March 16, 2020

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| VETERAN ADDRESS 1 ADDRESS 2 |  | In reply, refer to:  335/Your Initials File Number: XXXXXXX VETERAN NAME |

Dear Mr. VETERAN NAME:

We have received evidence which indicates that you were incarcerated following conviction of a felony at PRISON NAME on DATE**.**

The law, specifically 38 U.S.C. 5313, requires that the payment of Department of Veterans Affairs (VA) Compensation benefits be reduced to the lesser of the two following amounts after the 61st day of incarceration following conviction of a felony:

a. the amount payable for a disability evaluated as 10% disabling if the combined disability evaluation is 20% or more, or;

b. the amount equal to one-half of the rate payable for a disability evaluated as 10% disabling if the combined evaluation is 10%.

# What We Propose to Do

We propose to reduce your Compensation benefits as shown below:

| Total VA Benefit | Withholding | Amount Paid | Payment Start Date | Reason for Change |
| --- | --- | --- | --- | --- |
| FILL IN TABLE |  |  |  |  |

NOTE: If incarceration has already ended, inform Veteran of date benefits will be resumed.

Please note that if you are also in receipt of a clothing allowance, the law states these benefits must be reduced by 1/365th for each day of incarceration after the initial 60 days.

Benefits may be resumed upon your release from incarceration. You should notify us when this occurs. VA may resume benefits effective the date incarceration ends if it receives notice within one year of that date.  Otherwise, VA may resume benefits no earlier than the date it receives notice. If you have dependents, they may be entitled to an apportioned share of your compensation benefits while you are incarcerated. We are enclosing VA Form 21-0788, Information Regarding Apportionment of a Beneficiary's Award, for your convenience. They should contact this office, using your name and file number, if they wish to file a claim for an apportionment.

Before we make this adjustment, we are giving you 60 days in which to submit additional evidence to show that this reduction should not be made. Evidence might consist of official documentation from PRISON NAME.

It is important to note that this reduction is required by law if you are incarcerated as stated in this letter. By delaying your response or by failing to respond to this predetermination notice of your due process rights, you are creating an additional overpayment in your account for which you will be responsible for repayment.

# How Submitting Evidence May Affect Payments

Your payments will continue at the present rate for 60 days following the date of this notice so that you may, if you wish, submit evidence to show that the proposed action should not be taken. You may submit evidence in person, through the mail or through your accredited representative.

If you wait more than 60 days to submit evidence, we will carefully consider whatever you submit, but the adjustment of benefits described above will already have gone into effect and your adjusted benefits will continue while we review the additional evidence.

Be sure to send your evidence, with your full name and VA file number, to the address at the top of this letter.

# How to Minimize a Potential Overpayment

You should be aware that if you continue to accept payments at the present rate for the next 60 days and we then determine to make the proposed adjustment, you will have to repay all or a part of the benefits you have received during the 60 days. You may minimize this potential overpayment by sending us a written statement asking that, beginning with your next check, we reduce your payments while we review your case. If you make this request and, at the end of 60 days, our review shows that you should have received the higher rate, we will restore the full rate from the date on which it was reduced.

# How to Obtain a Personal Hearing

If you desire a personal hearing to present evidence or argument on any point in your claim,   
notify this office and we will arrange a time and place for the hearing. You may use the enclosed VA Form 21-4138, *Statement in Support of Claim*, for this purpose.  If you want, you may bring witnesses and their testimony will be entered in the record.  VA will furnish the hearing room and provide hearing officials.  VA cannot pay for any other expenses of the hearing since a personal hearing is held only on your request. Please see the enclosed VA Form 21-0790, *Your Rights to Representation and a Hearing (Potential Overpayment)*, for more information.

If, within 30 days from the date of this notice, VA receives your hearing request, we will continue payments at the present rate until we have held the hearing and reviewed the testimony. Continuing to receive the current rate of payment until a hearing is conducted could result in the creation of an overpayment, which you must repay. If you request a hearing but wish to minimize any overpayment which could result, you should submit a statement asking that we reduce or suspend your benefits beginning with your next check.

You may request a hearing after 30 days; however, we may continue with our proposed action.

# How to Obtain Representation

An accredited representative of a veterans' organization or other service organization recognized by the Secretary of Veterans Affairs may represent you, without charge. An accredited agent or attorney may also represent you. However, an accredited agent or attorney may only charge you for services performed after the date you file either a notice of disagreement or supplemental claim, or request a higher-level review. If you desire representation, let us know and we will send you the necessary forms. If you have already designated a representative, no further action is required on your part.

# If You Have Questions or Need Assistance

If you have any questions or need assistance with this claim, you may contact us by telephone, e-mail, or letter.

| **If you** | **Here is what to do.** |
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| Telephone | Call us at 1-800-827-1000. If you use a Telecommunications Device for the Deaf (TDD), the Federal number is 711. |
| Use the Internet | Send electronic inquiries through the Internet at https://iris.custhelp.va.gov. |
| Write | VA now uses a centralized mail system. For all written communications, put your full name and VA file number on the letter. Please mail or fax all written correspondence to the appropriate address listed on the attached *Where to Send Written Correspondence.* |

In all cases, be sure to refer to your VA file number, XXXXXXXXXXXX.

If you are looking for general information about benefits and eligibility, you should visit our website at http://www.va.gov or search the Frequently Asked Questions (FAQs) at https://iris.custhelp.va.gov.

We sent a copy of this letter to your representative, POA (if any), whom you can also contact if you have questions or need assistance.

Sincerely yours,

**Regional Office Director**

Enclosures: VA Form 21-0790   
VA Form 21-0788  
VA Form 21-4138  
Where to Send Written Correspondence

cc: POA (if any)