

FWD ASSIST HQ / CLAIM TOOLKIT / NO. 07

The Night Record

You have been blaming the wrong thing, and the rating does not turn on how tired you are. Two facts that change this claim, and what supplies each of them.

Everybody blames the PTSD. It fits. The sleep has been bad since you got home, and there is an obvious reason sitting right there, already diagnosed, already in the file.

So nobody looks further. If something else is interrupting the breathing, it goes unlooked-for and unclaimed, and it usually takes somebody else in the room to notice it at all.

WHAT IS IN HERE

1. Why the condition you know about hides this one
2. The word the rating actually turns on
3. The night record, for whoever sleeps near you
4. A check before you file

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The condition that hides behind another one

A known diagnosis is the best camouflage a second condition can have.

When you already have an explanation for a symptom, you stop looking for another one. Bad sleep plus PTSD equals solved. The exhaustion, the three a.m. waking, the fog all day, all of it lands in a bucket that already has a label on it.

Meanwhile you are not the one who can see the actual event. You are asleep for it. The gasp, the silence, the chest still working with no air moving. Somebody else watches that happen, or nobody does.

THE ONE LINE TO REMEMBER

You cannot witness your own sleep.

The person next to you has evidence you will never have, and they usually do not know it is evidence.

Secondary is a real route

This does not have to be a fight about whether the PTSD explains it. A condition can be service connected on its own, or as secondary to a condition that is already connected.

The difference in plain terms. The direct route asks for something in service, a current diagnosis, and a link between them. The secondary route starts from a condition VA has already connected, and asks for a medical opinion tying the new condition to that one. There is also a third shape, where an already-connected condition made a separate condition worse, and that counts too.

Which one fits is a question for your doctor and an accredited representative. What matters here is that the routes are not in competition, and assuming the first condition covers everything is how the second one goes unclaimed for years.

The word the rating turns on

This is the part almost nobody knows before they file.

Sleep apnea is not rated on how exhausted you are. The levels are written around what the condition requires, and one word carries most of the weight.

Level	What the regulation says
100	Chronic respiratory failure with carbon dioxide retention or cor pulmonale, or requires tracheostomy
50	Requires use of breathing assistance device such as continuous airway pressure (CPAP) machine
30	Persistent day-time hypersomnolence
0	Asymptomatic but with documented sleep disorder breathing

Two of those are the regulation's words rather than anybody's. Cor pulmonale is right heart failure caused by a lung problem, which is how the rating schedule glosses it elsewhere. Hypersomnolence is daytime sleepiness you cannot shake, the kind that puts you under in a chair in the afternoon.

VA has proposed changing how sleep apnea is rated, with less weight on the machine itself and more on whether treatment controls the symptoms. Nothing is final as of October 2026. The table above is the rule in force, and it is the one your claim is decided under until a final rule says otherwise.

READ THE 50 PERCENT LINE AGAIN

Requires. Not owns, not was offered one, not tried it and gave up. Two people with identical exhaustion can land on different levels depending on whether the medical record says the machine is required.

THE MISTAKE THIS CREATES

People spend the whole claim describing how tired they are, which speaks to the 30 percent line, while the document that speaks to the 50 percent line sits in a drawer or was never clearly written. Exhaustion is real and it is not the pivot.

So the practical move is not to argue harder about fatigue. It is to get the right paper into the file. Concretely, that is four things: the sleep study report itself, the written prescription or order for the device, the record showing the equipment was issued to you, and the usage data the machine records. Those are documents that either exist or do not. What goes in a clinical note is the clinician's

call, not something to request a particular wording of.

A note on honesty here. Do not ask a doctor to write that a device is required if it is not. That is not a gray area and it damages everything else in your file. What you can do is make sure the documents that already exist are in the file, and answer your clinician's questions accurately. The wording of the record is theirs.

DO THIS BEFORE YOU START GATHERING

Gathering all of this takes time, and the date VA receives your claim is what your back pay is measured from. So do not spend weeks collecting nights and then file. There is a way to hold the date first.

It is called an intent to file. VA Form 21-0966, Intent to File a Claim for Compensation and/or Pension, or Survivors Pension and/or DIC (May 2026 version). The regulation says that if VA receives your complete claim within one year of the intent to file, the claim is treated as filed on the day the intent to file came in. That protection goes to the first complete claim VA receives after the intent to file, so put every condition you mean to claim in that one filing. An intent to file does not apply to a supplemental claim.

Starting a disability compensation claim online at va.gov can establish this on its own, once you start and save the application. Do not assume it did. Look for VA's confirmation, or send the form separately so there is a dated record you can point to. For a pension claim, va.gov says to submit the intent to file even when you apply online.

