

## **HAVANA Act Frequently Asked Questions (FAQ)**

### ***Frequently Asked Questions***

#### **1. Q. What is the HAVANA Act?**

A. The Helping American Victims Afflicted by Neurological Attacks Act of 2021 (HAVANA Act of 2021), Public Law 117-46, was passed to compensate current and former Federal civilian employees and their dependents, regardless of geographic location, if they suffered a qualifying injury to the brain on or after January 1, 2016 in connection with certain hostile acts, including war, terrorist activity, or other incidents designated by the Secretary of State or other agency heads including the Secretary of Defense.

#### **2. Q. Why are pre-2016 incidents not being considered?**

A. The HAVANA Act of 2021 applies only to covered individuals who incurred a qualifying injury to the brain on or after January 1, 2016. DoD must abide by the legislation's provisions.

#### **3. Q. Who is eligible to receive a HAVANA Act-authorized payment for a qualifying injury to the brain?**

A. Covered current and former civilian employees and dependents of current or former employees of the Department that are suffering from a qualifying injury to the brain in connection with war, insurgency, hostile act, terrorist activity, or other incidents designated by the Secretary of State or Secretary of Defense.

#### **4. Q. Does HAVANA Act-authorized payment eligibility only apply to those who served in the Republic of Cuba or the People's Republic of China?**

A. No. The HAVANA Act places no geographic restrictions on the country where a qualifying injury to the brain occurred. Covered current or former employees and dependents of current or former employees may request payment regardless of where you experienced an AHI.

#### **5. Q. Why is a "qualifying injury to the brain" a criterion of eligibility for a HAVANA Act-authorized payment?**

A. The HAVANA Act of 2021 specifically states that the payments it authorizes are intended for those who experienced a qualifying injury to the brain. As a result, it is a criterion of eligibility to receive a HAVANA Act-authorized payment.

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### **6. Q. What is the definition of a “qualifying injury to the brain” that the Department of Defense is relying on to review requests for payments?**

A. The Department of Defense’s Direct Final Rule implementing the HAVANA Act of 2021 defines a qualifying injury to the brain as:

An injury to the brain that occurred in connection with war, insurgency, hostile act, terrorist activity, or other incidents designated under 22 U.S.C 2680b, and that was not the result of the willful misconduct of the covered employee or covered dependent.

The individual must have:

1. An acute injury to the brain such as, but not limited to, a concussion, penetrating injury, or as the consequence of an event that leads to permanent alterations in brain function as demonstrated by confirming correlative findings on imaging studies (to include computed tomography scan (CT), or magnetic resonance imaging scan (MRI)), or electroencephalogram (EEG); or
2. A medical diagnosis of a traumatic brain injury (TBI) that required active medical treatment for 12 months or more; or
3. Acute onset of new persistent, disabling neurologic symptoms as demonstrated by confirming correlative findings on imaging studies (to include CT, MRI), EEG, physical exam, or other appropriate testing, and that required active medical treatment for 12 months or more.

### **7. Q. What does “twelve months of active medical treatment” mean and why require it for consideration of eligibility?**

A. The HAVANA Act specifies its intent to provide a monetary payment to individuals who experienced a qualifying injury to the brain, and to consider the severity of the injury. In applying the terms “qualifying injury to the brain” and “severity of injury,” the Department of Defense, in consultation with interagency partners, determined that a brain injury that resulted in the need for continued, active treatment for symptoms for 12 months or more establishes that a qualifying injury of substantial severity occurred.

### **8. Q. How do I initiate a request for a HAVANA Act authorized one-time lump-sum payment for a qualifying injury to the brain?**

A. We recommend that you begin by reviewing the information available on the DoD HAVANA Act Website: <https://www.dcpas.osd.mil/havana-act-benefits-program>

Completion of the DD 3220 Form, Eligibility Questionnaire for HAVANA Act Payments, by one of the following: an American Board of Psychiatry and Neurology (ABPN), American Board of Physical Medicine and Rehabilitation (ABPMR), American Osteopathic Board of Neurology and Psychiatry (AOBNP) or American Osteopathic Board of Physical Medicine and Rehabilitation (AOBPMR) certified physician is a requirement for all payment requests.

