

PMC VSO Call Training Topics – May 20, 2020

Topics

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Impact of COVID-19 on the PMC Claims Process

Good cause for extension

On April 6, 2020 Policy Letter 20-02 was released regarding Novel Coronavirus (COVID-19) Claims and Appeals Processing Guidance. The letter is embedded below so you can review.



VBA PL COVID-19
(04.06.20) FINAL.pdf

This letter informs us of the following:

- All regional offices and centers that the COVID-19 global pandemic is considered a good-cause basis for VA to grant extensions of time limits to submit certain documents/responses or if a claimant fails to report for a hearing or scheduled Compensation and Pension (C&P) examination and requests to reschedule. In addition, for the purpose of determining the date of entitlement, VA will accept the postmark date on any correspondence received from any claimant containing claims, information, or evidence.
- This guidance applies from March 1, 2020 and will expire 60 calendar days following the date the President ends the national state of emergency.
- To request an extension for filing due to COVID-19, claimants should note the request on their filing submission or attach the request as a separate document.
- Requests for an extension can be in **writing or can be made over the phone with regards to EVIDENCE SUBMISSION**. (Evidence submission has to do with pending claims or pending ITFs)
- Claimants must provide a **written** request for a time extension due to COVID-19 when: applying for benefits, challenging an adverse action, or when requesting an extension relating to a legacy appeal.

- When requesting an extension, there is no standard form, but a VA Form 21-4138 would be ideal/preferred. It needs to contain enough information to identify the Veteran or claimant and it should convey the following:
 - They request an extension of the time allowed to take the specified action (and if there is more than one type of claim pending, it should be indicated which claim needs the extension)
 - The reason – which just needs to be some mention of COVID-19, or any related reference to COVID-19, the coronavirus, national pandemic, or similar language.
 - Length of extension (or number of extra days requested) is helpful but not required. In cases where the request does not specify, claims adjudicators will approve the request and set a suspense for the same time limit initially granted when VBA first asked for the information (e.g. 30 days), but not to exceed 60 days. During the COVID-19 pandemic, VBA presumes that any request for an extension of 60 days or less is reasonable. For requests in excess of 60 days, these can be granted on a case-by-case basis if reasonable, based on the facts presented.

Example 1: A claimant submitted an intent to file a claim for Survivors pension last year, and the one-year time limit to file the completed application will expire on June 1, 2020. The claimant could call the NCC or send in a statement that says something such as: *“I previously submitted an intent to file. I am requesting a 60-day extension of the time limit to file my formal claim/application for survivors’ pension due to coronavirus.”* VA would honor the ITF date as the effective date if the completed application was received before August 1, 2020.

Example 2: A Veteran has a pending compensation claim and a pending pension claim. On May 14, 2020, VA sent him a development letter for his pension claim requesting he complete a VA Form 21-0969 and the letter indicated he had 30 days to submit the evidence. The Veteran could call or write to us and say: *“I need more time to submit a response to the letter I received from VA dated May 14, 2020. Due to the national pandemic, it is taking longer than usual to collect the information needed to complete the form for my pension claim.”* In this case, it’s clear he is referring to his pension claim and he specified the action he needs more time to complete. He mentioned the reason he needs time as well. He did not specify how long of an extension he needs, so VA will push the suspense out 30 days (which is the same amount of time he was originally given) and will not take action until the 30 days is up or until the evidence comes in.

One thing to point out is that in these examples is we refer to the Veteran or claimant submitting the request, however, you as the VSO can do that on the claimant’s behalf as well.

The below attachment is a Q&A about the good-cause basis for VA to grant extensions of time limits to submit certain documents/responses or if a claimant fails to report for a hearing or scheduled Compensation and Pension (C&P) examination and requests to reschedule. This is meant to supplement the original Policy Letter (PL) 20-02.



