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Mailed Certified

Service Center Manager  
Department Of Veterans Affairs Regional Office  
251 North Main St.  
Winston-Salem, NC 27155

Reference: [REDACTED]; Reply to 318/213/DAP

LETTER TO REINSTATE SPOUSE BENEFITS  
DURING THE PERIOD OF DECEMBER 6, 2002, UNTIL SEPTEMBER 1, 2004.

Dear Service Center Manager:

Mr. [REDACTED], has been continuously married to [REDACTED] since January 14, 1960, as shown by the marriage certificate within the veteran's C-File which is date stamped May 9, 1975 by the Regional Office. This marriage certificate has been a part of this veterans records since May 9, 1975, and is attached as **Exhibit A** of one page.

Mr. [REDACTED] was granted 30% service connection on December 6, 2002, according to the Summary Rating Decision dated May 11, 2012. This Summary Rating Decision is attached as **Exhibit B** of 2 pages. Accordingly, he should have been paid spouse benefits since December 6, 2002.

Your Regional Office issued a Statement of the Case dated November 16, 2009 on the issue of the effective date that Mr. [REDACTED]'s spouse was to be added as a dependent. The SOC at page 18 made an admission that the Regional Office mistakenly interpreted that Mr. [REDACTED] did not give any information on prior marriages. This SOC is attached as **Exhibit C** of 19 pages. Of course, Mr. [REDACTED] had not had any previous marriages! The information he submitted clearly showed that he had been continuously married to [REDACTED] since January 14, 1960.

Because the marriage certificate was filed with the Regional Office and date stamped on May 9, 1975, the Regional Office was and is on notice that Mr. [REDACTED]

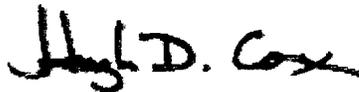
was married and was entitled to spousal benefits since that date. Instead, the Regional Office sent a new VA form 21-686c to the veteran for submission. In a series of distortions and mistakes, the Regional Office “adjusted” the earliest date for spouse benefits to be September 1, 2004.

Most importantly, the Statement of the Case dated November 16, 2009 was appealed by Mr. [REDACTED] to the Board of Veterans’ Appeals with VA form 9 dated January 4, 2010. This appeal was received at the Regional Office on January 6, 2010 by certified mail return receipt attached as **Exhibit D** of one page. Although in receipt of the appeal to the BVA, the Regional Office has ignored this appeal since January 6, 2010 – a period of three and one half years.

Accordingly, the veteran must be paid spousal benefits for the period of December 6, 2002, until September 1, 2004 for a period of 21 months. The veteran will wait 30 days for a response to this letter to reinstate spousal benefits.

The veteran respectfully requests that he be paid spousal benefits for the period of December 6, 2002, until September 1, 2004.

Respectfully yours,

A handwritten signature in black ink that reads "Hugh D. Cox". The signature is written in a cursive style with a large initial "H".

Hugh D. Cox

<b>Statement of the Case</b>		<b>Department of Veterans Affairs VA Regional Office</b>		<b>Page 18 11/16/2009</b>
NAME OF VETERAN: ██████████	VA FILE NUMBER ██████████	SOCIAL SECURITY NR ██████████	POA Attorney Hugh Cox	

**DECISION:**

Your spouse was added to your award the earliest date allowable by law. We must deny your request to added your spouse any earlier than already allowed.

**REASONS AND BASES:**

Veterans are allowed an extra entitlement for dependents once they start to received compensation payments at the 30 percent rate or higher. You were first entitled to the 30 percent rate on September 1, 2004. You were notified on June 17, 2005 to send in information on your dependents with the VA Form 21-686c. On July 18, 2005 we received your VA Form 21-686c, but it was incomplete; you didn't tell us any information on prior marriages. The VA failed to respond to you and explain that we needed all of this information.

On August 15, 2007 your attorney stated that you were not being paid for your spouse. December 27, 2007 your attorney was sent a letter explaining what would be needed to add your spouse to the award and on January 2, 2008 you called in with the required information that you and your spouse have only been married once. A new VA Form 21-686c was received on January 31, 2008 with all of the required information.

You typically have one year to send the VA the required information to be entitled to benefits from the original date. Since the VA did not inform you of the incomplete form, you were paid back to the original entitlement date of September 1, 2004 for your spouse, ██████; and were notified of this in a letter dated July 15, 2008.

