

# **Massachusetts Veterans' Services Benefits: The Chapter 115 Program**

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# Agenda

1. Safety Net Programs for Disabled Veterans
2. Background about Ch. 115 Program & Structure
3. Ch. 115 Program Eligibility Rules
4. Application and Appeal Processes
5. Recent Updates

# **Safety Net Programs for Disabled Veterans**

# Safety Net for Disabled Veterans



<b>Federal</b>	<ul style="list-style-type: none"><li>• VA</li><li>• SSA</li></ul>
<b>State</b>	<ul style="list-style-type: none"><li>• DTA</li><li>• EOVS</li></ul>
<b>Local</b>	<ul style="list-style-type: none"><li>• VSOs</li></ul>

# Safety Net for Disabled Veterans

Department  
of Veterans  
Affairs (VA)

- Monthly VA benefits for veterans with disabilities:
  - Service-connected disability compensation
    - *Not means-tested*
    - *Disability must be related to service*
    - *Amount depends on level of disability*
  - Non-service connected pension
    - *Means-tested*
    - *Veteran must be totally disabled or elderly*
    - *Amount up to federal poverty line*
- Many other benefits and services
- May be for veterans or their dependents

# Safety Net for Disabled Veterans

## Social Security Administration (SSA)

- Monthly SSA benefits for people with disabilities:
  - Social Security Disability Insurance (SSDI)
    - *Requires significant work history*
    - *Total disability*
    - *Amount is based on worker paid into the system*
  - Supplemental Security Income (SSI)
    - *Fixed, low monthly amount*
    - *Total disability*
- For all people, not just veterans

# Safety Net for Disabled Veterans

## Department of Transitional Assistance (DTA)

- Massachusetts state agency
- Administers public benefit programs:
  - SNAP (Supplemental Nutrition Assistance Program), formerly food stamps
  - TAFDC (Transitional Aid to Families with Dependent Children)
  - EAEDC (Emergency Assistance to Elderly, Disabled and Children)
- For all Massachusetts residents

# Safety Net for Disabled Veterans

## Executive Office of Veterans' Services (EOVS)

- Massachusetts state agency
- Oversees public benefits programs for veterans
  - Ch. 115 benefits (state-local partnership)
  - Annuities
- Benefits for Massachusetts residents who served in the military and their dependents

