Drill Pay Waivers (Refresher)

Trainee Handout

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Objectives

Upon completion of this lesson, you will be able to:

* Identify the steps in reviewing and preparing drill pay waiver award adjustments, to include development for missing information and sending a proposed adverse action notice if necessary
* Understand less common adjustments involved with drill pay waivers
* Input drill pay adjustment information into VA awards systems
* Accurately notify Veterans of our decision regarding drill pay waivers

References

* [10 U.S.C § 12316](https://www.law.cornell.edu/uscode/text/10/12316), Payment of certain Reserves while on duty
* [38 U.S.C. § 5304 (c)](https://www.law.cornell.edu/uscode/text/38/5304), Prohibition against duplication of benefits
* [38 CFR 3.654(c)](http://www.ecfr.gov/cgi-bin/text-idx?SID=75794814451aa554401c0867c0aeda13&mc=true&node=se38.1.3_1654&rgn=div8), Active service pay: Training duty
* [38 CFR 3.700 (a)(1)(iii)](http://www.ecfr.gov/cgi-bin/text-idx?SID=75794814451aa554401c0867c0aeda13&mc=true&node=se38.1.3_1700&rgn=div8), General: Veterans: Active service pay: Reservists
* [M21-1, Part I, Subpart 2](https://vaww.compensation.pension.km.va.gov/system/templates/selfservice/va_ka/portal.html?encodedHash=%23!agent%2Fportal%2F554400000001034%2Ftopic%2F554400000003064%2FChapter-2-Due-Process), Due Process
* [M21-1, Part III, Subpart v, 4.C](https://vaww.compensation.pension.km.va.gov/system/templates/selfservice/va_ka/portal.html?encodedHash=%23!agent%2Fportal%2F554400000001034%2Farticle%2F554400000014246%2FM21-1-Part-III-Subpart-v-Chapter-4-Section-C-Adjusting-Department-of-Veterans-Affairs-VA-Benefits-Based-on-a-Veterans-Receipt-of-Active-Service-Pay), Adjusting Department of Veterans Affairs (VA) Benefits Based on a Veteran’s Receipt of Active Service Pay
* [VA Compensation Rate Tables](http://vbaw.vba.va.gov/bl/21/publicat/Manuals/Rates/rates_home.htm)
* [Letter Creator Tool](http://vbaw.vba.va.gov/bl/21/rating/rat00.htm)
* [VSR Assistant Resources – Adverse Action Calculator](http://epss.vba.va.gov/vsr_assistant/resource_index.html)

Topic 1: Reviewing VA Form 21-8951 & Preparing Information

***Veteran’s Options for Completing VA Form 21-8951***

|  |  |
| --- | --- |
| **Option** | **Description** |
| 1 | Check the box next to the sentence that reads: I elect to waive VA benefits for the days indicated in order to retain my training pay. |
| 2 | * Declare that the number of training days the Hines ITC printed on the form is incorrect
* enter the correct number of training days on the form, and
* check the box next to the sentence that reads: I elect to waive VA benefits for the days indicated in order to retain my training pay.

**Important**: If the Veteran declares the actual number of training days is less than the number the Hines ITC printed on [VA Form 21-8951](http://www.vba.va.gov/pubs/forms/VBA-21-8951-2-ARE.pdf), the Veteran’s unit commander’s signature is required on the form in most circumstances.**Note**:  See [M21-1, Part III, Subpart v, 4.C.3.a](https://vaww.compensation.pension.km.va.gov/system/templates/selfservice/va_ka/#13a) for exceptions to the general requirement for a commanding officer’s signature on [VA Form 21-8951](http://www.vba.va.gov/pubs/forms/VBA-21-8951-2-ARE.pdf).   |
| 3 | Check the box next to the sentence that reads: I received no military pay and allowances during the fiscal year(s) indicated on the front of this form. |
| 4 | Check the box next to the sentence that reads: I elect to waive military pay and allowances for the days indicated in order to retain my VA compensation or pension. |

Although VA typically learns a Veteran has received drill pay through the data match, a Veteran may also notify VA of his or her receipt (or anticipated receipt) of drill pay, and make an election, on VA Form 21-8951**-2**, *Notice of Waiver of VA Compensation or Pension to Receive Military Pay and Allowances*. This form is a blank version of the VA Form 21-8951 generated by Hines ITC. The Veteran is required to provide the Fiscal Year and number of days for that year.

***Initial Review of VA Form 21-8951***

When a *VA Form 21-8951* is received from the Veteran **OR** the file has been identified with an open 820 Drill Pay Waiver Work Item (WI), an End Product (EP) 290 Drill Pay Adjustment should be established. The date of claim should be either the date listed on the *VA Form 21-8951* **OR** the date of the 820WI if no form is of record.

***Note:*** Before an EP 290 is established, ensure that the form submitted was not in response to a pending EP 600 proposed adverse action letter previously sent to the Veteran. If it was, process the claim under the pending EP 600 and do not establish an EP 290. Remember to also establish a companion EP 693 when there is a potential overpayment based on a write-out.

Check the back of the *VA Form 21-8951* for Veteran’s acceptance of information on the front page and all required signatures. (If a Veteran agrees or states there were ***more*** days than what is listed on the front of the form, the unit commander or designee’s signature is not required to be considered “complete.”)

***Processing VA Form 21-8951***

If there are missing signatures from the Veteran or the unit commander/designee, return the form to the Veteran with a letter, allowing 30 day suspense, (under the EP 290) requesting that the incomplete form is completed. If proposed adverse action was issued, return the form to the Veteran with a letter, allowing 30 day suspense, (under the EP 600) requesting the missing information prior to taking action. (**Note:** See Attachment 2 for an example of form not complete letter.)