QA to PL
20-02_COVID-19 File

CARES act payment

- Any amount paid to a person under the 2020 Recovery Rebate in the CARES Act will not be treated as income or net worth when determining eligibility or continued entitlement to income-based VA benefits.
- Income-based benefits include Veteran's pension, Survivor's pension, and Parents' Dependency and Indemnity Compensation (DIC).
- Claims processors must exclude Economic Impact Payments when calculating income or net worth for Pension or Parents' DIC benefits.

Be sure when you are assisting claimants with completing the income section of their form that you clearly identify the source of the income. If a Veteran (with a spouse and two children) received a lump sum payment of \$3,400.00, just make sure it says "COVID-19 stimulus money" or "CARES Act payment" (i.e. anything to give us an idea as to where it came from so we know not to count it).

Not only did we receive the below attached memo directing us not to count this income, but the manual was also updated to reflect this as well. When reporting this income, it just needs to be identified so it won't be counted and impact the claimant's rate of pension.



CARES Act -
Economic Impact Pa

Uncertified Service Documents

VBA is issuing temporary guidance to ensure that the needs of Veterans are met in a timely manner while mitigating risk and preserving program integrity. Effective immediately and until further notice:

- ROs will accept uncertified service verification documents, such as DD-214s, as valid proof of service unless reasonable evidence of fraud or forgery exists, and
- ROs will proceed in taking claim actions (including examination requests and, where appropriate, favorable adjudication of service connection) based on service information documented on uncertified DD Forms 214. Remaining issues dependent on the receipt and review of service records shall be deferred, and the end product (EP) kept in open status.



Temporary
Guidance on Accept

In other words, we will still do what we need to do on the VBA end to eventually verify service, but for now we will not hold up a claim if all we were waiting for was confirmation from the NPRC that the uncertified document in the file matches what is in the OMPF (Official Military Personnel File).

Suspended FTI

- Effective March 24, 2020 and until further notice, PMCs discontinued the use of FTI. While this guidance is in effect, end products 120, 180, and 190 series will no longer require upfront verification.



Temporary
Guidance on Susper

School Age Dependents

- Due to COVID-19, schools may suspend, cancel or teach classes “virtually.” In these situations, claims processors should not remove the child from the dependents award.
- If a school child stops attending school due to cancelled or postponed classes solely as a consequence of the COVID-19 pandemic, we are not to remove the school child from the beneficiary’s award. We are to treat the period during which the school child is unable to attend school because of the pandemic as a break between school sessions (see M21-1, Part III, Subpart iii, 6.A.4).
- If a school child now attends school “virtually” and because of restrictions on social interactions the pandemic triggered his/her current courses of instruction do not meet the standards set forth in M21-1, Part III, Subpart iii, 6.A.2.c. we are not to remove the school child from the beneficiary’s award. Rather, a child should remain on the award if the only reason for removal is solely attributable to changes in the academic/learning environment for school children due to the COVID-19 pandemic.
- This guidance applies to adding and removing dependents for awards purposes only. (again, just make sure we know the changes regarding school are due to COVID-19 adjustments. As long as that is clear, we will follow this temporary guidance on school age dependents.
- **NO POLICY LETTER ATTACHMENT WITH THIS GUIDANCE**

Impact on Exams

Prior Guidance (April 8, 2020 through May 17, 2020)

- All C&P examinations should be entered in Veteran Benefits Management System (VBMS) examination management system (EMS). This includes requests for medical opinions. This means that all exams and opinions were being routed to our contracted vendors until further notice.
- When submitting an examination request, claims processors were not required to associate the Examination Request Routing Assistant (ERRA) tool's inquiry results with the eFolder (routing is decided by capacity in VBMS).