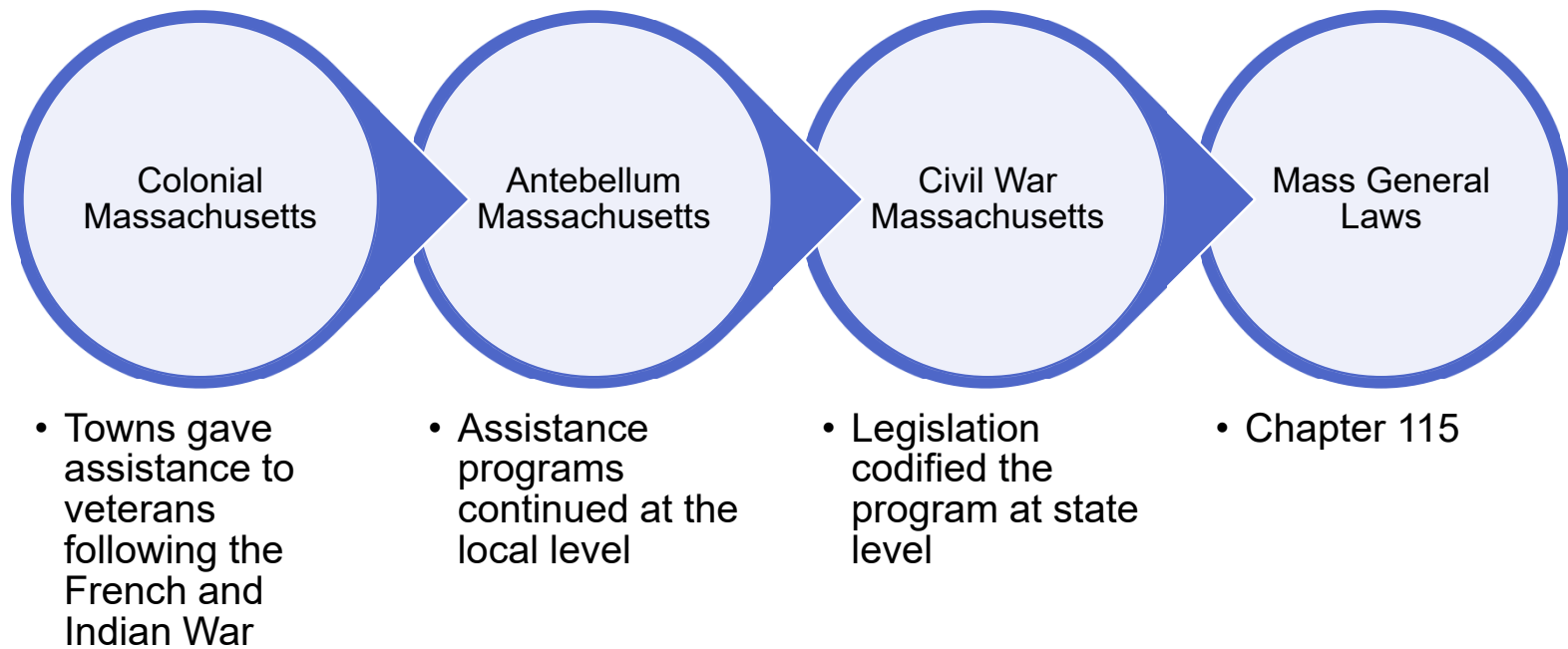


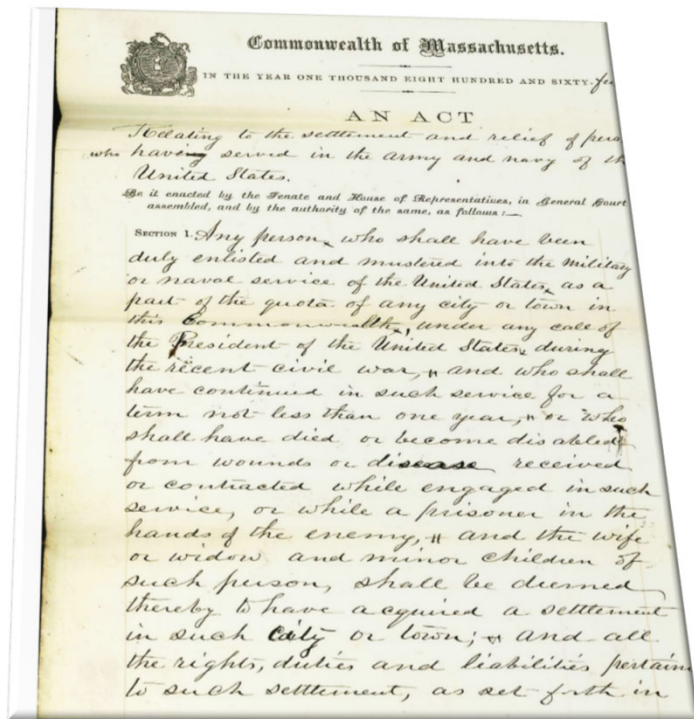
# What is a VSO?

- **VSO:** Veterans Services Officer
- Sometimes called “veterans agent”
- Every town or district in Massachusetts has a VSO who is appointed at the local level
- VSOs must assist veterans and their dependents in learning about, applying for, and receiving Chapter 115 benefits
- VSOs can also help you in applying, appealing, and receiving VA compensation and pension, and connecting with other services

# **Background about the Chapter 115 Program**

# History of Chapter 115





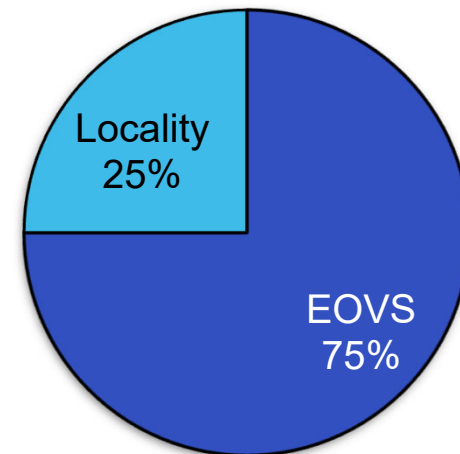
# Unique state program

- All other states have a state agency focused on serving veterans
- Many other states have county level veterans departments, too
- But only Massachusetts has a financial assistance program like Chapter 115 that provides cash benefits on monthly and emergency basis

# Structure of Ch. 115 Program

- Executive Office of Veterans' Services (EOVS)—provides oversight, but does not exercise complete control
- VSOs—employed by localities to administer the program
- Budget
  - EOVS—reimburses localities 75% of approved benefit costs
  - Localities—responsible for 25% of approved benefit costs