If a Veteran disagrees with waiver information and selects *I received no military pay and allowances during the fiscal year(s) indicated on the front of this form*, refer to [M21-1, Part III, Subpart v, 4.C.3.b](https://vaww.compensation.pension.km.va.gov/system/templates/selfservice/va_ka/portal.html?encodedHash=%23!agent%2Fportal%2F554400000001034%2Farticle%2F554400000014246%2FM21-1-Part-III-Subpart-v-Chapter-4-Section-C-Adjusting-Department-of-Veterans-Affairs-VA-Benefits-Based-on-a-Veterans-Receipt-of-Active-Service-Pay), for procedures to process this option.

If a Veteran checks the box on *VA Form 21-8951/8951-2* that reads *I elect to waive military pay and allowances for the days indicated in order to retain my VA compensation or pension,* refer to [M21-1, Part III, Subpart v, 4.C.3.c](https://vaww.compensation.pension.km.va.gov/system/templates/selfservice/va_ka/portal.html?encodedHash=%23!agent%2Fportal%2F554400000001034%2Farticle%2F554400000014246%2FM21-1-Part-III-Subpart-v-Chapter-4-Section-C-Adjusting-Department-of-Veterans-Affairs-VA-Benefits-Based-on-a-Veterans-Receipt-of-Active-Service-Pay) for procedures to waive military pay.

***Note:*** The Veteran may submit a waiver of drill pay using means other than *VA Form 21-8951*, so long as the documentation clearly identifies the Veteran’s intent, including the:

* + the fiscal year
	+ number of training days
	+ Veteran’s signature, and
	+ Veteran’s unit commander’s signature ***if*** the Veteran reports fewer training days than what the Hines ITC printed on the related *VA Form 21-8951*

***Identify Fiscal Year (FY) & Number of Training Days***

* All months are counted as 30 days for drill pay adjustments.
* Identify FY: FY = October 1, Year prior to FY through September 30, FY.
	+ Example: Fiscal Year 2014 time period: October 1, 2013 through September 30, 2014
* If the number of training days on the *VA Form 21-8951* shows:
	+ 179 days or less: assume all the days are drill days if no active duty period is of record and continue with the drill pay process to adjust benefits
	+ 180 days or more: could indicate the Veteran had an active duty period; verification is needed, proceed to:
1. Use VIS and/or DPRIS/BIRLS to determine whether the Veteran had a period of active duty during the fiscal year in question.
2. If the Veteran has a verified period of active duty that has not been adjusted, clear an EP 290 and establish an EP 600 to propose to discontinue benefits effective the date he or she returned to active duty and will reinstate benefits the day after discharge. Provide a 65 day suspense, but inform the Veteran her or she has 60 days to respond.
3. If the Veteran does ***not*** have a verified period of active duty send an *Over 179 Day Letter* asking for the dates he or she may have been on active duty, if any, during the fiscal year in question, and
4. A copy of his or her orders or separation document, or
5. Other evidence of the duty he/she performed during the fiscal year.

**Note:** See Attachment C for an example of an *Over 179 Day Letter*.

1. Send the notice with 30 day suspense under EP 290
2. When 30 day suspense is up or:
3. If the Veteran responds by confirming his or her return to active duty then establish EP 290 return to active duty to discontinue benefits effective the date active duty began, *or*
4. If the Veteran fails to respond assume the days reported on *VA Form 21-8951* do not include a period of active duty, and process as a standard drill pay waiver, or
5. If evidence is obtained from a source other than the Veteran that he/she returned to active duty, clear WI 820, if applicable, and an EP 290 Return to Active Duty. Establish an EP 600 to propose to discontinue benefits for the period shown with a proposed adverse action letter. Provide a 65 day suspense, but inform the Veteran her or she has 60 days to respond.
	* + ***Important:*** Remember to always check for all active duty periods of service prior to any drill pay adjustments

Rates and Number of Days:

* Rates: Review the Corporate Record for the rate the Veteran was receiving the last day of FY (September 30). This is the amount to withhold when generating an award to withhold drill pay or when a proposal for adverse action is issued.
* Number of Days: Calculate number of days to withhold Drill Pay and include this when generating an award to withhold drill pay or when the proposed adverse action is issued.

***Note:*** If a Veteran received active service pay for active duty and drill(s)/training during the same fiscal year, VA Form 21-8951 will show the combined number of days for which the Veteran received active service pay.

After confirming the number of days a Veteran was on active duty during a specific fiscal year, calculate the number of days he/she received drill pay by subtracting the number of days the Veteran was on active duty from the total number of training days shown on the VA Form 21-8951.

***Important:*** Establish an EP 290 and EP 690 “Review – Potential Overpmt” for return to active duty if there is a verified active duty period for the Veteran.

***Example:***

***Scenario:*** The number of training days shown on VA Form 21-8951 is 185. Both the Veteran and personnel records retrieved through DPRIS confirm the Veteran was on active duty from June 25, 2014, through August 31, 2014.

***Result:*** The Veteran was on active duty for 68 days (6 days in June, 31 days in July and 31 days in August) and received drill pay for a total of 117 days.

***Note:*** When a Veteran has more active duty days during a given fiscal year than the number of training days shown on VA Form 21-8951 for the same fiscal year, assume the Veteran was on active duty for all of the days printed on VA Form 21-8951, and take no action on the VA Form 21-8951 except to electronically annotate it with an explanation as to why no action was taken.

***Failure to Return VA Form 21-8951***

If the Veteran does not return the completed VA Form 21-8951 within 60 days after Hines sends the form to him or her:

* An 820 Drill Pay Waiver WI will be generated in the file to alert the station of origination (SOO) that the diary has expired, and
* The Hines ITC emails a copy of VA Form 21-8951 to Compensation Services.