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If you have any additional questions related to requesting a HAVANA Act-authorized payment, you may contact [dodhra.mc-alex.dcpas.mbx.dod-havana-act@mail.mil](mailto:dodhra.mc-alex.dcpas.mbx.dod-havana-act@mail.mil).

**9. Q. If an individual is unable to file for HAVANA Act payments is there a process that will allow another person to file on behalf of the individual?**

A. Yes, the form used to request payments under the HAVANA Act, DD 3320 Form, “Eligibility Questionnaire for HAVANA Act Payments”, allows for this possibility. The individual filing on behalf of an individual will need to complete additional blocks on the form and provide documentation supporting their authority to sign for the individual. Once submitted, the request will be processed as if the individual submitted the DD 3220 Form directly.

**10. Q. Why require specific accreditations of physicians submitting the Eligibility Questionnaire for HAVANA Act Payments (DD 3220 Form)?**

A. The Department of Defense requires that a physician with current certification by the American Board of Psychiatry and Neurology (ABPN), the American Board of Physical Medicine and Rehabilitation (ABPMR), the American Osteopathic Board of Neurology and Psychiatry (AOBNP), or the American Osteopathic Board of Physical Medicine and Rehabilitation (AOBPMR) review your medical history and submit the DD 3220 Form to ensure the integrity of the request submission process. Physicians with these accreditations are practicing specialized medicine at an industry-recognized high level and are best positioned to provide a thorough, complete review of a requestor’s diagnostic history, symptom picture, imaging history when appropriate, and overall treatment plan regarding brain injuries.

**11. Q. Should I have my physician include additional information pertinent to my medical condition?**

A. Your physician may refer to whatever information they believe is relevant to complete the DD 3220 Form.

**12. Q. What is the “Base” payment and how would I qualify for it?**

A. A Base payment is a one-time payment of 75 percent of Level III of the Senior Executive Service pay scale maximum annual salary potentially available to most of the federal workforce during the year in which payment was approved. Eligibility for a Base payment is established by submission of a DD 3220 Form indicating that you sustained a qualifying injury to the brain on or after January 1, 2016.

**13. Q. What is the “Base Plus” payment and how would I qualify for it?**

A. A Base Plus payment is a one-time payment of 100 percent of Level III of the Senior Executive Service pay scale maximum annual salary potentially available to most of the federal workforce, during the year in which payment was approved. Eligibility for a Base payment is

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established by submission of a DD 3220 Form indicating that you sustained a qualifying injury to the brain on or after January 1, 2016.

Additionally, a requester **must** establish at least one of the following to qualify for a Base Plus payment:

- That the requester requires a full-time caregiver for activities of daily living, as defined by the Katz Index of Independence of Daily Living; **or**
- That the Department of Labor (Workers' Compensation) determined that the requester has no reemployment potential; **or**
- That the Social Security Administration approved the requester for Supplemental Security Income (SSI) or Social Security Disability Insurance (SSDI) payments.

Please contact us at [dodhra.mc-alex.dcpas.mbx.dod-havana-act@mail.mil](mailto:dodhra.mc-alex.dcpas.mbx.dod-havana-act@mail.mil) if you believe that you qualify for a Base Plus payment.

### **14. Q. What is an Anomalous Health Incident (AHI)?**

A. Individuals with a qualifying injury to the brain many times also report experiencing an Anomalous Health Incident (AHI). An AHI can best be described as a series of sudden and disturbing sensory events that could include but are not limited to loud sounds, pressure, or heat. They can happen at the same time or separately, preceding a new onset of symptoms.

### **15. Q. Will family members who experienced AHIs and are approved for payment receive the same payment as employees?**

A. Yes. The employment category of a requester (individuals employed in eligible categories or family members of those employees) will not affect the amount of an approved benefit payment.