**Ch. 115 Budget**



# Why Chapter 115 Matters



**Critical source of financial support, both emergency and long-term**



**Helps bridge gaps and delays in other programs, including VA & SSA**



**Provides support not just to veterans, but family members, too**



**Local VSOs serve as point of connection to other benefits and resources**

# **Ch. 115**

# **Eligibility**

# **Rules**

# Sources of Authority

- Statute—M.G.L. c. 115
  - “Chapter 115 Benefits”
- Regulations—108 C.M.R. 2 *et seq.*



# Who Can Receive Benefits?

Two Categories of Persons Can Receive Ch. 115 Benefits:

- (1) Veterans
- (2) Non-Veteran Dependents, Based on Relationship to Qualifying Veteran
  - Spouse or Widow/Widower of Veteran
  - Veterans' Children  $\leq 18$  yrs old
  - Veterans' Children 18 – 23 yrs old if in school
  - Veterans' Children  $> 18$  yrs old if disabled and became disabled  $\leq 18$  yrs old
  - Parent of Veteran – or acted as *de facto* parent to veteran for 5 yrs immediately preceding veteran's wartime service

Note: Dependent ineligible if veteran ineligible

- 108 C.M.R. § 3.06(3) (EOVS Secretary can waive)

# Basic Eligibility

- 5 Elements
  - (1) Veteran Status
  - (2) Residence
  - (3) Income Test
  - (4) Asset Test
  - (5) Not Otherwise Disqualified

# 1<sup>st</sup> Element—Veteran Status

## Military Service

- service in Army, Navy, Air Force, Marine Corps, Coast Guard or
- full-time National Guard duty

## Character of Service

- last discharge “under honorable conditions”
- but not “dishonorable discharge”

## Length of Service

- $\geq 90$  days active service at least one day of which was in designated “war time” by law, or
- $\geq 180$  days active service no matter war/peace time

# 1<sup>st</sup> Element—Veteran Status

- Exceptions to length of service
  - 1-day active service in war time sufficient if
    - service-connected disability,
    - purple heart awarded, or
    - died in service
- Other “veterans”
  - Statute contains numerous other specialized categorized of persons who are “veterans”
- Legal citations:
  - State definition of veteran: M.G.L. c. 4, § 7, clause 43<sup>rd</sup>
  - See *also* M.G.L. c. 115, §§ 1, 6A
  - See *also* 108 C.M.R. §§ 2.02, 3.02

# 1<sup>st</sup> Element—Veteran Status

- Character of Service—108 C.M.R. § 3.06(2):
  - Presumed ineligible if “undesirable discharge”
  - But presumption can be challenged and rebutted
  - EOVS reviews circumstances of discharge on case-by-case basis
- TIP: When in doubt, apply for Ch. 115 & seek legal assistance

# Basic Eligibility

- 5 Elements
  - (1) Veteran Status
  - (2) Residence
  - (3) Income Test
  - (4) Asset Test
  - (5) Not Otherwise Disqualified

## 2<sup>nd</sup> Element—Residence

- Present within Massachusetts (M.G.L. c. 115, § 1)
  - Need not intend to remain permanently
  - Need not have an address; homeless eligible
  - Not eligible if entered Mass. “solely” to obtain Ch. 115 benefits
  - Regulation (108 CMR 2.02) mirrors statute
- Disputes between/among VSOs re: applicant’s residence. See 108 CMR 3.01(1)

# Basic Eligibility

- 5 Elements
  - (1) Veteran Status
  - (2) Residence
  - (3) Income Test
  - (4) Asset Test
  - (5) Not Otherwise Disqualified



# Income Limits

Household Size	Monthly Income Limit
Individual	\$2,510
Couple	\$3,407

Increases for additional dependents based on 200% FPL

See Desktop Budget Chart in materials



## 3rd Element— Income Test

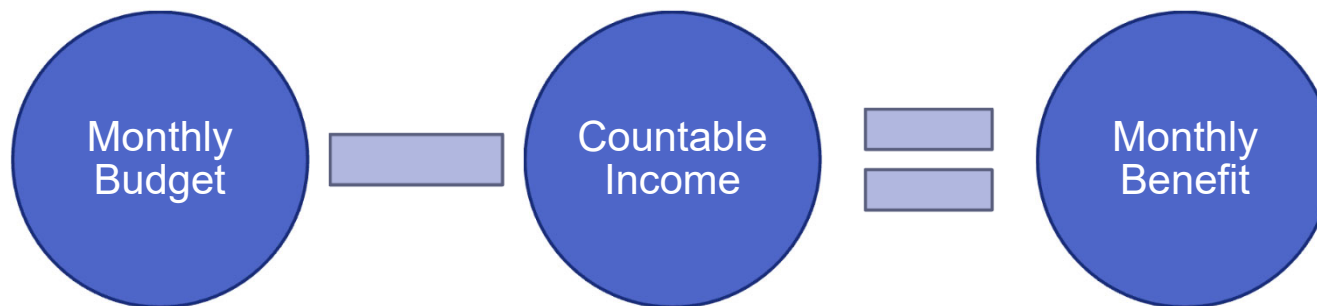
- Online calculator to screen eligibility—financial and other eligibility criteria—is available here:

**Massachusetts Veterans Benefits Calculator**

**<https://massvetben.org/>**

## 3<sup>rd</sup> Element—Income Test

- Subtract countable income from monthly budget to determine eligibility (See 108 C.M.R. §§ 5.01, 5.02)



- If countable monthly income less than applicable monthly budget, the difference is monthly benefit amount
  - Plus monthly fuel allowance (up to \$326)
  - If countable monthly income is greater than applicable monthly budget, may still be eligible for “medical only” budget

## 3<sup>rd</sup> Element—Income Test

- Monthly budget is based on:
  - veteran's living situation
  - veteran's "child allowance" (# of children based on age & whether living with veteran or enrolled in school)
  - veteran's retired or elder status (receipt of SSRI, SSDI/SSI, government pension, VA pension; and/or spouse's receipt of such income)
  - veteran's shelter costs (capped)
  - veteran's Medicare Part B allowance (\$170.10)

# 3<sup>rd</sup> Element— Income Test

## Countable income includes:

- Earned income (first \$200 disregarded)
- Unearned income (all other benefits and income counted against Ch. 115)

## Noncountable income includes:

- Mass. veterans' bonuses and annuities
- U.S. military bonuses
- Certain earned income of children
- Certain Agent Orange and other payments
- See 108 C.M.R. § 6.01(4)



## “Medical Only” Budget

- Even if monthly income exceeds income limit, may still qualify for reimbursement of medical expenses
- Must spend down the difference between monthly budget and countable income
  - Note: medical expenses reimbursed according to state standards determined by Department of Health Care Finance and Policy – may not match actual cost/bill
- See 108 C.M.R. § 10.00

# Basic Eligibility

- 5 Elements
  - (1) Veteran Status
  - (2) Residence
  - (3) Income Test
  - (4) Asset Test
  - (5) Not Otherwise Disqualified

## Asset Limits

VSO will only count assets that are liquid (easily converted to cash).

For example, VSOs typically do not count an applicant's home or car.

From 2014 to 2021, limit for individual was \$5,000 and for couple was \$9,800. Asset limits raised temporarily in March 2021 to account for COVID-19 stimulus payments and made permanent in June 2021

Household Size	Asset Limit
Individual	\$8,400
Individual + 1 dependent	\$16,600



# Fourth Element—Asset Test

- Special Asset Requirements—108 C.M.R. § 6.02
  - Asset transfers
  - Irrevocable trusts and life estates
  - Education trust funds
  - Determining asset liquidity
  - Spending down assets

# Basic Eligibility

- 5 Elements
  - (1) Veteran Status
  - (2) Residence
  - (3) Income Test
  - (4) Asset Test
  - (5) Not Otherwise Disqualified

# Other Disqualifications

- Discretionary Disqualifications—108 C.M.R. § 3.06
  - “neglected to support” dependents
  - “voluntary unemployment ... produced need for benefits”
  - “continuous unwholesome habits ... produced need for benefits”
  - “dishonorable discharge” from soldiers’ home
  - “need for benefits ... solely ... result of [veteran’s] willful acts”

# Other Disqualifications

- To disqualify for any of these reasons, VSO must first “consult[] with the DVS authorizer.” 108 CMR 3.06(1)
- EOVS Secretary can waive disqualification.

## Other Disqualifications

### Substance abuse:

- When applicant in “substance abuse” or “other rehabilitation program,” he/she may be eligible if VSO has “reasonable belief” applicant “recognizes his ... substance abuse problem and has sincere desire to be rehabilitated.”
- See *generally* 108 C.M.R. § 7.03

### Criminal record:

- “Unless the VSO and Secretary both decide otherwise, ... a criminal conviction will not automatically disqualify” the veteran.
- 108 CMR 3.06(1)(d)