If the Veteran returns the completed VA Form 21-8951 within 60 days of the date Hines sends the form:

* Process the adjustment under the appropriate EP (290 or 600); when making the adjustment delete the diary Hines ITC established (if it has not already expired or deleted)

Propose to reduce the Veteran’s benefits by follow the steps below:

1. Verify the form was sent to the Veteran by reviewing the eFolder
2. Clear EP 290 and pending WI 820, if applicable.
3. Establish EP 600 Drill Pay Adjustment for proposed adverse action letter.
4. Generate proposed adverse action notice with enclosed VA Form 21-8951/8951-2 in VBMS or PCGL.
5. Ensure Veteran is notified that he or she has 60 days to respond to proposed action, however ensure suspense is set for 65 days

If there is no reply after 65 days of due process, we take the proposed action as if the Veteran has agreed to our proposal.

* Withhold from the 1st day of the current fiscal year ***after*** the 65 days suspense date or the 1st of the next month from the award action, whichever is valid, and release the withholding once all training days have been counted. (See below under “Determining the Effective Date of Withholding.”)
* Example: VA sent due process letter on March 1, 2016 for 63 training days. The 65th day would be May 5th. After the 65th day withhold the drill adjustment effective October 1, 2015 until November 3, 2015, creating an overpayment.

For more explanation refer to: [M21-1 Part III, Subpart v, 4.C.3.d](https://vaww.compensation.pension.km.va.gov/system/templates/selfservice/va_ka/portal.html?encodedHash=%23!agent%2Fportal%2F554400000001034%2Farticle%2F554400000014246%2FM21-1-Part-III-Subpart-v-Chapter-4-Section-C-Adjusting-Department-of-Veterans-Affairs-VA-Benefits-Based-on-a-Veterans-Receipt-of-Active-Service-Pay)

**Note:** [See Attachments F and G for examples of drill pay final action letters.](#JobAid5)

***Reference:*** Follow the instructions in [M21-1, Part I, 2.B](https://vaww.compensation.pension.km.va.gov/system/templates/selfservice/va_ka/portal.html?encodedHash=%23!agent%2Fportal%2F554400000001034%2Farticle%2F554400000014072%2FM21-1-Part-I-Chapter-2-Section-B-Notice-of-Proposed-Adverse-Action) for sending proposed adverse action to the Veteran.

***Important:*** Telephone contact ***cannot*** be accepted as a substitute for a written notice of proposed adverse action.

***Versions of VA Form 21-8951/8951-2***

VA Form 21-8951 dated **earlier** than **December 2014**/8951-2 dated **earlier** than **February 2015**

* Due process must be provided prior to adjustment as these forms notified the Veteran that adjustments would be made prospectively (regardless of whether or not the form is signed by the Veteran)

VA Form 21-8951 dated **December 2014**/8951-2 dated **February 2015**

* Provides Veteran notice that an overpayment will occur if the drill pay adjustment is processed retroactively
* Eliminates the need to provide a notice of proposed adverse action

***Determining the Effective Date of Withholding***

Effective February 25, 2016, all adjustments for drill pay processing will be done retroactively from the first day of the current fiscal year. The retroactive adjustment creates a debt on the Veteran’s award, which allows the Veteran to select repayment options or request a waiver due to hardship. The Debt Management Center (DMC) will contact the Veteran in regards to the debt and repayment/waiver options. The Veteran will be notified in the award decision letter that he or she will be contacted by DMC.

***Example:*** Today’s date is February 28, 2016.

 The Veteran is rated 10% service connected.

 The Veteran had 64 drill days in FY 14.

The VSR sends the Veteran a due process letter proposing adjustment effective October 1, 2015.

The VSR will take final action after the due process period has expired to withhold benefits from October 1, 2015, creating an overpayment to the Veteran.

Under the old procedure, no overpayment was created, which left the Veteran with no option to mitigate the adverse effect of losing the withheld benefits.

*For Due Process Issued Prior to February 25, 2016:*

Upon expiration of the due process suspense period, adjust the award as proposed (prospectively from the first day of the next current month) and include the following paragraph:

**What Are Your Options**

If you are experiencing financial hardship and cannot afford to have your prospective benefits reduced, please contact us immediately. We will work with you to create a debt and establish a reasonable repayment schedule.

If you inform us that a financial hardship exists, we will take action to reverse your current adjustment, as indicated in this notification, and will create an overpayment. Once the overpayment is created, you will receive a letter from the Debt Management Center advising you of repayment options.

If Veteran replies to the final notice and identifies a hardship (either in writing or by phone):

* Establish an EP 290 Drill Pay Adjustment and EP 690 Review – Potential Overpmt and affix the corporate flash “Hardship”
* Reverse the current prospective adjustment
* Create an overpayment based on the Veteran’s request (the effective date of the overpayment will be the first day of the current fiscal year)

**Note:** Using the first day of the current fiscal year to begin the adjustment will allow enough time to create a debt without adjusting future benefits; however, ensure you have enough days to retroactively adjust without affecting the future payment. If you do not have enough days to retroactively adjust the award from the first day of the applicable FY, adjust the award from the date of the most recent award line that precedes October 1 of the applicable FY (this might be December 1 of the prior FY, which was the effective date for a COLA) or the first day of the fiscal year prior to the applicable FY

***Example:*** Applicable FY is 2016. If there are not enough days to retroactively adjust benefits from October 1, 2015, you may need to go back to December 1, 2014 (COLA) or October 1, 2014 (First day of the prior FY).

