However, with the use of adaptive technologies, such as telephone relay systems (TRS), even a veteran with severe or total hearing loss can still function effectively in a civilian work environment.<sup>37</sup> Hence, the ability to attain *gainful employment* anywhere in the national economy—despite having a disability—would render him or her ineligible for SSDI benefits. Differences between the current SSDI and VDC evaluation systems make it possible for even a 100% disabled veteran to be denied SSDI coverage.<sup>38</sup> **Table 3** illustrates how these differences may operate in four different hypothetical scenarios.

**Table 3. General VDC and SSDI Eligibility Determinations for Four Hypothetical Veterans**

Hypothetical Scenario	VDC-Eligible	SSDI-Eligible
Veteran A—Suffers from one or more service-connected conditions and receives a 10% (or greater) disability rating from the VA. SSA subsequently determines that the veteran’s condition(s) (service-connected or otherwise) also prevents him or her from attaining employment. <sup>a</sup>	Yes	Yes
Veteran B—Suffers from one or more injuries or illnesses, but the VA determines that the condition(s) is (1) not service-connected, or (2) not severe enough to warrant compensation, resulting in a 0% disability rating. SSA subsequently determines that the veteran’s condition(s) (service-connected or otherwise) does prevent him or her from attaining employment. <sup>b</sup>	No	Yes
Veteran C—Suffers from one or more service-connected conditions and receives a 10% (or greater) disability rating from the VA. SSA subsequently determines that the veteran’s condition(s) (service-connected or otherwise) does not prevent him or her from attaining employment based on the age, education, and work experience of the veteran. <sup>c</sup>	Yes	No

<sup>37</sup> TRS allows persons with hearing impairments to communicate with others over the telephone via a remote, third-party interpreter who converts text-to-speech (from the hearing-impaired sender to the hearing recipient) and speech-to-text (from the hearing sender to the hearing-impaired recipient). There are many types of adaptive and assistive technologies that enable individuals with disabilities to complete work-related tasks. For more information, see <http://www.disability.gov/technology>.

<sup>38</sup> According to the Government Accountability Office, approximately 3% of wounded warriors (individuals that have been injured or fallen ill while on active duty since 2001) receiving VA disability benefits are also receiving SSA disability benefits. See U.S. Government Accountability Office, *Social Security Disability: Additional Outreach and Collaboration on Sharing Medical Records Would Improve Wounded Warriors’ Access to Benefits*, GAO-09-762, September 16, 2009, p. 18, <http://www.gao.gov/new.items/d09762.pdf>.

Hypothetical Scenario	VDC-Eligible	SSDI-Eligible
Veteran D—Suffers from one or more injuries or illnesses, but the VA determines that the condition(s) is (1) not service-connected, or (2) not severe enough to warrant compensation, resulting in a 0% disability rating. SSA subsequently determines that the veteran’s condition(s) (service-connected or otherwise) also does not prevent him or her from attaining employment based on the age, education, and work experience of the veteran. <sup>b</sup>	No	No

**Source:** Table prepared by CRS.

**Notes:** Assumes that each veteran was in covered employment and has a sufficient work history for SSDI. Additionally, SSA considers all conditions (i.e., service-connected or otherwise) in making disability determinations. Determinations for SSDI and VDC eligibility are made on a case-by-case basis and can be affected by a wide variety of factors. This table is for illustrative purposes only and is not meant to be an exhaustive list of all possible scenarios.

VDC – Individual Unemployability (IU) eligibility:

- a. This veteran may be eligible for IU compensation (if sufficiently disabled) due to the veteran’s likely inability to engage in *substantially gainful employment* under VDC regulations.
- b. This veteran will not be eligible for IU compensation because they are not eligible to receive disability compensation.
- c. This veteran may be eligible for IU compensation if sufficiently disabled, and the veteran is unable to engage in *substantially gainful employment* under VDC regulations.

## Differences in the Treatment of Benefits

SSDI payment levels are based solely on a worker’s past average monthly earnings and do not compensate recipients for short-term or temporary disabilities. Taking into account age, education and work experience, the recipient must not be able to engage in any work that exists in the national economy. In contrast, VDC—aimed at compensating veterans that have sustained injuries or illnesses as a result of military service—determines payment amounts based on the severity of veterans’ service-connected condition(s), without regard for the employability of the veterans. Certain veterans who are unemployable, and have a rating of less than 100%, may be granted additional compensation through IU provisions.

VDC benefits also receive differential treatment under the federal tax code. Any income from VA benefits cannot be taxed or apportioned, as opposed to SSDI, which may be taxable.<sup>39</sup> Furthermore, for those veterans that do receive compensation through both programs, VDC benefits do not offset SSDI payment levels, or vice versa.

<sup>39</sup> See CRS Report RL32552, *Social Security: Calculation and History of Taxing Benefits*, by Christine Scott.