### **16. Q. If multiple family members have been affected by an AHI, can they submit one request for payment as a family?**

A. A separate DD 3220 Form must be submitted for each requester by a qualifying physician who has independently reviewed each case. In the case of minors under the age of 18 requesting a HAVANA Act-authorized payment and/or multiple family members requesting payment, please contact us at [dodhra.mc-alex.dcpas.mbx.dod-havana-act@mail.mil](mailto:dodhra.mc-alex.dcpas.mbx.dod-havana-act@mail.mil) so that we may ensure coordination of your family's requests to the extent possible.

### **17. Q. What do I need to do to submit requests for my covered dependents?**

A. A family member that is a covered dependent is defined as follows:

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- (1) Children who at the time of the injury are unmarried and under 21 years of age or, regardless of age, are unmarried and due to mental and/or physical limitations are incapable of self-support. The term “children” includes natural offspring, step-children, adopted children, and those under permanent legal guardianship, or comparable permanent custody arrangement, of the employee, spouse or domestic partner as defined in 5 CFR 875.101 when dependent upon and normally residing with the guardian or custodial party, and U.S. citizen children placed for adoption if a U.S. court grants temporary guardianship of the child to the employee and specifically authorizes the child to reside with the employee in the country of assignment before the adoption is finalized;
- (2) Sisters and brothers (including stepsisters or stepbrothers, or adoptive sisters or brothers) of the employee, or the spouse when at the time of the injury such sisters and brothers were at least 51 percent dependent on the employee for support, unmarried and under 21 years of age, or regardless of age, were physically and/or mentally incapable of self-support;
- (3) Parents (including stepparents and legally adoptive parents) of the employee or of the spouse or of the domestic partner as defined in 5 CFR 875.101, when normally residing with the employee at the time of the injury; and
- (4) Spouse or domestic partner (as defined in 5 CFR 875.01) at the time of the injury.

Covered dependents must submit a separate signed DD 3220 Form in addition, please submit a copy of travel orders or other supporting documentation so that the HAVANA Act Team may verify family member(s)’ status. Finally, for multiple requests from the same family, please contact the HAVANA Act Team at [dodhra.mc-alex.dcpas.mbx.dod-havana-act@mail.mil](mailto:dodhra.mc-alex.dcpas.mbx.dod-havana-act@mail.mil) so we can ensure coordination, to the extent possible, of your family’s requests.

### **18. Q. I reported multiple, separate incidents to the Department of Defense. Will I receive HAVANA Act payments for each incident I experienced/reported?**

A. Each individual may request and, if eligible, receive *one* HAVANA Act authorized payment. The number of incidents experienced and/or reported does not enable an individual to qualify for more than one payment.

However, an approved individual who received a Base payment may later apply for the monetary difference between a Base and Base Plus payment if they later qualify at the Base Plus level.

### **19. Q. Are Workers’ Compensation and HAVANA Act benefits mutually exclusive? Does applying for one prevent eligibility for the other?**

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A. Workers' Compensation and the HAVANA Act are separate benefits. The Department of Labor manages the Workers' Compensation program and stated in [FECA Bulletin No. 22-03](#) that it does not consider payment under the HAVANA Act a prohibited dual benefit that would require an offset applied to FECA benefits.

### **20. Q. How can I get an update on the status of my request?**

A. Please contact [dodhra.mc-alex.dcpas.mbx.dod-havana-act@mail.mil](mailto:dodhra.mc-alex.dcpas.mbx.dod-havana-act@mail.mil) with update requests. If you have received confirmation of the receipt of your HAVANA Act submission, please allow eight weeks to pass before requesting a status update.

### **21. Q. What if my request is denied?**

A. An appeal process has been established, with final decision-making authority resting with the Deputy Assistant Secretary of Defense for Civilian Personnel Policy. If your request has been denied and you wish to appeal, please follow the instructions provided with the notification of the denial. There is no other avenue for appeal beyond the Deputy Assistant Secretary of Defense for Civilian Personnel Policy, or their designee. Decisions made on appeal are final.