Topic 2: Other Types of Drill Pay Adjustments

***Advance Notice of Receipt of Drill Pay***

In some cases, a Veteran notifies VA in advance that he or she will receive drill pay. It may not be possible to know what the Veteran’s rate of payment will be on the last day of the FY during which drill pay was received. In this case:

* withhold benefits at the current rate for the number of days the Veteran expects to attend training, and
* begin the withholding effective the first of the month following the month for which VA las paid benefits to the Veteran.

***Notes****:*

* Do **not** establish an EP to control for correction of the amount of withholding at the end of the fiscal year.
* If the rate payable at the end of the fiscal year turns out to be different than the amount VA originally withheld, correct the amount of the withholding **only if** some other reason exists for making a retroactive adjustment covering the period of the withholding.
* If the Veteran in this case ultimately attends fewer days of training than he or she initially reported, follow the instructions in [M21-1, Part III, Subpart v, 4.C.5](https://vaww.compensation.pension.km.va.gov/system/templates/selfservice/va_ka/portal.html?encodedHash=%23!agent%2Fportal%2F554400000001034%2Farticle%2F554400000014246%2FM21-1-Part-III-Subpart-v-Chapter-4-Section-C-Adjusting-Department-of-Veterans-Affairs-VA-Benefits-Based-on-a-Veterans-Receipt-of-Active-Service-Pay).

***Paragraph 29 or 30***

If a Veteran was receiving VA compensation based on a temporary 100% disability rating under 38 CFR 4.29 or 38 CFR 4.30 on the last day of the fiscal year in which he or she earned drill pay, adjust the award to withhold at the Veteran’s permanent rate, as opposed to the temporary 100% rate.

***Example:***

Veteran is rated 20% disabled (with a combined evaluation of 20%) for a service-connected condition that requires surgery on August 20, 2015. VA determines he or she is entitled to a temporary 100% evaluation for two months following surgery. The Veteran submits VA Form 21-8951 in January 2016 showing her or she earned drill pay during FY 2014.

Although the Veteran’s evaluation was 100% on September 30, 2015, VA would withhold at the 20% rate, as that is the permanent evaluation.

***Increased Rating***

If the drill pay adjustment has been completed and a subsequent rating decision is completed, increasing the Veteran’s overall combined evaluation at the end of that same fiscal year (in which the drill pay was already adjusted), the drill pay withholding amount must also be adjusted. If the new net amount that the Veteran will receive is still greater than or equal to the current net amount he or she is receiving, due process will not be needed. If the new net amount to the Veteran will be less than the current net amount he or she is receiving, we must send due process prior to making the adjustment to the drill pay withholding amount. We cannot reduce or terminate the Veteran’s payment without giving the Veteran 60 day’s due process.

***Example:***

End of FY 14 – Veteran has 20% combined evaluation at a rate of $258.83

8/15/15 – drill pay withholding processed ($263.23 - $258.83 = $4.40 (net paid))

4/24/16 – Veteran granted an increased evaluation of 40% effective 5/10/14 (no dependents). The new rate at the end of FY 14 (9/30/14) is $577.54.

4/27/16 – The new rating is processed. Since the rate at the end of FY 14 has increased, the withholding must be adjusted. ($587.36 - $577.54 = $9.82 (net paid))

 Since the new net is more than the old net, due process isn’t necessary.

***Decreased Rating***

Occasionally, VA is unable to adjust a Veteran’s benefits from the standard effective date of October 1st because the rate of payment on October 1st is *less* than the rate of payment at the end of the prior fiscal year.  This occurs most often when there has been sustained improvement in a service-connected condition, causing a decrease in the overall combined evaluation.

In these cases, identify the most recent award line that shows a monthly rate of payment equal to or exceeding the Veteran’s rate of payment at the end of the FY during which he or she earned drill pay. Retroactively reduce the Veteran’s benefits effective the date of the award line mentioned above.

\*\*For further examples of different types of award adjustments, see [M21-1, Part III, Subpart v, 4.C.7](https://vaww.compensation.pension.km.va.gov/system/templates/selfservice/va_ka/portal.html?encodedHash=%23!agent%2Fportal%2F554400000001034%2Farticle%2F554400000014246%2FM21-1-Part-III-Subpart-v-Chapter-4-Section-C-Adjusting-Department-of-Veterans-Affairs-VA-Benefits-Based-on-a-Veterans-Receipt-of-Active-Service-Pay), Examples of Award Adjustments.

Topic 3: Inputting Award Information & Notification

To process the award to adjust benefits, you must first access the Award Adjustment screen in VBMS-A. Refer to the VBMS-A lesson on how to access “VBMS-Awards”.



1. Note the **Drill Pay Profile** grid above the **Decision** grid. This grid will be updated when information is received electronically (via Hines BDC) regarding the Veteran’s drill days.



1. Click **Add**;enter the **Fiscal Year** that the drill pay was received; record the number of **Days** of drill pay; enter the **Award Effective Date (**the date that is entered to start the withholding).
2. The **Award End Date** will be system generated from the **Award Effective Date** and number of days that were entered.
3. Calculate the benefit amount to be withheld and enter into the **Amount** field (Rate on September 30, FY = withheld amount).
4. Select **Done** to update the grid.
5. If drill pay for another fiscal year needs to be added, select the **Add** button and record the information for that year. Manually enter the next fiscal year’s **Award Effective Dat**e as the ***same date*** as the prior fiscal year’s **End Date**.
6. Select **Done** to save the decision(s) and close the screen.
7. **Generate** the award.
8. **Notify** the Veteran of our decision using **ADL** if available (making sure to add the evidence), or **PCGL** if ADL is not available (GP 14 letter – making sure to add the evidence). See [M21-1, Part III, Subpart v, 2.B.1 & 4](https://vaww.compensation.pension.km.va.gov/system/templates/selfservice/va_ka/portal.html?encodedHash=%23!agent%2Fportal%2F554400000001034%2Farticle%2F554400000014231%2FM21-1-Part-III-Subpart-v-Chapter-2-Section-B-Decision-Notices), for information on notification.

