

**BACKGROUND INFORMATION SHEET IN SUPPORT OF
TESTIMONY ON SECTIONS (1) AND (2) OF AB145
Hearing - March 10, 2025**

Claims Sharks (CS) are an unregulated “shadow” industry that promises to deliver increased VA benefits in exchange for a sizable portion of the claimant’s compensation, including future compensation for which the CS did not assist.

VFW says that CS are individuals or companies that charge exorbitant fees to assist, educate, consult or coach veterans or survivors with filing their VA benefits claims. Such practice is illegal.

- CS are not VA-accredited and, as such, claim that they do not have to adhere to ethical and other legal standards imposed by the VA.

This matter is about the CS’s attempts to collect exorbitant fees for initial claims. CS collect high fees because they claim that they operate outside the VA review system, meaning that they are unaccredited.

LAW

No person may assist claimants in the *preparation, presentation, and prosecution* of claims for VA benefits as an agent or attorney unless he or she has first been accredited by the VA for such purpose.¹

- Unaccredited individuals may provide *other* services to veterans *so long as they do not assist in the **preparation, presentation, and prosecution** of claims for benefits.*
- Persons representing claimants before the VA must follow prescribed standards of conduct.²
- Accreditation process ensures that the veteran receives competent assistance through the claims process without being charged exorbitant fees.³

AGREEMENTS

CS use onerous agreements; some are styled as membership agreements to get around accreditation. To circumvent VA accreditation, CS, among other things, claim that:

- They are an education-based coaching and consulting business for veterans to explore eligibility for benefits and who wish to learn more about the process.
- They are not affiliated with the VA, are not accredited or recognized VSOs, claims agent or claims attorney.
- They do not assist veterans with the preparation, presentation and prosecution of VA disability claims.
- Veteran will prepare and file his/her own claim. If the claim proves to be fraudulent, the claimant, not the CS, would be liable for the penalties.
- Veteran may access and use the CS’s program resources for the preparation and prosecution of his/her VA claims.
- Veteran will be solely responsible for the truth and accuracy of the claim that he/she will file with the VA.

Forms of Compensation

- CS may assert a membership fee. The fees can be equal to six (6) times the amount of the increase in a disability benefit award for retroactive or future disability compensation.

- Medical provider: CS may assert fees for medical examinations, letters, medical opinions and evaluations. These medical evaluations and opinions could come from medical providers within the CS's own network.
- Agreements may require the claimant to disclose any future increases in compensation for which the CS will claim a portion. CS will claim a sizable portion of future disability compensation.

Difficulty with Termination

- While the veteran may terminate the agreement, the agreement would, more likely than not, provide that the terms for payment will survive the termination. Once the agreement is terminated, the veteran would still be obligated to make full payment.

DISTINCTIONS

CS arguments on their qualifications

- CS claim that their staff can obtain higher and faster ratings from the VA.
- CS claim that the VA and VSOs are antiquated.
- CS claim that their staff are more competent.
- CS claim that they service over 50,000(+) veterans annually.

CS have the ability to obtain accreditation from the VA

- VA accreditation requires an examination on the VA rules governing compensation
- As CS boast that their staff are more competent than VSOs, they would be able to obtain accreditation very easily. But CS do not desire VA accreditation.

BUT CS continue to circumvent the VA rules so that they can charge excessive fees for initial claims.

- Unlike accredited representative, CS will charge illegal fees for the veteran's INITIAL benefits claim. VA does not approve of fees for the initial benefits claim.
- CS illegally use the veteran's login credentials for access to VA websites and call centers. But this allows CS access for learning about a veteran's future disability claims.
- CS charge thousands of dollars for a percentage of a veteran's retroactive and future benefits for their services well in excess of the fees allowed for claims agents and attorneys. Accredited claims agents and attorneys are not permitted to seek fees for an initial claim.
- If a veteran receives a future increase in disability compensation, CS will claim entitlement to the increase (even where the CS did not provide any service).
- If the veteran does not pay the illegal fee, the CS will refer the veteran to a third party debt collection agency.

CS do not seek VA accreditation and actively avoid accreditation. If they were accredited, they would be subject to the same VA's oversight over the accredited representative. CS would be unable to seek exorbitant fees for initial claims and for future disability compensation.

CS would lose significant illicit profits from being accredited. And most importantly, veterans would be saved from dishonest tactics that would diminish their rightful benefits that are needed for their financial, physical, and emotional survival. Vulnerable veterans must be protected from the unconscionable, predatory activities of a CS.

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¹ 38 CFR § 14.629

² 38 CFR § 632. Persons representing veterans before the VA must adhere to the standards of conduct, which includes, among other things, be truthful in their dealings; provide competent representation; shall not engage involving fraud, deceit, misrepresentation or dishonesty; shall not enter into an agreement charging clearly unreasonable fees; and shall not mislead, threaten, coerce or deceive an claimant regarding benefits; or engage in unlawful and unethical conduct.

³ 38 CFR § 14.636(f)(1). Generally fees which do not exceed 20 percent of any past-due benefits awarded shall be presumed to be reasonable and fees which exceed 33 1/3 percent of any past-due benefits awarded shall be presumed to be unreasonable.

⁴ Information used on this information sheet assembled from various reporting services as well as VSO and VA publications.