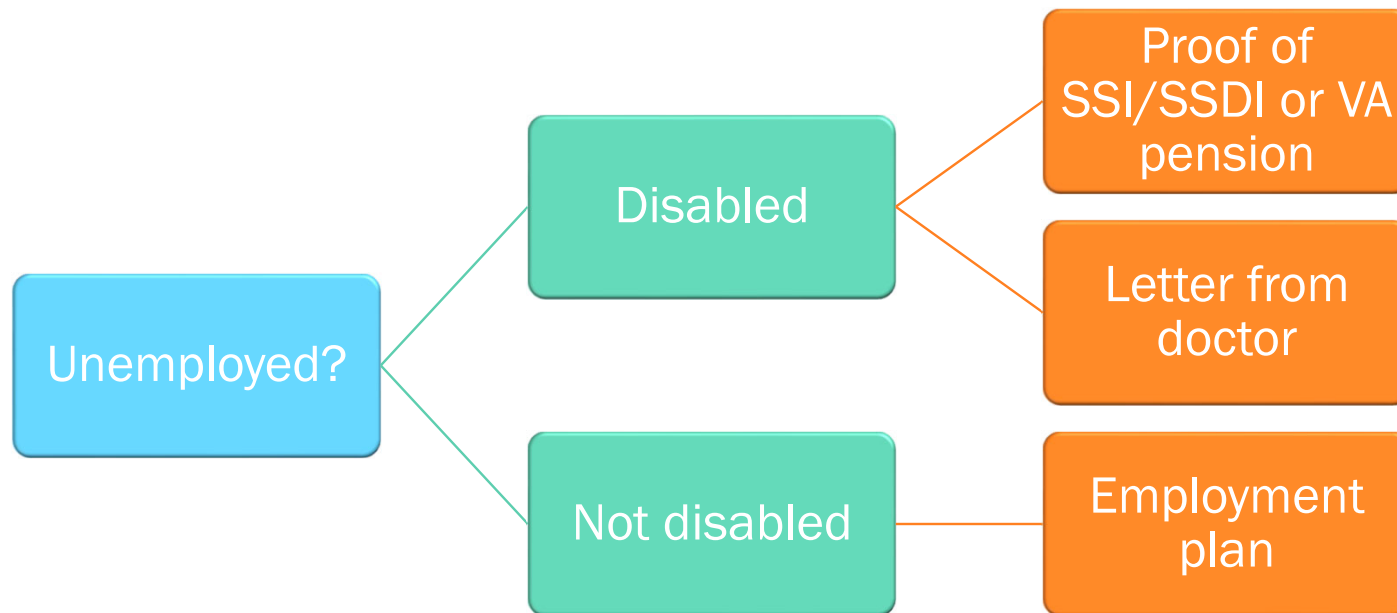
# Other Disqualifications

- Disqualification Based on “Undesirable Discharge”
  - Veteran who has less-than-honorable discharge presumed ineligible, e.g.:
    - Other Than Honorable (OTH)
    - Bad Conduct Discharge (BCD)
  - Rebut presumption by showing circumstances “not dishonorable” → what lead to the discharge?
    - Disability? Discrimination? Mitigating factors?
    - If OTH based on sexual orientation, can go to VERB (see earlier presentation)
  - VSO must assist veteran to develop evidence and to challenge presumption
  - EOVS Secretary determines eligibility
  - 108 C.M.R. § 3.06(2)

# Other Disqualifications

- Recipient responsibilities:
  - Applicant/Recipient must “reasonably cooperate” with VSO and EOVS in processing application and maintaining eligibility.
    - 108 C.M.R. § 8.05
  - Seek alternative sources of income
    - 108 C.M.R. § 6.01(3)
  - Report changes in income
    - 108 C.M.R. § 6.01(2)
  - If unemployed, comply with employment plan (job searches/job training)
    - 108 C.M.R. § 7.01(2)-(4)
    - Plan must be developed jointly
    - Disqualification for refusing offer of employment w/o good cause

# Other Disqualifications





# Other Disqualifications

## “Agreement to reimburse”

- All applicants asked to sign
- To reimburse program when need for Ch. 115 benefits based on “delay in receiving payments” from other sources
- 108 C.M.R. 6.04(5)

## “Refund Status”

- Case placed in “refund status” and benefits terminated when:
  - fraud or deceit, or
  - recipient does not honor agreement to reimburse
- VSO must provide opportunity to request waiver of repayment based on hardship
- 108 C.M.R. 8.06

# **Non- recurring benefits**

# CH. 115 provides more than monthly benefits



## Out-of-pocket medical expenses

108 C.M.R. § 10.00  
“Medical only” - even if over income for monthly cash assistance  
Reimbursement, sometimes requires pre-approval