Attachment A: Example VA Form 21-8951





Attachment B: Form Not Complete Letter (Letter Creator)

|  |  |  |
| --- | --- | --- |
| JOHN Q VETERAN1234 VETERAN DRVETERAN CITY US 12345 | In Reply Refer To:  | 386/MJ/ChallengeFile Number: XXXXXXXXXVeteran, John Q. |

Dear Mr. Veteran:

We received VA Form 21-8951, *Notice of Waiver of VA Compensation or Pension to Receive Military Pay* *and Allowances* on (date of receipt); however, it was incomplete. Your form was incomplete because:

* It did not include all required information/required signatures

Without this information we are unable to accept the VA Form 21-8951.

**What Should You Do?**

Please correct the highlighted areas on the ~~new~~ VA Form 21-8951, *Notice of Waiver of VA*

*Compensation or Pension to Receive Military Pay and Allowances,* we have enclosed with this letter. We must receive a response from you within 30 days or we may proceed with proposing action to recoup these funds.

**What is eBenefits?**

eBenefits provides electronic resources in a self-service environment to Service members, Veterans, and their families. Use of these resources often helps us serve you faster! Through the eBenefits website you can:

* Submit claims for benefits and/or upload documents directly to the VA.
* Request to add or change your dependents
* Update your contact and direct deposit information and view payment history
* Request a Veterans Service Officer to represent you
* Track the status of your claim or appeal
* Obtain verification of military service, civil service preference, or VA benefits
* And much more!

Enrolling in eBenefits is easy. Just visit www.eBenefits.va.gov for more information. If you submit a claim in the future, consider filing though eBenefits. Filing electronically, especially if you participate in our fully developed claim program, may result in a faster decision than if you submit your claim through the mail.

**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.** |
|  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.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 Your Written Correspondence* chart, below. |

In all cases, be sure to refer to your VA file number XXX XX XXXX.

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

We sent a copy of this letter to your representative, {Insert Name of Service Organization}, whom you can also contact if you have questions or need assistance.

OR

We have no record of you appointing a service organization or representative to assist you with your claim. You can contact us for a listing of the recognized veterans' service organizations and/or representatives. Veterans' service organizations, which are recognized or approved to provide services to the veteran community, can also help you with any questions.

Sincerely yours,

Regional Office Director

Enclosures: Where to Send Your Written Correspondence

VA Form 21-8951

cc: {Insert Name of Service Organization} or remove line if none appointed

Attachment C: Over 179 Day Letter (Letter Creator)

|  |  |  |
| --- | --- | --- |
| JOHN Q VETERAN1234 VETERAN DRVETERAN CITY US 12345 | In Reply Refer To:  | 386/MJ/ChallengeFile Number: XXXXXXXXXVeteran, John Q. |

**IMPORTANT -- reply needed**

Dear Mr. Veteran:

We have received information from the Defense Manpower Data Center that you may have returned to active duty during Fiscal Year (FY) XXXX. If this information is correct, we must discontinue your compensation payments during your period of active duty. Concurrent receipt of VA benefits and military pay is prohibited by law.

**What Do We Still Need from You?**

We need additional evidence from you. Please put your VA file number on the first page of every document you send us.

Please inform us of any active duty you served during FY XXXX; October 1st, XXXX through September 30th, XXXX. Additionally, please provide us with a copy of your orders or separation document, or evidence of duty you performed during FY XXXX.

**How Soon Do We Need This Information?**We strongly encourage you to send any information or evidence as soon as you can. If we do not hear from you, we may make a decision on your claim after 30 days. However, you have up to one year from the date of this letter to submit the information and evidence necessary to support your claim. If we decide your claim before one year from the date of this letter, you will still have the remainder of the one-year period to submit additional information or evidence necessary to support your claim.

**What is eBenefits?**

eBenefits provides electronic resources in a self-service environment to Servicemembers, Veterans, and their families. Use of these resources often helps us serve you faster! Through the eBenefits website you can:

* Submit claims for benefits and/or upload documents directly to the VA
* Request to add or change your dependents
* Update your contact and direct deposit information and view payment history
* Request a Veterans Service Officer to represent you
* Track the status of your claim or appeal
* Obtain verification of military service, civil service preference, or VA benefits
* And much more!

Enrolling in eBenefits is easy. Just visit [www.eBenefits.va.gov](http://www.ebenefits.va.gov/) for more information. If you submit a claim in the future, consider filing through eBenefits. Filing electronically, especially if you participate in our fully developed claim program, may result in a faster decision than if you submit your claim through the mail.

**If You Have Questions or Need Assistance**

If you have any questions, you may contact us by telephone, e-mail, or letter.

|  |  |
| --- | --- |
| **If you** | **Here is what to do.** |
|  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.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 Your Written Correspondence* chart, below. |

In all cases, be sure to refer to your VA file number XXX XX XXXX.

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

We sent a copy of this letter to your representative, {Insert Name of Service Organization}, whom you can also contact if you have questions or need assistance.

OR

We have no record of you appointing a service organization or representative to assist you with your claim. You can contact us for a listing of the recognized veterans' service organizations and/or representatives. Veterans' service organizations, which are recognized or approved to provide services to the veteran community, can also help you with any questions.

Sincerely yours,

Regional Office Director

Enclosure: Where to Send Your Written Correspondence

cc: {Insert Name of Service Organization} or remove line if none appointed

Attachment D: Drill Pay Proposed Adverse Action Letter (PCGL – GP 13)

In Reply Refer To:

386/MJ/Challenge

CSS XXX XX XXXX

Veteran, John Q.