Guidance for
Routing Compensat

New Guidance (as of May 18, 2020)

- Claims processors are required to use the ERRA tool when requesting examinations/opinions in support of claims for service-connected compensation, pension, and survivors' benefits. Based on ERRA results, claims processors are directed to send any eligible examination request(s) to VHA.
- VHA will review all examination requests received for suitability for an ACE or telehealth examination. VHA will complete all eligible examinations requested and make those results available through the Compensation and Pension Record Interchange (CAPRI). If it is determined that an exam cannot be completed via ACE or telehealth:
 - VHA will cancel that specific examination in CAPRI.
 - VHA will not hold the examination to be completed at a later date.
- Claims processors contacted by VHA with a request to cancel an examination(s) are directed NOT to cancel the examination(s) request. Claims Processors should respond with the following: **"VBA has been instructed not to cancel any exams routed to VHA. If VHA is unable to complete an examination, it must be cancelled in CAPRI by VHA."**
- Claims processors notified by VHA that an examination(s) has been cancelled should:
 - address the tracked item(s) associated with the cancelled VHA examination using the appropriate date, and
 - follow established procedures to request the examination(s) through an MDE vendor
- When reviewing a claims file and/or CAPRI and it is determined that an exam(s) has been cancelled by VHA, the Claims Processor should
 - address the tracked item(s) associated with the cancelled VHA examination using the appropriate date, and
 - request that exam(s) through an MDE vendor following established guidelines.
- The following principles apply to completed examinations that are determined to be insufficient or inadequate and require rework:
 - VHA examinations must be returned only to VHA for completion of rework.
 - MDE vendor examinations must be returned only to the vendor for completion of rework.



Resumption of
ERRA Tool_Effective

Re-adjudicating a pension claim under the Appeals Modernization Act (AMA)

All claims fall under either initial or supplemental claim types. Complete claims submitted on the proper standard form (e.g. VAF 21P-527EZ or 534EZ) are considered “initial claims” unless they are considered evidence mail associated with a claim that is already pending. PMCs can accept claims submitted on the proper standard form at any time. This is the key difference between the PMCs and VSCs in that the PMCs can accept a traditional prescribed form such as a 527EZ or 534EZ at any point in time, in order to establish and process a claim, whereas in the VSC, you submit an original or initial claim for an issue on a prescribed form such as a 526EZ, and then any subsequent claims for that same issue would need to be submitted via one of the new three review option lanes (a supplemental claim, higher level review, or appeal to the board). Three big takeaways for PMC claims processing under AMA are as follows:

1. VBA no longer accepts reconsiderations or reopened claims, based solely on the evidence that was previously requested.
 - For example, if we developed for a missing death certificate on a prior claim, we then denied that claim for failure to prosecute for not timely receiving the death certificate, and we only received the death certificate in response to our denial notification letter, we can no longer accept that as means to establish and process a claim.
2. Claims for re-adjudication of a prior claim/decision need to be submitted on a proper prescribed form, whether that is a 527 or 534EZ, or one of the three review options under AMA (e.g. VA Form 20-0995 for a supplemental claim).
3. Which form the PMC receives to re-adjudicate the previous claim can impact the entitlement date. More on that below.

The effective date and time limits for issues like income changes and burial issues have not changed. Refer to [38 CFR 3.660](#) for more information regarding effective dates based on changes in income and/or net worth. What that means is that if a prior claim was denied for excess income or net worth, and then a subsequent claim comes in that was submitted on a traditional prescribed form such as a 527EZ or 534EZ, we would NOT need the VA Form 0995 to be submitted in order to consider earliest entitlement. However, to re-adjudicate a claim for pension that was previously denied for a reason OTHER than income or net worth (such as failure to prosecute for not providing requested evidence), VBA requires a claim submitted via one of the three review lanes under AMA, such as a supplemental claim (VA Form 20-0995), to preserve an earlier entitlement date.

To make an adjustment to a **running award** (e.g. medical expenses, special monthly pension, adding a dependent), claims require a standard prescribed form such as a VAF 21P-8416 (Medical Expense Report), 21-686c (Application Requires to Add and/or Remove Dependents), or 21-2680 (Examination for Housebound Status or Permanent Need for Regular Aid and Attendance).

Please review the following references for situations not requiring a prescribed form: [M21-1 III.ii.2.B.1.c. Situations Not Requiring a Prescribed Form](#)

The AMA FAQ for PMCs is very helpful for sorting out effective date questions and whether we have legitimate claims under AMA. **The link to the PMC AMA FAQ is found [here](#).** Below are some hypothetical scenarios to help determine effective dates and EPs under AMA.