## Emergency services to homeless veterans

108 C.M.R. § 7.06  
Prior to documentation of eligibility



## Homelessness prevention grants

108 C.M.R. § 7.07  
(mortgage & rental arrears)



## Utility Arrears

108 C.M.R. § 7.08



## Emergency Home Repairs

108 C.M.R. § 7.09



## Emergency benefits during natural disasters

108 C.M.R. § 7.10



## Moving & transportation assistance

108 C.M.R. § 7.11

# **Annuities and Bonuses**

# Annuities for Certain Veterans and Survivors—M.G.L. ch. 115, s. 6B

- \$2,000 annual annuity
  - Veterans if 100% service-connected disabled, blind, paralyzed, double amputee
  - Gold Star Widow/ers if not remarried
    - Now includes widow/ers of veterans who died of COVID if SCD contributed to death
  - Gold Star Parents
- Apply directly to EOVS
  - <https://www.mass.gov/service-details/veteran-annuity-payment>
- *Not* means tested
- Annuities issued in two payments
  - Apply by June 30<sup>th</sup> and December 31<sup>st</sup>

# Bonuses for Massachusetts Veterans



**Massachusetts Office of the Treasurer has a Veterans' Bonus Division**



**Bonuses for eligible active duty, discharged, and deceased Massachusetts veterans who served during various conflicts**

Welcome Home Bonus for post-9/11 veterans  
Bonuses for prior conflicts



**Now has online application process:**

[https://massgov.formstack.com/forms/welcome\\_home\\_bonus](https://massgov.formstack.com/forms/welcome_home_bonus)

# **Ch. 115**

# **Application and**

# **Appeal**

# **Procedures**

# Veterans Bill of Rights

- **File a written application** for veterans' benefits at any time. You can insist upon this right, even if told that you are not eligible. 108 CMR 4:02 (1)
- Receive **assistance from your local veterans' agent** in completing your application (M.G.L. ch. 115, s. 3)
- Receive a **full explanation of the services and benefits available** under M.G.L. ch. 115, as well as other available benefits
- Receive a **written notice** and explanation of the approval or denial of your application for benefits (108 CMR 8.02)
- Be treated with **dignity and respect** and to receive accurate, courteous, and timely service
- **Appeal** and request a **hearing** if you disagree with any action taken in your case [108 CMR 8.07(1)]
- Expect **confidentiality**; personal information will not be collected or used except for the purpose of determining your eligibility for benefits (M.G.L. ch. 40, s.51)
- Receive **fair and equal treatment** without regard to sex, race, religion, handicap, ethnicity, or national origin (M.G.L. ch. 151B, s.3)
- Preference in **public employment** (M.G.L. ch.31, s.12, 26, 28 and ch. 41, s.112.)



# Application Procedures— 108 C.M.R. § 5.00

## Apply with local VSO

- Application form completed by VSO
- Apply in person
- Supporting documentation required
- Visit <http://www.mass.gov/veterans/> to find local VSO
- VSO must accept application
- 10-Business Day Processing Rule
  - VSO must send application and recommendation for approval/denial to EOVS
  - delay excused for good cause
- Applicant entitled to written notice of decision (if denial, w/i 14 days of application)

# Notices of Adverse Action— 108 C.M.R. §§ 8.02, 8.03

Notice of Determination (NOD): if approved

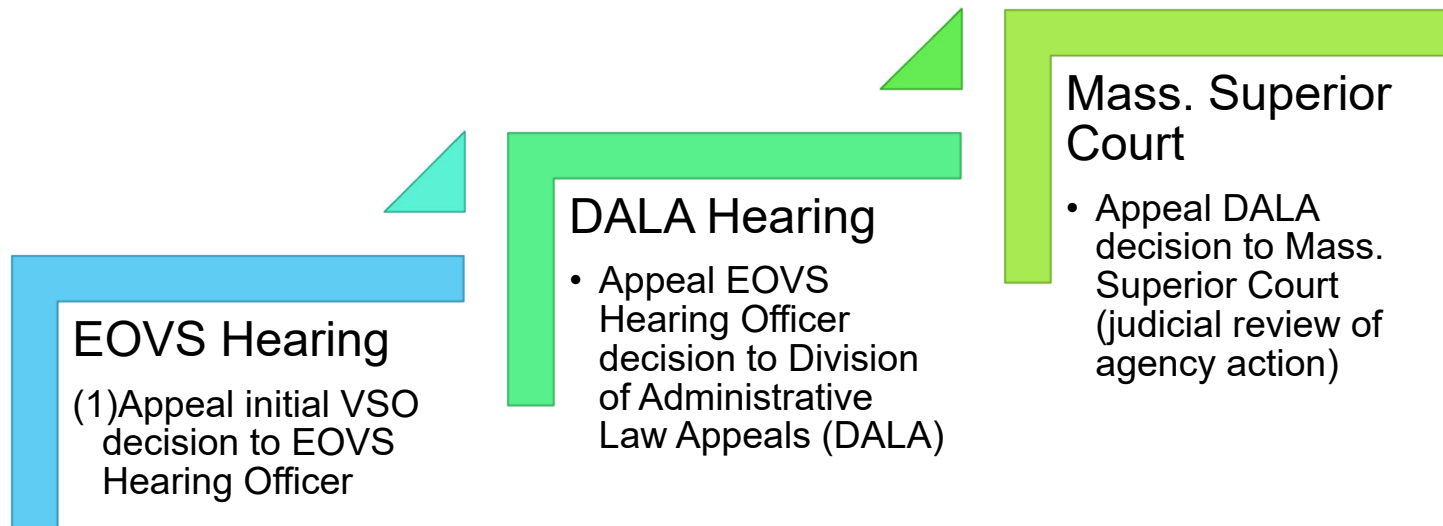
Notices of Intent (NOI): precursor to terminate ongoing benefits for enumerated reasons (must provide 14-day cure period)