JOHN Q VETERAN
1234 VETERAN DR

VETERAN CITY US 12345

**IMPORTANT — reply needed**

Dear Mr. Veteran:

We recently sent you a VA Form 21-8951, Notice of Waiver of VA Compensation or Pension to Receive Military Pay and Allowances, for fiscal year (FY) XXXX. We did not receive a response. Therefore, we plan to reduce your compensation payments.

You have "due process" rights. *Due process* means we can't reduce or stop your benefit without telling you in advance and giving you sixty days to respond.

**What We Propose to Do**

We plan to adjust your compensation benefits as follows:

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **Total VA Benefit** | **Amount Withheld** | **Amount Paid** | **Payment Start Date** | **Reason For Change** |
| $1,615.40 | $1,591.00 | $24.40 | Oct 1, 2015 | Drill Pay Adjustment, FY XXXX |
| 1,615.40 | 0.00 | 1,615.40 | Dec 17, 2015 | Drill Pay Adjustment Ends |

We won't do anything to reduce your benefits ~~until~~ for 60 days from the date of this letter – unless you ask us to reduce them now. We're giving you this time so that you can show us why we shouldn't reduce your compensation.

**This action may create an overpayment**.

**Potential Overpayment**

This adjustment may result in an overpayment of benefits that we have paid you. If the proposed action is implemented and results in an overpayment, we will notify you of the exact amount of the overpayment and give repayment information.

**What Additional Information or Evidence Do We Still Need From You?**

Please complete and return the enclosed Form 21-8951-2, Notice of Waiver of VA Compensation or Pension to Receive Military Pay and Allowances.

The only reason we're planning to reduce your payments is that you haven't verified the number of drill pay days you had for fiscal year XXXX. *The best way to show us why we shouldn't reduce your payments is to complete and return this form.*

**When and Where To Send the Information or Evidence**

Please mail or fax all responses to the appropriate address listed on the attached *Where to Send Your Written Correspondence* chart within 60 days from the date of this letter.

Please put your full name and VA file number on the evidence. If we don't receive the information or evidence within that time, we will make our decision based only on the evidence we have received.

**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. 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.

If within 30 days from the date of this notice VA receives your hearing request, we will not make any adjustments to your award until we have held your hearing and reviewed the testimony.

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, under 38 U.S.C. 5904(c), an accredited agent or attorney may only charge you for services performed after the date you file a notice of disagreement. 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.

**What Is eBenefits?**

eBenefits provides electronic resources in a self-service environment to Service members, Veterans, and their families. Use of these resources often helps us serve you faster! Through the eBenefits website you can:

* Submit claims for benefits and/or upload documents directly to the VA
* Request to add or change your dependents
* Update your contract and direct deposit information and view payment history
* Request a Veterans Service Officer to represent you
* Track the status of your claim or appeal
* Obtain verification of your military service, civil service preference, or VA benefits
* And much more!

Enrolling in eBenefits is easy. Just visit www.eBenefits.va.gov for more information. If you submit a claim in the future, consider filing through eBenefits. Filing electronically, especially if you participate in our fully developed claim program, may result in faster decision than if you submit your claim through the mail.

**If You Have Questions or Need Assistance**

If you have any questions, you may contact us by telephone, e-mail, or letter.

|  |  |
| --- | --- |
| **If you** | **Here is what to do.** |
|  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.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 Your Written Correspondence*. |

In all cases, be sure to refer to your VA file number XXX XX XXXX.

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

We sent a copy of this letter to your representative, {Insert Name of Service Organization}, whom you can also contact if you have questions or need assistance.

OR

We have no record of you appointing a service organization or representative to assist you with your claim. You can contact us for a listing of the recognized veterans' service organizations and/or representatives. Veterans' service organizations, which are recognized or approved to provide services to the veteran community, can also help you with any questions.

Sincerely yours,

RO Director

VA Regional Office

Enclosure(s): Where to Send Your Written Correspondence

VA Form 21-0790

VA Form 21-8951-2

cc: {Insert Name of Service Organization} or remove line if none appointed

Attachment E: Drill Pay Proposed Adverse Action Letter (PCGL – GP 13) – Separation Pay

In Reply Refer To:

386/MJ/Challenge

CSS XXX XX XXXX

Veteran, John Q.

JOHN Q VETERAN
1234 VETERAN DR

VETERAN CITY US 12345

**IMPORTANT — reply needed**

Dear Mr. Veteran:

We recently sent you a VA Form 21-8951, Notice of Waiver of VA Compensation or Pension to Receive Military Pay and Allowances, for fiscal year (FY) XXXX. We did not receive a response. Therefore, we plan to reduce your compensation payments.

You have "due process" rights. *Due process* means we can't reduce or stop your benefit without telling you in advance and giving you sixty days to respond.

**What We Propose to Do**

We plan to adjust your compensation benefits as follows:

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| **Total VA Benefit** | **Amount Withheld****(Drill Pay)** | **Amount Withheld****(Sep Pay)** | **Amount Paid** | **Payment Start Date** | **Reason For Change** |
| $1,857.34 | $1,602.00 | $255.34 | $0.00 | Oct 1, 2015 | Drill Pay Adjustment FY XXXX, Separation Pay Adjustment Continues |
| 1,857.34 | 0.00 | 1,857.34 | 0.00 | Jan 6, 2016 | Drill Pay Adjustment Ends, Separation Pay Adjustment Continues |
| 1,857.34 | 0.00 | 0.00 | 1,857.34 | Nov 1, 2017 | Separation Pay Adjustment Ends |

We won't do anything to reduce your benefits ~~until~~ for 60 days from the date of this letter – unless you ask us to reduce them now. We're giving you this time so that you can show us why we shouldn't reduce your compensation.