## Continued Divergence Between SSA and VA Disability Programs

### Assessing VA Disability Compensation for Noneconomic Loss

Under current statute, the VASRD is used as the sole tool in determining compensation levels for veterans with service-connected disabilities. The VASRD ratings are presumed to reflect the “average” impact of the impairment on “average” earnings capacity or economic loss. However, because VDC is granted for any condition incurred or aggravated by military service, VDC is also provided for conditions that do not impact employment or earnings capacity and thus, payments for those conditions then reflect noneconomic loss. A 2007 report by the Veterans’ Disability Benefits Commission concluded that VA disability compensation should additionally compensate veterans for “... their inability to participate in usual life activities and for the impact of their disabilities on quality of life,” also called noneconomic loss.<sup>40</sup> The Institute of Medicine has also made recommendations on developing and implementing a methodology that can be used to evaluate the impact of disabilities on veterans’ quality of life. This methodology could presumably be used to recommend appropriate compensation for veterans’ noneconomic loss.<sup>41</sup> CRS is not aware of similar studies or efforts to identify ways to compensate SSDI recipients for noneconomic loss.

### Challenges Facing Federal Disability Programs in Brief

Administering disability benefits through SSA and the VA has posed considerable challenges.<sup>42</sup> Both agencies have faced criticism for a failure to thoroughly revise disability evaluation standards to reflect the changing nature of the U.S. labor market and advances in medical technology that have redefined the ability of individuals with disabilities to engage in productive work activities.<sup>43</sup> SSA and the VA have also been criticized for their processes of adjudicating applications, and the high levels of claims and appeals pending.<sup>44</sup> These were two of several government-wide findings that led the Government Accountability Office (GAO) to designate federal disability programs as “high-risk.”<sup>45</sup>

<sup>40</sup> Veterans’ Disability Benefits Commission, *Honoring the Call to Duty: Veterans’ Disability Benefits in the 21<sup>st</sup> Century*, October 2007, <http://veterans.senate.gov/upload/VetDisBenefitComm9-27.pdf>.

<sup>41</sup> Institute of Medicine, *A 21<sup>st</sup> Century System for Evaluating Veterans for Disability Benefits*, Washington, DC, 2007, pp. 85-89, <http://www.iom.edu/Reports/2007/A-21st-Century-System-for-Evaluating-Veterans-for-Disability-Benefits.aspx>.

<sup>42</sup> In addition to SSA and the VA, several other federal agencies also provide benefits and services to individuals with disabilities including the Departments of Labor, Education, and Health and Human Services.

<sup>43</sup> U.S. General Accounting Office, *SSA and VA Disability Programs: Re-Examination of Disability Criteria Needed to Help Ensure Program Integrity*, GAO-02-597, August 2002, <http://www.gao.gov/new.items/d02597.pdf>.

<sup>44</sup> The recent economic downturn and expansion of *presumptive conditions* have resulted in an influx of new claims. For information on SSA plans to reduce hearings backlogs, see U.S. Government Accountability Office, *Social Security Disability: Additional Performance Measures and Better Cost Estimates Could Help Improve SSA’s Efforts to Eliminate Its Claims Backlog*, GAO-09-398, September 2009, <http://www.gao.gov/new.items/d09398.pdf>.

<sup>45</sup> See [http://www.gao.gov/highrisk/risks/insurance/federal\\_disability.php](http://www.gao.gov/highrisk/risks/insurance/federal_disability.php). The GAO maintains a “High-Risk” program which highlights areas of the federal government “... that are at high risk for waste, fraud, abuse mismanagement or in need of broad reform.” For more information on GAO High-Risk program, see <http://www.gao.gov/highrisk/risks/> (continued...)

## **SSA Plan to Address Program Issues**

According to SSA, the agency seeks to modernize the disability evaluation system and is currently in the process of revising its ratings system, and has further reviewed the role of SSDI in a comprehensive government-wide disability policy. For example, SSA has conducted outreach efforts to wounded warriors returning from Operations Iraqi Freedom (OIF) and Enduring Freedom (OEF) to begin the application process for SSA disability benefits prior to separating from the military.<sup>46</sup>

In 2007, SSA developed a plan to eliminate hearings backlogs that increased due to the recent economic decline, increase in baby-boomer claims, and after coming under scrutiny by the GAO, which insists SSA develop a more comprehensive strategy to reduce backlogs.<sup>47</sup> In March 2010, the SSA Commissioner announced that pending disability hearings stood at 697,437 nationally, decreasing more than 71,000 cases since December 2008.<sup>48</sup>

Also, under the provisions of the Ticket to Work and Work Incentives Improvement Act of 1999 (P.L. 106-170), SSA provides vouchers to Social Security disability beneficiaries that can be used to receive vocational rehabilitation or other employment support services from public or private providers within the SSA Employment Network.<sup>49</sup> SSA has also developed a work incentive policy that enables SSDI recipients to work and still receive monthly benefits with the goal of helping those individuals to eventually achieve self-sufficiency.<sup>50</sup> In 2012 recipients that earn in excess of \$720 per month enter a “trial work” period, where they can test their ability to perform on-the-job without losing disability benefits. The disability is not considered to be ended until the recipient is able to work for at least nine months over a 60-month period.<sup>51</sup>

SSA also recently concluded the Accelerated Benefits Demonstration project, which tested the health and employment outcomes of SSDI recipients who received health benefits sooner than the 24-month waiting period.<sup>52</sup> Key finding from the study results demonstrated that participants (1) made extensive use of available program services, (2) reported fewer unmet medical needs, and (3) were encouraged to seek work, although employment levels did not increase in comparison with a control group. The results further suggest that continued tracking of participants’

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<sup>46</sup> See “SSA Outreach to Veterans” in CRS Report RL33991, *Disability Evaluation of Military Servicemembers*, by Christine Scott and Don J. Jansen.