Notices of Action (NOA): required to deny, change, or terminate benefits

- Must state facts to explain decision, cite to legal authority, advise of appeal rights
- Changes/terminations: at least 21-day advance notice

# Appeal Procedures

## Three Levels of Appeal:



# First-Level Appeals—EOVS Hearing

- File the appeal
  - Sign & mail appeal letter within 21 days of date of NOA (use cert. mail RRR)
  - Not required to state grounds for appeal
  - See 108 C.M.R. § 8.07
- Request Aid Continuing
  - Can keep benefits while appeal pending if appellant “disputes” facts of eligibility or benefit amount. 108 C.M.R. § 8.04
  - Must affirmatively request (may require advocacy)
  - Risk of overpayment if lose appeal



# First-Level Appeals—EOVS Hearing

- EOVS Hearing Officer runs the hearing
- Default to telephonic hearing, but can request in-person
- Appellant rights:
  - Right to review file/documents
  - Notice of hearing date and issues on appeal
  - Subpoena witnesses/documents
  - Present oral testimony and documentary evidence
  - Cross-examine witnesses, challenge evidence
  - Rules of evidence do not apply
  - Hearing on the record
  - Can seek decision w/o a hearing
- EOVS Hearing Officer issues decision
  - Must be in writing & notify of right to appeal

# Second-Level Appeals—DALA

- Appealing to DALA
  - 10 days to file appeal to DALA from receipt of EOVS Decision (108 C.M.R. § 8.07(3))
- Both parties have right to appeal to DALA
  - If veteran appeals to DALA, EOVS Hearing Officer can grant stay of decision (108 C.M.R. § 8.04(2))
  - If VSO appeals to DALA, VSO must comply w/ EOVS decision during appeal (108 C.M.R. § 8.08(1))



# Second-Level Appeals—DALA

- Conducted Under Standard Rules of Practice and Procedure—801 C.M.R. § 1.01
  - More formal procedures (“Formal Rules”)
  - Pre-hearing conference/discovery tools
  - Administrative Magistrate presides
  - *De novo* hearing (but record below exists)\*\*
  - Can have three parties involved (veteran, EOVS, VSO)

# Third-Level Appeals— Judicial Review



Adverse DALA decision subject to judicial review under M.G.L. c. 30A

**30**  
days to  
file appeal  
in Superior  
Court



File in Superior Court

When: 30 days after receipt of decision  
Venue: where plaintiff resides or Suffolk  
County



Seek legal assistance



# Third-Level Appeals— Judicial Review

- Superior Court sits as a single-judge reviewing court
- No new trial in Superior Court
  - Agency record and agency decision are on appeal
  - Decision based on briefing to the court & oral argument
  - But mechanisms to seek to add evidence to the record before the court. M.G.L. c. 30A § 14(4)-(6)
- Court gives some deference to agency.
  - Court has authority to affirm or to remand, set aside, modify decision, compel action unlawfully withheld or unreasonably delayed
  - M.G.L. c. 30A, § 7



# Recent Updates

# DVS → EOVS

- Massachusetts state legislature pass law in 2022 elevating Department of Veterans Services to a cabinet level agency
- As of March 2023, called Executive Office of Veterans Services (EOVS)
- New EOVS Secretary appointed
- Expansion of EOVS staffing
- Beyond Ch. 115 oversight, EOVS provides other programs and services, including
  - Statewide Advocacy for Veteran Empowerment (SAVE) team – peer support
  - Women Veterans' Network (WVN)
  - Massachusetts Veteran Memorial Cemeteries (Agawam and Winchendon)
  - Oversight of state Veterans' Homes, formerly Soldiers' Homes (Chelsea and Holyoke), providing long term care.