You were paid properly for your dependent spouse ██████ and we can not pay you any earlier than September 1, 2004, the date you first received benefits at the 30 percent rate and would be entitled to the extra entitlement for dependents.

The reasons and bases of this Statement of the Case are extraordinary because the Regional Office blamed the veteran for failure to, "tell us any information on prior marriages" and concluded that his information was "incomplete."

Of course, the Regional Office was on notice that the veteran had been married to the same spouse since 1960 since the Regional Office had the original marriage certificate since 1960.

Most interestingly, the Regional Office admitted that, "The VA failed to respond to you and explain that we needed all this information."

The veteran was forced to lose two years of spousal benefits in spite of the Regional Office mistake.

After three and a half years, the Regional Office still ignores the veteran's appeal to the Board of Veterans' Appeals.

### APPEAL TO BOARD OF VETERANS' APPEALS

**IMPORTANT:** Read the attached instructions before you fill out this form. VA also encourages you to get assistance from your representative in filling out this form.

1. NAME OF VETERAN (Last Name, First Name, Middle Initial) [REDACTED]	2. CLAIM FILE NO. (Include prefix) [REDACTED]	3. INSURANCE FILE NO., OR LOAN NO. [REDACTED]
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4. I AM THE:

VETERAN     VETERAN'S WIDOWER     VETERAN'S CHILD     VETERAN'S PARENT

OTHER (Specify)

5. TELEPHONE NUMBERS

A. HOME (Include Area Code) [REDACTED]	B. WORK (Include Area Code) [REDACTED]
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6. MY ADDRESS IS:  
(Number & Street or Post Office Box, City, State & ZIP Code)

[REDACTED], NC [REDACTED]

7. IF I AM NOT THE VETERAN, MY NAME IS:  
(Last Name, First Name, Middle Initial)

[REDACTED]

B. OPTIONAL BVA HEARING

**IMPORTANT:** Read the information about this block in paragraph 6 of the attached instructions. This block is used to request a Board of Veterans' Appeals hearing. DO NOT USE THIS FORM TO REQUEST A HEARING BEFORE VA REGIONAL OFFICE PERSONNEL.

Check one (and only one) of the following boxes:

A.  DO NOT WANT A BVA HEARING

B.  I WANT A BVA HEARING BY LIVE VIDEOCONFERENCE

C.  I WANT A BVA HEARING IN WASHINGTON, DC

D.  I WANT A BVA HEARING AT A LOCAL VA OFFICE

9. THESE ARE THE ISSUES I WANT TO APPEAL TO THE BVA. (Be sure to read the information about this block in paragraph 6 of the attached instructions.)

A.  I WANT TO APPEAL ALL OF THE ISSUES LISTED ON THE STATEMENT OF THE CASE AND ANY SUPPLEMENTAL STATEMENTS OF THE CASE THAT MY LOCAL VA OFFICE SENT TO ME

B.  I HAVE READ THE STATEMENT OF THE CASE AND ANY SUPPLEMENTAL STATEMENT OF THE CASE I RECEIVED. I AM ONLY APPEALING THESE ISSUES.  
(Last below.)

Effective date to add spouse as dependent. 11-16-09  
Entitlement to TDIU 11-17-09  
Discontinued Vocational Rehab claim 10-5-2009

10. HERE IS WHY I THINK THAT VA DECIDED MY CASE INCORRECTLY: (Be sure to read the information about this block in paragraph 6 of the attached instructions.)

RO was on notice of veteran's spouse earlier than 7-15-200  
RO failed to consider Rice vs. Shuseki, 22 Vet App 447 (2000)  
And Thun vs Peake, 22 Vet App 111 (2008) for TDIU or  
extra scheduler  
Dr John Taylor of VA Vocational Rehab in Jacksonville NC  
discontinued veteran's claim for VR.

(Continue on the back, or attach sheets of paper, if you need more space.)

11. SIGNATURE OF PERSON MAKING THIS APPEAL [REDACTED]	12. DATE (MM/DD/YYYY) 1-4-2010	13. SIGNATURE OF APPOINTED REPRESENTATIVE, IF ANY (Not required if signed by appellant. See paragraph 6 of the instructions.) [Signature]	14. DATE (MM/DD/YYYY) 1-4-2010
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