



Initial Meeting vs Vision Meeting: What is the Difference?

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IN THIS *issue*

- 01| Initial Meeting vs Vision Meeting: What is the Difference?
- 02| How to Represent a Claimant Before the VA: The Appeal Process
- 04| Members of the Month - Robin Gordon and Adam O'Dell

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As part of the LWP Estate Planning Process, we offer two "consultation" type meetings as part of the enrollment process. The first being an Initial Meeting which is usually offered to those who are in a "crisis" situation such as needing Probate, Trust Administration, or are in Medicaid Crisis. It is also offered to those who refuse to attend an educational Workshop, despite the Client Services Coordinator's best efforts.

The other "consultation" type meeting is the free Vision Meeting which is ONLY offered to those who will be attending or have attended an educational Workshop.

Often times during Implementation, Vision and Initial Meeting are used by members synonymously. Although they are similar, the Vision and Initial Meetings are not conducted the same way.

Vision meetings are ONLY offered after someone has attended a Workshop as the tools used within this meeting, such as the Estate Plan Audit as well as the Vision Clarifier, refer back to the stories and concepts discussed during the Workshop.

Initial meetings generally do not utilize the Estate Plan Audit or the Vision Clarifier as the prospect does not have that education nor do they understand the stories used to more easily explain these concepts.

The Personal and Financial Information Form, as well as the Client Goal Focuser, are used in both meetings, however, the attorney will usually utilize their counseling skills to guide the prospect to one or two plans that best suit the prospects wants and needs in the Initial Meeting whereas during the Vision Meeting, the prospect goes through the Audit Tool and Vision Clarifier which helps both the attorney and the prospect come to a clear decision on what plan is the best fit.

The Vision Meeting helps the clients visually see why some plans are a better fit than others because they have indicated how important certain estate planning concepts are more important to them or not. The Initial Meeting requires much more guidance and counseling from the Attorney. The Initial Meeting also relies heavily on the Attorney's ability to showcase the Value Proposition conversation and to build trust with the prospect.

One other difference between these two meetings is the cost. Members generally charge a fee to conduct an Initial Meeting if a prospect refuses to go to a Workshop. Sometimes this acts as a deterrent and the prospect will go to the Workshop with the promise of a free Vision Meeting afterward. In general, members have found if a prospect is willing to pay the Initial Meeting fee, the likelihood of them being retained is much higher.

The ultimate goals for both the Initial and Vision meeting is for the prospect to make a decision on what estate plan is going to be the best fit for their future planning needs, sign an engagement agreement and become a client. Which meeting the prospect attends truly depends on whether or not they attend a workshop.



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How to Represent a Claimant Before the VA: The Appeals Process

MATTHEW DONALD, ESQ., DIRECTOR OF VA SERVICES

To Appeal or Not to Appeal, That is the Question

The starting block for the VA for the appeals process is the decision from the VA on the claim you submitted. In other words, you can't file an appeal until you have a decision. By contrast, in many states, if you file a Medicaid claim and it isn't acted upon promptly, you can file an appeal of sorts asking for a fair hearing in an effort to expedite the Medicaid claim. Not so with the VA. You must have a decision from the VA on your claim to begin to file either a formal or an informal appeal.

Ok, I'm ready to take on the VA!

Hold your horses! Before you decide to take on the VA through the appeals process you may want to submit a reconsideration which is sometimes referred to as an "informal appeal".

A request for reconsideration is simply a VBA Form 21-4138, Statement in Support of Claim, in which the claimant explains why he or she feels the decision by the VA is incorrect. You should submit any additional evidence you have along with your VBA Form 21-4138. For example, if the VA denies your claim because it says it did not receive a VBA Form 21-2680, Examination for Housebound Status or Permanent Need for Regular Aid and Attendance. In this case you would not want to appeal but rather simply submit the VBA Form 21-4138 and a copy of the VBA 21-2680.

What if the VA decision is sort of good but sort of bad?

A decision is a decision, and that's good because it lays the grounds for you to proceed with an appeal if you want. If the VA issues a decision that approves your claim in part, but not necessarily to the extent you thought it should, you can appeal just that part of the decision. However, buyer be warned! When appealing just that part of the decision, be aware that the VA will only look at that part of the decision but it could adversely impact your claim.

For example, let's say you think your client should be entitled to Aid and Attendance at a rate of \$2000/month but the VA only grants \$1900/month. You decide to submit an informal appeal, but the evidence shows that the claimant should really only be entitled to \$1800/month. The VA can and will respond with a decision that reflects what the VA believes to be the correct benefit, and it can be less than what your original approval indicated.

There are no limits to the number of requests for reconsideration that you can file but you must submit new evidence or eventually the VA will issue what it calls "A final decision".

That's not my situation. I need to file a "REAL" Appeal?

So, you have either exhausted your requests for reconsideration, or you feel like the VA has gotten this entirely wrong and you need to have it reviewed by someone other than the case review officer.


