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TDIU Claims for Veterans with Severe PTSD

If you do not qualify for a 100% schedular disability rating, you can still be paid at the 100% rate if the VA finds you cannot earn a living wage because of your service-connected conditions. Such a rating is called a total disability rating based upon individual unemployability, or a TDIU rating. Marginal employment or work performed with special accommodations does not disqualify you from a TDIU rating. Based on my experience helping over 15,000 clients win their veterans and Social Security disability benefits, I believe there are two basic reasons why a veteran with severe PTSD cannot perform any job which pays a living wage.

The most common reason veterans with severe PTSD cannot work is because they do not feel safe outside their home. All jobs which pay a living wage, even simple, unskilled ones, require you to go to work and stay there 8 hours per day, 5 days per week, 50 weeks per year. If you are very fearful whenever you leave your home that other people will harm you, or that you will lose your temper and harm other people, then the most sensible thing for you to do is to stay at home as much as possible. Although staying inside your home may help you manage your anxiety and anger, it makes you unemployable because having to stay at home prevents you from staying at work 40 hours per week.

The second basic reason why veterans with severe PTSD cannot work is because they often feel their job performance is a matter of life or death. Being at work feels like being in combat again. Most of my clients tell me that they refused to follow their boss's orders on how to perform their past jobs if they did not think such orders were correct. Instead they did their job the "right way" which really means "their way" and then became angry if the boss criticized their performance. Logically, they knew that how they performed their job usually was not a matter of life or death. Nevertheless, to them, it felt like life or death. For example, one of my clients ran his own business installing ceramic tile in small residential bathrooms. If one tile was out of place at the end of a two-day job, he would rip up everything and start again. Another client worked as an inspector for a large grocery chain. He was ordered to inspect every third box of pies for quality purposes, but insisted instead on inspecting every box. Another client worked for a company which waterproofed outside decks. Although his boss instructed him to apply two coats of sealant, my client did not believe that was enough and insisted on applying four coats. If you cannot follow a boss's instructions, you are unable to sustain any type of gainful employment.

If you are seeking a TDIU rating, it is important to understand why you cannot work and be able to explain it in simple terms. You have your own opinion about whether you have the ability to stay at work 8 hours per day, 40 hours per week and are able to follow a boss's orders if you think he is wrong. It also may be helpful to ask your spouse or friends for their input.

When I interview new clients with severe PTSD who have TDIU claims, some clients tell me they cannot work because they cannot tolerate crowds. Although that is a common problem, not every job which pays a living wage exposes a worker to crowds, for example, nighttime janitor

and security guard positions. Similarly, I know that some attorneys who represent veterans in TDIU claims focus on their clients' difficulty in maintaining attention and concentration as the basis of their disability. I disagree with that approach. Although veterans with severe PTSD often have problems maintaining their attention and concentration, both in and outside their home, such a limitation does not mean there are no gainful jobs they can perform, a requirement for a TDIU rating. Some jobs exist that only require the ability to pay attention to simple tasks. In my opinion, it is difficult to prove a veteran cannot work primarily because of difficulties with attention and concentration when she is able to maintain a checking account, help her teenage daughter with homework, or repair her truck.

The VA may schedule you for a C&P mental examination in connection with your TDIU claim. If so, you should expect the doctor to ask you questions about how many friends you see regularly, what chores you do at home, and how often you leave your house and why. It is important to tell a C&P doctor and your treating doctor about any difficulties you have leaving the house and interacting with or being in the presence of other people outside your home.

I know from thousands of interviews with clients who have severe PTSD that many individuals are reluctant to report difficulties in these areas. But a C&P examiner and the VA need to understand how your PTSD restricts your daily functioning in order to make an accurate assessment regarding your ability to work. Your doctor also needs this information for treatment purposes. For these reasons, I urge you not to feel ashamed to describe the difficulty you have performing simple daily tasks other people take for granted. Such difficulties are simply the expected result of severe PTSD in the same way one expects a knee to buckle as the result of a sever ligament tear or elevated blood sugar as the result of diabetes.

Since 1990, Robert A. Friedman has represented veterans nationwide seeking disability benefits from the VA and Social Security. His practice focuses on helping veterans with PTSD obtain TDIU benefits.