**This action will not create an overpayment.**

**Potential Overpayment**

This adjustment may result in an overpayment of benefits that have been made to you and applied to the recoupment of separation pay you received from the military. If the proposed action is implemented, it will not result in an overpayment to you, but will increase the amount of time in which it takes to recoup the separation pay you received from the military.

We will continue to withhold your compensation for separation pay until this amount has been recouped.

**What Additional Information or Evidence Do We Still Need From You?**

Please complete and return the enclosed Form 21-8951-2, Notice of Waiver of VA Compensation or Pension to Receive Military Pay and Allowances.

The only reason we're planning to reduce your payments is that you haven't verified the number of drill pay days you had for fiscal year XXXX. *The best way to show us why we shouldn't reduce your payments is to complete and return this form.*

**When and Where To Send the Information or Evidence**

Please mail or fax all responses to the appropriate address listed on the attached *Where to Send Your Written Correspondence* chart within 60 days from the date of this letter.

Please put your full name and VA file number on the evidence. If we don't receive the information or evidence within that time, we will make our decision based only on the evidence we have received.

**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. 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.

If within 30 days from the date of this notice VA receives your hearing request, we will not make any adjustments to your award until we have held your hearing and reviewed the testimony.

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, under 38 U.S.C. 5904(c), an accredited agent or attorney may only charge you for services performed after the date you file a notice of disagreement. 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.

**What Is eBenefits?**

eBenefits provides electronic resources in a self-service environment to Service members, Veterans, and their families. Use of these resources often helps us serve you faster! Through the eBenefits website you can:

* Submit claims for benefits and/or upload documents directly to the VA
* Request to add or change your dependents
* Update your contract and direct deposit information and view payment history
* Request a Veterans Service Officer to represent you
* Track the status of your claim or appeal
* Obtain verification of your military service, civil service preference, or VA benefits
* And much more!

Enrolling in eBenefits is easy. Just visit www.eBenefits.va.gov for more information. If you submit a claim in the future, consider filing through eBenefits. Filing electronically, especially if you participate in our fully developed claim program, may result in faster decision than if you submit your claim through the mail.

**If You Have Questions or Need Assistance**

If you have any questions, you may contact us by telephone, e-mail, or letter.

|  |  |
| --- | --- |
| **If you** | **Here is what to do.** |
|  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.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 Your Written Correspondence*. |

In all cases, be sure to refer to your VA file number XXX XX XXXX.

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

We sent a copy of this letter to your representative, {Insert Name of Service Organization}, whom you can also contact if you have questions or need assistance.

OR

We have no record of you appointing a service organization or representative to assist you with your claim. You can contact us for a listing of the recognized veterans' service organizations and/or representatives. Veterans' service organizations, which are recognized or approved to provide services to the veteran community, can also help you with any questions.

Sincerely yours,

RO Director

VA Regional Office

Enclosure(s): Where to Send Your Written Correspondence

VA Form 21-0790

VA Form 21-8951-2

cc: {Insert Name of Service Organization} or remove line if none appointed

Attachment F: Drill Pay Final Action Letter (PCGL – GP14) – Single Year

In Reply Refer To:

386/MJ/Challenge

CSS XXX XX XXXX

Veteran, John Q.

JOHN Q VETERAN
1234 VETERAN DR

VETERAN CITY US 12345

Dear Mr. Veteran:

In our letter of (Enter date due process letter was previously sent, ex. July 9, 2014), we informed you we would reduce your benefits because you received Military Drill Pay for fiscal year (FY) XXXX. We have adjusted your benefits accordingly.

This letter explains your new monthly payments. We have also included information about what to do if you disagree with our decision, and who to contact if you have questions or need assistance.

**Your Award Amount and Payment Start Date**

Your monthly payment amount is shown below:

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **Total VA Benefit** | **Amount Withheld** | **Amount Paid** | **Payment Start Date** | **Reason For Change** |
| $1,041.39 | $797.00 | $244.39 | Oct 1, 2015 | Drill Pay Adjustment FY XXXX (XX days)  |
| 1,041.39 | 0.00 | 1,041.39 | Nov 17, 2015 | Drill Pay Adjustment Ends |

**Why Have We Withheld Benefits?**

You received drill pay for XX days during fiscal year XXXX from the military. We must hold back part of your VA compensation until this has been paid back. After this amount is paid back, you'll start receiving your full VA compensation.

**This action will create an overpayment.**

**What You Owe**

We have created an overpayment in your account because the information we received showed that we paid you too much. You will receive a separate letter, which will explain how much we overpaid you, and how you can repay this debt.

**Evidence Used to Make Our Decision**

Evidence section must be entered manually.

In making our decision, we considered the following evidence:

* Report from Defense Manpower Data Center that you received drill pay for XX days in FY XX
* Our letter to you dated (enter date of due process letter)

**What You Should Do If You Disagree With Our Decision**

If you do not agree with our decision, you must complete and return to us the enclosed VA Form 21-0958, “*Notice of Disagreement,”* in order to initiate your appeal. You have *one year from the date of this letter to appeal the decision.* The enclosed *VA Form 4107, “Your Rights to Appeal Our Decision,”* explains your right to appeal.

**What Is eBenefits?**

eBenefits provides electronic resources in a self-service environment to Service members, Veterans, and their families. Use of these resources often helps us serve you faster! Through the eBenefits website you can:

* Submit claims for benefits and/or upload documents directly to the VA
* Request to add or change your dependents
* Update your contract and direct deposit information and view payment history
* Request a Veterans Service Officer to represent you
* Track the status of your claim or appeal
* Obtain verification of your military service, civil service preference, or VA benefits
* And much more!