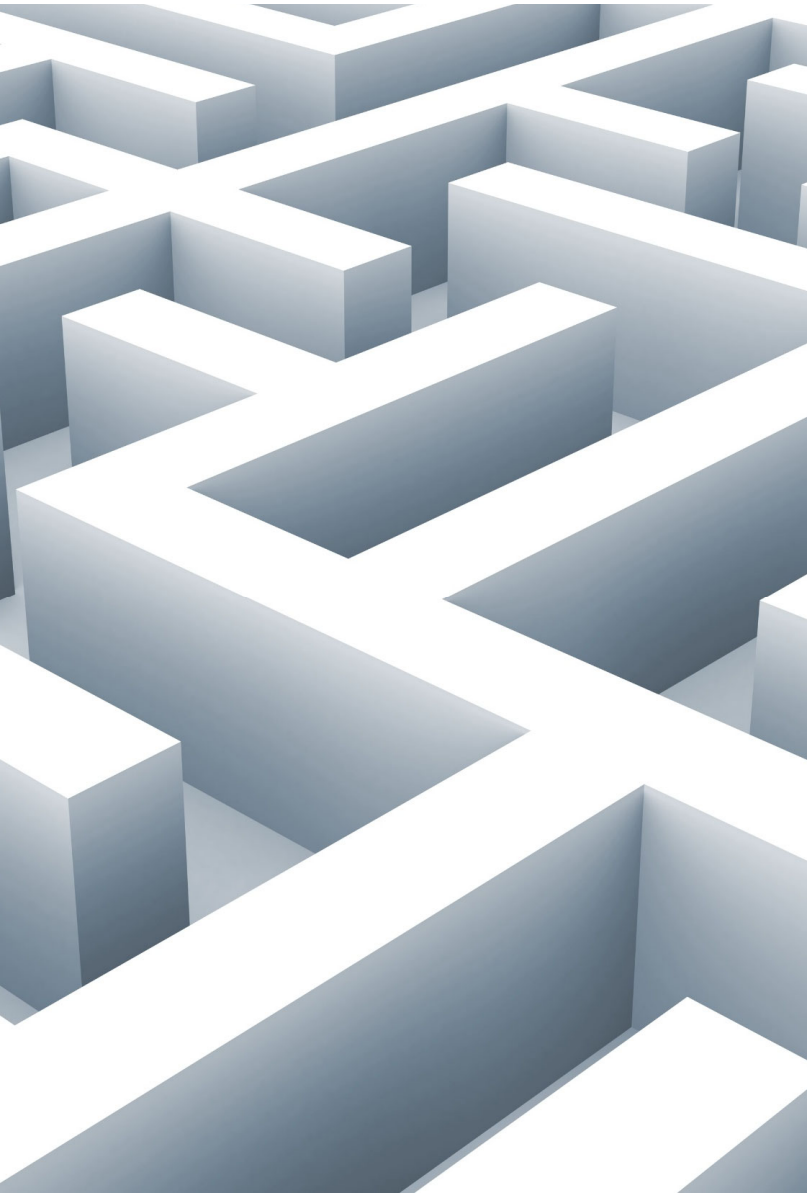
# HERO Act (pending legislation)

- Governor Healey introduced bill in November 2023
- Key provisions include:
  - expanding access to behavioral health treatment,
  - increasing benefits for disabled veterans,
  - bolstering support for businesses that hire veterans,
  - updating the definition of a veteran,
  - expanding the scope of the Veterans Equality Review Board (VERB),
  - initiating a pilot program for LGBTQ+ couples denied IVF reimbursement by the Veterans Health Administration, and
  - codifying medical and dental benefits

For Ch. 115 only, aligns state definition with federal VA definition

# Other proposed legislation

- An Act to Modernize Chapter 115 (H.4152/S.2489)
  - Comprehensive update to the statute
  - Modernizes language and enhances procedural protections
  - Also updates veteran definition to expand and clarify eligibility
  - Endorsed by veterans legal services providers
- Massachusetts Veterans Services Officers Association (MVSOA) supporting priority bills:
  - Expanding medical only eligibility up to 300% FPL
  - Clarifying dependent eligibility
  - Increasing annuity amount
  - Clarifying countable income
  - Etc.
- Expect some veterans legislative package to be taken up by legislature this spring/summer 2024



## Ongoing challenges and opportunities

- Inconsistent approaches to program requirements from locality to locality
- Need for increased and more effective outreach
  - Especially to minority groups
- Declining number of recipients
- Revisions to Ch. 115 regulations have been proposed and stalled numerous times over last decade

**Questions?**