

FWD ASSIST HQ / CLAIM TOOLKIT / NO. 05

The Work History Record

TDIU is not a rating you climb to. It is a different door, it asks a different question, and working does not automatically shut it.

You have been doing the wrong math. Adding up percentages, watching the combined number stall in the seventies, waiting to reach a hundred so you can stop trying to hold jobs you cannot hold.

That is one door. TDIU is a different one. It does not ask how disabled you are on paper. It asks whether your service-connected conditions keep you from holding down work that actually pays a living.

WHAT IS IN HERE

1. The two doors, and which one you are standing at
2. Three things people get wrong about working
3. The work history record
4. A check before you file

This is general education. It is not legal advice, medical advice, or a promise about any claim result. Nobody can promise you an outcome. A VA-accredited representative can help you with your claim at no cost. FWD Assist HQ is not affiliated with the Department of Veterans Affairs or any government agency.

Two doors

The schedule asks how bad it is. TDIU asks what it costs you.

The rating schedule builds a percentage out of your conditions. If that number reaches a hundred, you are paid at the hundred percent rate. Most people assume that is the only road, so they spend years chasing points.

TDIU is the other road. It pays at the hundred percent rate without the schedule reaching a hundred, and it turns on employment rather than on arithmetic. That is why the man who has been adding percentages for eight years is standing at the wrong door with the right injuries.

THE ONE LINE TO REMEMBER

You are not climbing to it. You are qualifying for it.

Different question, different evidence. The evidence is your work history, not another condition.

Is this a new claim or part of an old one?

Either. It can be filed on its own, and it can be raised inside a claim that is already in progress. It can also come up on its own when the evidence in front of VA shows you cannot work, without you ever using the word.

What that means practically: if you have something pending right now, say this out loud to whoever is helping you rather than waiting for the pending thing to finish. Raising it inside a live claim is usually better than starting over after a decision.

The percentage gate

There is still a threshold, and it is lower than a hundred. The regulation names two ways in.

Route	What it takes
One disability	A single service-connected disability rated at 60 percent or more.
More than one	At least one service-connected disability rated at 40 percent or more, with a combined rating of 70 percent or more.

BEFORE YOU DECIDE YOU DO NOT MEET THEM

Several separately rated conditions can count as one disability for this purpose. The regulation says so for disabilities of one or both upper extremities or one or both lower extremities including the bilateral factor, disabilities from a common cause or a single accident, disabilities affecting a single body system, multiple injuries incurred in action, and multiple disabilities incurred as a prisoner of war.

So three conditions from the same cause, none of them 60 on its own, may still be one 60 percent disability here. Do not rule yourself out by reading your ratings one line at a time.

Below both? There is a second path that does not run on percentages. It refers an unusual case for consideration outside the schedule, and it turns on evidence that your situation is exceptional, not on another percentage. Ask rather than assuming you are out.

Three things people get wrong

All three cost people the claim before it starts.

WRONG 1 / "I HAVE A JOB, SO I DO NOT QUALIFY"

Not necessarily. The regulation says marginal employment is not substantially gainful employment, and it generally treats work as marginal when your earned annual income does not exceed the poverty threshold for one person set by the U.S. Census Bureau. The Census Bureau publishes that figure every year at [census.gov](https://www.census.gov), so look up the current one rather than guessing. It is not the HHS poverty guideline. It also says marginal employment may be found on a facts found basis even where earned annual income exceeds that threshold, and it names employment in a protected environment such as a family business or sheltered workshop as an example.

So the honest answer to "are you working" is not yes or no. It is what kind of work, how much it pays, and whether you are holding it or barely surviving it. A protected job where the boss has stopped writing you up is a very different fact from a job you are succeeding at.

WRONG 2 / LISTING EVERYTHING THAT IS WRONG WITH YOU

Where the percentages are met, and the rating agency judges that your service-connected disabilities render you unemployable, the regulation directs that the existence or degree of nonservice-connected disabilities and any previous unemployability status be disregarded. Piling them in does not strengthen the picture. It muddies which conditions are actually doing the damage.

Keep the service-connected conditions in the front of the account. The others may be real and may be miserable and they are not what this question turns on.

WRONG 3 / DESCRIBING THE LAST JOB YOU LOST

One job ending reads as one bad fit. A pattern across several jobs, each ending the same way for the same reason, reads as something about the work rather than about the workplace.

That is what the record on the next page is for. Not the last job. The shape of the last several.

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 reconstructing your work history 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.

Your work history record

Fill this in before you file, and keep it. It is the single most useful thing you can hand anybody helping you.

NAME

DATE

Employer	Job	From / to	Why it ended
Example: Delta Freight	Forklift	3/19 to 8/19	Left after the third write-up for missed shifts. They had already moved me off the forklift.

For each one, note whether any of this happened

Days missed and roughly how many. Duties that got taken away or handed to somebody else. Accommodations you were given, formal or quiet. Warnings or write-ups. A supervisor who stopped holding you to the standard. Leaving before you were let go.

Before you file

- ☐ I checked whether several of my conditions count as one disability before deciding which percentage route I meet.
- ☐ My account is about service-connected conditions, not everything.
- ☐ I described a pattern across jobs, not just the most recent one.
- ☐ I said what I could not do, not only what hurt.
- ☐ If I am working, I said what it pays and whether I am actually holding it.
- ☐ I noted any accommodation, protected position, or reduced duties.
- ☐ I have dates, or at least months and years, for each job.
- ☐ I did not describe limitations I do not have.

THE WORD THAT MATTERS

Substantially gainful. Not any work at all. The question is whether you can hold work that supports a person, reliably, given the conditions VA has already connected to your service.

WHAT YOU ACTUALLY FILE, AND WHO ELSE GETS ASKED

VA Form 21-8940, Veteran's Application for Increased Compensation Based on Unemployability (July 2024 version), is the application built for this. Your work history record is what you fill it in from.

Expect VA to contact your recent employers. It sends VA Form 21-4192, Request for Employment Information in Connection with Claim for Disability Benefits (August 2024 version), asking about time lost, accommodations, and earnings. That is normal and it is not something you did wrong. It does mean your account should match what an employer would say, so write what actually happened.

Form numbers and versions change. Check at va.gov before you file, and keep a copy of what you send.

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

The two percentage routes, the list of disabilities that are considered one disability for that purpose, the rule that marginal employment is not substantially gainful, the Census poverty threshold as the benchmark, the facts-found basis for marginal employment above that threshold, and the instruction to disregard nonservice-connected disabilities and previous unemployability status where the percentages are met, are all in 38 CFR 4.16(a). The second path that does not run on percentages is 38 CFR 4.16(b).

Regulation text: [ecfr.gov](https://www.ecfr.gov), Title 38, Part 4, section 4.16. Confirm the current forms and version dates at va.gov before you file.

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Current as of October 2026. Regulations and thresholds 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.