The page for it is va.gov/find-forms/about-form-21-0966. It costs nothing, takes minutes, and an accredited representative will do it with you at no charge. Then take your year and gather properly.

For whoever sleeps near me

This page and the next one go together. Print both, or photograph both. Whoever fills them in does not need the rest of this pack.

THIS IS FOR

WRITTEN BY

DATE

Someone you sleep near is filing a claim about their breathing at night. They cannot see any of it, because they are asleep. You can. For the next two weeks, write down what you actually notice. You do not need medical words.

Things worth writing down

Snoring, and whether it stops. Pauses where they are not breathing, and roughly how long. Gasping or choking. How many times in a night, even a rough count. Whether you moved to another room, and why. How they seem the next morning.

Date	What you saw or heard	About how often
Ex: 4/2	Snoring stopped, then nothing for about 15 seconds, then a big gasp. Chest still moving the whole time.	6 or 7 times before I fell asleep

Please do not write

What you think the diagnosis is, or what rating they should get. Just what you saw and heard, and roughly when. A video on your phone is worth more than any adjective.

For whoever sleeps near me, page two

The second of the two pages. Everything above was what you saw. This is what makes it usable.

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DATE

LAST, AND PEOPLE FORGET THIS

Sign this page, date it, and put a phone number or email on it in case VA needs to reach you. Then give it back to the person who is filing the claim. They will send it in. You do not have to submit anything yourself.

Write only what you saw or did yourself. If you are not sure about something, leave it out rather than guessing. The parts you are certain of are the parts that carry weight.

Signed

Printed name and date

Phone or email

Before you file

- ☐ I stopped assuming the PTSD explains the sleep problem by itself.
- ☐ Somebody who sleeps near me wrote down what they observed, with dates.
- ☐ The sleep study itself is in the file, not just described.
- ☐ The prescription or order for the device, and the record of it being issued, are in the file.
- ☐ I did not ask anybody to write something that is not true.
- ☐ I described daytime effects as their own thing, separate from the device question.
- ☐ I raised this as its own condition rather than folding it into another claim.
- ☐ I asked an accredited representative which service connection route fits.

IF YOU DO NOT HAVE A STUDY YET

Then that is the first step, not the claim. Ask your clinician about it. A sleep study is ordered by a clinician, and it may be done in a lab overnight or with a kit at home. A study you already had done privately counts too, so track down the report rather than starting over. Everything in this pack helps you have a better conversation with a doctor. None of it substitutes for the study.

Getting it into the file

HOW THIS REACHES VA

Handing a page to somebody in an appointment is not the same as putting it in your file. To be sure the right record lands, submit it yourself.

VA Form 21-10210, Lay/Witness Statement (July 2024 version), is the form built for a written statement from you or from somebody else. You can upload it through your account at va.gov or mail it. Form numbers and versions change, so check the current one first. The page for this form is va.gov/find-forms/about-form-21-10210 and every VA form has one at the same address with its own number on the end.

The person who kept it should sign it, date it, and add a phone number, then hand it back to you. If they took a video, they should also write down in plain words what it shows, because the written description is what travels with the claim.

Keep a copy of what you sent and how you sent it.

NOBODY SHOULD CHARGE YOU TO FILE

Help from an accredited Veterans Service Officer is free. Always. Disabled American Veterans, the Veterans of Foreign Wars, the American Legion and your state or county veterans service office all have accredited representatives and none of them charges you. The search is at va.gov/get-help-from-accredited-representative/find-rep.

Nobody may charge you a fee for helping with your claim before VA issues its first decision on it. That rule is 38 USC 5904(c)(1). After the first decision an accredited agent or attorney may charge, and 38 CFR 14.636 sets the limits, measured against past-due benefits, which means the back pay owed for the stretch before the decision: a fee not over 20 percent of that is presumed reasonable if that person represented you through the date of the decision, and a fee over one third is presumed unreasonable. Only an accredited agent or attorney may charge you anything.

So if somebody who is not accredited offers to file for you, wants money up front, or wants a cut, walk away and report them to the VA Office of Inspector General at 1-800-488-8244.

Where this is written down

Sleep apnea syndromes are rated under diagnostic code 6847 in 38 CFR 4.97. The 50 percent level is written as requiring use of a breathing assistance device such as a continuous airway pressure machine. Service connection on a secondary basis is in 38 CFR 3.310.

Regulation text: [ecfr.gov](https://www.ecfr.gov), Title 38, Part 4, section 4.97 and Part 3, section 3.310. Confirm before you rely on it. Rating criteria change.

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Current as of October 2026. Regulations change. Check for a newer version before you rely on this.

If working on this is bringing things up, the Veterans Crisis Line is 988 then press 1, or text 838255. Family members can call it too.