<sup>47</sup> See U.S. Government Accountability Office, *SOCIAL SECURITY DISABILITY: Additional Performance Measures and Better Cost Estimates Could Help Improve SSA’s Efforts to Eliminate Its Hearings Backlog*, GAO-09-398, September 2009, <http://www.gao.gov/new.items/d09398.pdf>, and U.S. Government Accountability Office, *SOCIAL SECURITY DISABILITY: Management of Disability Claims Workload Will Require Comprehensive Planning*, GAO-10-667T, April 27, 2010, <http://www.gao.gov/new.items/d10667t.pdf>.

<sup>48</sup> See <http://www.ssa.gov/pressoffice/pr/hearings-backlog-0310-pr.htm>.

<sup>49</sup> However, several studies suggest that very few Social Security disability beneficiaries participate in the Ticket program. For more information, see CRS Report R41934, *Ticket to Work and Self-Sufficiency Program: Overview and Current Issues*, by Umar Moulta-Ali.

<sup>50</sup> See <http://www.abtassociates.com/page.cfm?PageID=40977>.

<sup>51</sup> See <http://www.ssa.gov/OACT/COLA/twp.html>.

<sup>52</sup> See <http://www.ssa.gov/disabilityresearch/accelerated.htm>. For more information on SSA’s demonstration projects, see CRS Report RL33585, *Social Security Disability Insurance (SSDI) Demonstration Projects*, by Scott Szymendera.



employment gains will be important to understand the long-term impacts of providing early health benefits to SSDI beneficiaries.<sup>53</sup>

## **VA Response to VDC Program Criticism**

As of September 4, 2012, the VA has 820,660 veterans' claims pending for disability compensation and 67.5% (554,014) of those claims have been pending for 125 days or longer (i.e., from the date the claim was received by the VA).<sup>54</sup> The number of claims pending has been of growing concern to veterans, VSOs, and Members of Congress. Congress appropriated additional resources toward reducing the accumulation of claims and appeals. The average number of days to process a rating-related claim was 181 days in FY2001, prior to the OIF and OEF military conflicts. Because of ongoing efforts by the VA to add personnel and make greater use of technology, the average processing time was reduced to 161 days in FY2009. In addition to the issues surrounding pending claims, GAO has also specifically cited the VA for inconsistencies in the ratings systems across the VA regional offices.<sup>55</sup>

In a separate response to criticism on their process for awarding benefits, the VA—citing the 1956 Bradley Report—asserts that their "... disability ratings represent noneconomic factors, such as pain and suffering, in addition to average loss of earnings." They further state that prior proposals to update the ratings system have proven unpopular with Congress and VSOs. Nevertheless, a recently established advisory committee will advise the VA Secretary on reviews of the VASRD.<sup>56</sup>

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<sup>53</sup> For more information see Charles Michalopoulos, David Wittenburg, and Dina A. R. Israel, et al., *The Accelerated Benefits Demonstration and Evaluation Project*, MDRC, Impacts on Health and Employment at Twelve Months, February 2011, [http://www.ssa.gov/disabilityresearch/documents/AB%20Vol%201\\_508%20comply.pdf](http://www.ssa.gov/disabilityresearch/documents/AB%20Vol%201_508%20comply.pdf).

<sup>54</sup> See the VA "Monday Morning Workload Reports" available online at [http://www.vba.va.gov/rehttp://www.ssa.gov/disabilityresearch/documents/AB%20Vol%201\\_508%20comply.pdf](http://www.vba.va.gov/rehttp://www.ssa.gov/disabilityresearch/documents/AB%20Vol%201_508%20comply.pdf)ports. Only 235,294 (28.7%) of current claims are initial or original claims; the remainder are claims for survivors, dependents or additional compensation for a veteran that is related to an increase in evaluation (the disability rating percentage) or additional disabilities for veterans already receiving disability compensation.

<sup>55</sup> U.S. Government Accountability Office, *VETERANS' DISABILITY BENEFITS: Claims Processing Challenges and Opportunities for Improvements*, GAO-06-283T, December 7, 2005, <http://www.gao.gov/new.items/d06283t.pdf>.

<sup>56</sup> The *Advisory Committee on Disability Compensation* was established in 2008 under the provisions of P.L. 110-389, with the objective of advising the Secretary of Veterans Affairs on the maintenance and periodic readjustment of the VASRD. For the committee charter, past reports, minutes from past meetings, and a schedule of future meetings, see <http://www1.va.gov/advisory/page.cfm?pg=62>.