At this juncture you have up to one year to submit a VA Form 21-0958, Notice of Disagreement (NOD). When filing the NOD you have two choices. You can ask to have your appeal reviewed by a Decision Review Officer (DRO) or to have your case decided using the traditional appeals process. If you do not choose to ask for a DRO at the time of filing your NOD, you will receive notice that you have the right to have a DRO decide the case. You will have 60 days from the issue of that notice to elect to use a DRO instead of following the traditional informal appeals route.

What's the difference between a DRO and the traditional appeals process?

Both the DRO and traditional appeals processes begin with an NOD. It is with the filing of an NOD that an attorney may begin to charge fees for his or her representation of the claimant. For a better understanding of what fees may be charged please refer to 38 CFR § 14.636.

If you chose to use a DRO, which in most cases is a better option for reasons we will explain later, you will have your case decided by an individual who has not previously seen the case and he or she will review the case "*de novo*" which is Latin for "from the beginning." As a point of clarification, the review by the DRO is only limited to the issue(s) and evidence submitted by the claimant either in the original claim, subsequent requests for reconsideration, or the NOD. Also note that the DRO cannot overturn any favorable decisions previously issued by the VA without a clear and unmistakable error which is a very high burden of proof for the DRO.

The DRO will take all of the evidence and then make a decision on the case and issue his or her decision. If the decision is favorable, no further action is required.



If the decision is unfavorable, a statement of claim (SOC) will be issued and the claimant must then decide if he or she wishes to pursue the appeal further.

If the claimant chooses not to utilize the DRO process and pursues the traditional appeals process, the VBA (Regional Office or the Pension Management Center - depending on where the claim was filed) will review the record again to include any new evidence that was submitted with the NOD and issue a SOC. It is worth noting that an SOC is simply a summary of the evidence along with a reference to the controlling rules and regulations and a reason for the decision made by either the DRO or the VBA.

So now what? I lost at the VBA or DRO.

So, you either weren't as successful as you had hoped at the DRO or VBA level but you still think you have a good case or your claimant wants to "fight tooth and nail!"

Up to this point you have been involved in what is known as the informal appeals process which includes requests for reconsideration, the DRO process, or the VBA review process. Once you receive a SOC, you have 60 days to decide if you will ask to have the claim appealed to the Board of Veterans' Appeals. To exercise this right most people chose to file a VA Form 9, Appeal to Board of Veterans' Appeals (Board).

While you wait to find out if the VBA is going to certify your claim to go to the Board, you can submit additional information. If you do submit additional information, the VBA will issue additional decisions based on the information you have submitted and issue a supplemental statement in support of case (SSOC). Additionally at this point you have the option of having a formal hearing before a Veterans Law judge to determine your appeal and present any new evidence you may have.

If you have decided to wait for your case to be certified by the VBA to the Board, then you will have the option of an in-person hearing in Washington, DC or a hearing via video teleconference. During the hearing you can offer additional evidence and testify. The Judge may ask some clarifying questions, but you won't be cross examined. You should note that the Judge will not make a decision at the hearing. It should be noted that the Board reviews everything *de novo*, just like the DRO did above.

After the hearing the Judge will do one of three things, grant your claim, deny your claim, or remand your case. If the judge grants your case you will receive a decision from the VBA. If the judge remands your case it is typically because the Board needs additional evidence before making a decision. If that is the case, the VBA collects the evidence in question and resubmits the case to the Board for decision.

Lastly, the judge can deny your claim. If that happens you can: file a new claim, file a motion asking for reconsideration, file a motion asking the Board to review because of a clear and unmistakable error, or file a Notice of Appeal to the US Court of Appeals for Veterans Claims.

This seems like a long drawn out process.

Yes, yes it can be. According to a chart issued by the VA, the average process times in 2016 are as follows:

From VBA decision to issuance of SOC – 480 days

From issuance of SOC to certification to the Board – 644 days

From certification to the Board to docket for the Board – 288 days

From hearing by the Board to Board issuing its final decision – 248 days

If you are doing the math on that it comes out to over 4.5 years from the decision by the VBA to the decision by the Board. There are a couple of good best practice tips you can take from this with the first one being, make sure you have your claim truly fully developed before you submit it. Many claims that make it to the Board are remanded for additional evidence.

Strongly consider using a DRO instead of immediately going to the traditional appeals route. Generally speaking, if you decide not to use a DRO, the VBA (probably the person who originally denied your claim) is simply going to look at the evidence submitted, "rubber stamp the case" and issue a SOC. At least with the DRO you get a *de novo* review. In our experience, the DRO process has been the most expeditious way to get the case decided and most often has been favorable to our claimants.