Enrolling in eBenefits is easy. Just visit www.eBenefits.va.gov for more information. If you submit a claim in the future, consider filing through eBenefits. Filing electronically, especially if you participate in our fully developed claim program, may result in faster decision than if you submit your claim through the mail.

**If You Have Questions or Need Assistance**

If you have any questions, you may contact us by telephone, e-mail, or letter.

|  |  |
| --- | --- |
| **If you** | **Here is what to do.** |
|  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.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 Your Written Correspondence*. |

In all cases, be sure to refer to your VA file number XXX XX XXXX.

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

We sent a copy of this letter to your representative, {Insert Name of Service Organization}, whom you can also contact if you have questions or need assistance.

Or

We have no record of you appointing a service organization or representative to assist you with your claim. You can contact us for a listing of the recognized veterans' service organizations and/or representatives. Veterans' service organizations, which are recognized or approved to provide services to the veteran community, can also help you with any questions.

Sincerely yours,

RO Director

VA Regional Office

E-mail us at https://iris.va.gov

 Enclosure(s): Where to Send Your Written Correspondence

 VA Form 4107

 VA Form 21-0958

cc: {Insert Name of Service Organization} or remove line if none appointed

Attachment G: Contemporaneous Notice Letter (PCGL – GP14) – Multiple Years

386/MJ/Challenge

CSS XXX XX XXXX

Veteran, John Q.

In Reply Refer To:

JOHN Q VETERAN
1234 VETERAN DR

VETERAN CITY US 12345

Dear Mr. Veteran:

We have received your VA Form 21-8951, Notice of Waiver of VA Compensation or Pension to Receive Military Pay and Allowances on (Enter date the form was received in VA, ex. November 10, 2014). We have reduced your benefits because you received Military Drill Pay for fiscal years (FY) XXXX and XXXX.

This letter explains your new monthly payments. We have also included information about what to do if you disagree with our decision, and who to contact if you have questions or need assistance.

**Your Award Amount and Payment Start Date**

Your monthly payment amount is shown below:

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **Total VA Benefit** | **Amount Withheld** | **Amount Paid** | **Payment Start Date** | **Reason For Change** |
| $1,038.15 | $1,007.00 | $31.15 | Oct 1, 2015 | Drill Pay Adjustment FY XXXX Begins |
| 1,038.15 | 1,024.00 | 14.15 | Feb 6, 2015 | Drill Pay Adjustment FY 2013 Begins |
| 1,038.15 | 0.00 | 1,038.15 | Apr 24, 2015 | Drill Pay Adjustment Ends |
| 999.15 | 0.00 | 999.15 | Jul 3, 2024 | Minor Child Adjustment |
| 960.15 | 0.00 | 960.15 | Sep 30, 2025 | Minor Child Adjustment |
| 901.15 | 0.00 | 901.15 | Mar 27, 2027 | Minor Child Adjustment |

**We Have Withheld Benefits**

You received drill pay for XX days in XXXX and XX days in XXXX from the military. We must hold back part of your VA compensation for a total of XX day (enter total # of days for all years combined). After this amount is paid back, you'll start receiving your full VA compensation.

**This action will create an overpayment.**

**What You Owe**

We have created an overpayment in your account because the information we received showed that we paid you too much. You will receive a separate letter, which will explain how much we overpaid you, and how you can repay this debt.

**Evidence Used to Make Our Decision**

Evidence section must be entered manually.

In making our decision, we considered the following evidence:

* Report from Defense Manpower Data Center that you received drill pay for XX day in FY XX
* Our letter to you dated (enter date of due process letter)

**What You Should Do If You Disagree With Our Decision**

If you do not agree with our decision, you must complete and return to us the enclosed VA Form 21-0958, “*Notice of Disagreement,”* in order to initiate your appeal. You have *one year from the date of this letter to appeal the decision.* The enclosed *VA Form 4107, “Your Rights to Appeal Our Decision,”* explains your right to appeal.

**What Is eBenefits?**

eBenefits provides electronic resources in a self-service environment to Servicemembers, Veterans, and their families. Use of these resources often helps us serve you faster! Through the eBenefits website you can:

* Submit claims for benefits and/or upload documents directly to the VA
* Request to add or change your dependents
* Update your contract and direct deposit information and view payment history
* Request a Veterans Service Officer to represent you
* Track the status of your claim or appeal
* Obtain verification of your military service, civil service preference, or VA benefits
* And much more!

Enrolling in eBenefits is easy. Just visit www.eBenefits.va.gov for more information. If you submit a claim in the future, consider filing through eBenefits. Filing electronically, especially if you participate in our fully developed claim program, may result in faster decision than if you submit your claim through the mail.

**If You Have Questions or Need Assistance**

If you have any questions, you may contact us by telephone, e-mail, or letter.

|  |  |
| --- | --- |
| **If you** | **Here is what to do.** |
|  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.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 Your Written Correspondence*. |

In all cases, be sure to refer to your VA file number XXX XX XXXX.

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

We sent a copy of this letter to your representative, {Insert Name of Service Organization}, whom you can also contact if you have questions or need assistance.

Or

We have no record of you appointing a service organization or representative to assist you with your claim. You can contact us for a listing of the recognized veterans' service organizations and/or representatives. Veterans' service organizations, which are recognized or approved to provide services to the veteran community, can also help you with any questions.

Sincerely yours,

RO Director

VA Regional Office

Enclosure(s): VA Form 21-0958

 VA Form 4107

 Where to Send Your Written Correspondence

cc: {Insert Name of Service Organization} or remove line if none appointed