Robin Gordon



Adam O'Dell

Lawyers With Purpose would like to recognize Robin Gordon and Adam O'Dell as OCTOBER 2019 *Members of the Month*

Nashville Tennessee's renown Music Row has been home to the Gordon Law Group for over 25 years, but its reach extends from Greenville, SC to Charleston, SC, to Nashville TN, and soon to Kissimmee, FL where a new office is about to open. The firm offers exceptional legal services to those dealing with matters involving entertainment law, business law, intellectual property, family law, and estate planning, and prides itself on staying on top of the ever-shifting laws and keeping up with the latest in technological advances that will benefit its clients.

LWP sat down with attorney Adam O'Dell to talk about the Gordon Law Group, which has been an LWP member since July 2017, and about his firm's experiences with LWP and in his market.

How did you come to work for the Gordon Law Group?

I always knew exactly what I wanted to be. I knew I wanted to go to The Citadel. I also knew that I wanted to be Marine JAG officer and did this until I was injured. I always knew I wanted to be an attorney, too, but more on the business transaction side rather than litigation.

I've had both good and bad experiences with estate planning. I've seen the fall-out from lack of planning, and how proper planning makes the transitions smooth when someone has passed.

I've been with the Gordon Law Group for 3.5 years at this point. When I first started, I was a jack of all trades, and I did what was needed for the firm. I spent time in litigation and family law, but I wanted to get involved with estate planning. I now do all of the legal-technical work and meet with the clients.

What do you believe sets Gordon Law Group apart from your competition?

It's the care and access that we give to the clients that sets us apart. We also attempt to return all communications within 24 hours. Our competitors charge a lot, and it's hard for their clients to get a call back from them, whereas we're known for undercharging and over-providing. I have met with my clients in their homes when that's what's easiest for them, and we've built a rapport. They are interested in my life, too—now that I'm recently married and have a new home, I have clients who have given me wedding presents and housewarming presents.

What brought you to LWP?

We looked at a few options when making our decision, but everything seemed to be singularly tracked—geared toward offering a revocable living trust. LWP helped us focus on Medicaid planning and asset protection, and I'd had a personal experience with that, so LWP membership was enticing to me.

How tightly do you follow LWP's systems and processes?

We try to follow the system as best we can, but we're still working on the workshop portion. We're not doing them yet. The financial advisors are doing the education. As a multi-practice firm, we are using Actionstep for our estate planning needs, but the other areas of our firm use a different program. Phil's trying to keep me in check.

What is the greatest success you've had since you fully engaged with LWP?

Our biggest success is being able to bring a higher level of competency and services to our community. There aren't a lot of attorneys in the area that focus on Medicaid. We weren't doing Medicaid planning before joining LWP. At the time, estate planning was 2% of our offerings, now it's close to being a third to a half.

To what, specifically, do you attribute your revenue growth?

There have been several things. First, doing RMS changed a lot; unlike a lot of attorneys, we're not just wait for the phone to ring; we're actively working to get clients.

Having a strong referral source even allowed me to open another office. We now have 3 locations; we didn't have that 3 years ago. Also, many times our clients are coming in with either no knowledge, or they are ill-advised. We're setting them straight when they get bad advice.

Do you attend LWP's TAPER events, and if so, what wowed you there?

We've been to every TAPER since joining. My biggest TAPER learning was when we did our first Practice With Purpose in Washington D.C. We'd been a member for 2 months at that time. We had Amanda answering questions, walking us through the software.

What is your favorite LWP tool?

The RMS—getting out there to market yourself, getting the fluidity of meeting with someone, and getting the courage. People have to meet with you multiple times before they're comfortable referring you. We don't have workshops; we don't do retail marketing. Other things have gotten in the way of implementing workshops. We want to do them, but we haven't been able to do them yet.

Do you have a client success story that you'd like to share?

I was in process of doing a Medicaid qualification for clients for whom it was hard to get away from the house; it's the wife who needs care. So, I picked up paperwork at the clients' home, and there were tears of gratitude—they know that I've created a plan that helps them. The care that's needed will be paid for; Medicaid will cover in a year after the penalty period.

It's rare for attorneys to make house calls, but I meet with clients wherever they need to meet with me. When someone is in a wheelchair, they can't come to see me. I once drove 8 hours to meet with a client who wanted to work with an LWP attorney.

What kinds of changes, if any, are you currently seeing in your market?

We're seeing people become more price-conscious than they were 1 year ago, and we're seeing more people start thinking about Medicaid planning than just a simple estate plan. More are concerned about asset protection. It might be that they're becoming more aware that bad things can happen, and they want to be prepared.

FUN FACTS:

Share something about yourself that most people don't know.

Instead of going on my honeymoon, I came to TAPER New Orleans! It worked out, though. My wife enjoyed New Orleans, so I wasn't in too much trouble. We're now planning to go to Paris—it will be my first trip out of the country.

What is your favorite book, and how did it impact your life?

I don't know if I can pick just one. On the fiction side, I like Dan Brown's novels, but I do a lot of audio books while driving. I've read 27 books this year. The Bible is the one that had the most impact. I'm getting a M.A. in Theology currently.

Congratulations to you on your continued success!