Scenario: Prior claim was denied before 2/19/19 and the claimant subsequently submits new evidence but it is not accompanied with a proper prescribed form on or after 02/19/2019.

- We cannot establish an EP on a non-running award without a proper prescribed form on or after 2/19/19.

Example: If we denied a claim prior to 2/19/19 for failure to prosecute (FTP) or excess income and the claimant is coming back in with only the evidence we requested in prior development (in the case of an FTP) or only an EVR and 8416 (in the case of an excess income denial), we cannot use that evidence to establish an EP 120 or 020. For these scenarios, we are required to have a prescribed form such as a VAF 20-0995 for a supplemental claim or a VAF 21-527EZ/534EZ (which would be considered a subsequent “initial claim”). If the claimant were to only submit the evidence we requested (e.g. an 0518-1 and 8416 or a death cert) from prior development, then that should be treated as a Request for Application (RFA). Below is an applicable question and answer from the PMC AMA FAQ for this scenario.

- **Question:** If a decision was rendered prior to February 19, 2019, and we then receive only evidence (no prescribed form such as a VA Form 21P-534EZ, VA Form 21P-527EZ, Application for Veterans Pension or VA Form 20-0995, etc.) from the claimant within a year of that prior decision to attempt to substantiate the prior claim, what is the recommended course of action for handling this evidence? Are we to establish a traditional EP such as an EP 120, or would that evidence be considered a RFA? From the P&F provided version of AMA training in February 2019, it seemed like we would be able to accept the evidence and establish an EP such as an EP 120.
- **Answer:** Guidance has changed since the P&F Service training in February 2019. This scenario be processed as an RFA. Standard forms are listed under M21-1, Part III, Subpart ii, 2.B.1.b.

Scenario: Prior claim denied for excess income (over the IVAP) and the claimant submits a subsequent “initial claim.”

- If the claimant is still within their initial year period when the prior claim was denied due to excess income and the claimant provides a proper prescribed form (e.g. VAF 21P-527EZ or 534EZ) to show they meet the criteria for pension, we can grant from the earliest entitlement date, even without a VAF 20-0995 (supplemental claim).

Example: An EP 180 (DOC 07/01/19) for pension and special monthly pension is denied for excess income, with the notification letter for that decision dated 08/01/19. There was a 2680 that was submitted with the original claim showing entitlement to A&A. On 11/01/2019, we received a subsequent VA Form 21-527EZ from the claimant, stating they disagree with the decision dated 08/01/19 to deny the previous claim for pension with aid and attendance. Along with the 527EZ, the claimant submits new and relevant evidence in the form of an 8416 and 4138, explaining how income and medical expenses were counted incorrectly and they are under the MAPR. An EP 040 is established and the claim is made RFD.

The time limit to submit a change in income to support entitlement to benefits from 07/01/19 doesn't expire until 01/01/2022. Since the previous claim was denied for excess income and they are still within their time limit to submit changes in income to support the earlier effective date, the rating decision should grant A&A from 07/01/19, the date of the original claim. The VSR would then make a determination on the effective date of the award based on all other administrative criteria such as ensuring the claimant is under the IVAP.

We are of the understanding (through correspondence from P&F) that an initial claim (or a “subsequent initial claim” under AMA) submitted on a traditional prescribed form such as a 527EZ/534EZ after the prior claim has been denied for excess income, but during the IY time limit (2 plus stub), can support entitlement to an earlier effective date without the submission of a supplemental claim (VAF 20-0995). This is one of the main differences PMCs have with VSCs when it comes to AMA. Compensation claims always require a supplemental claim to support the earlier entitlement date but pension does not if the previous claim was denied for changes in income or net worth, due to 38 CFR 3.660. Below is an applicable question and answer from the PMC AMA FAQ for this scenario.

- **Question:** If we receive a traditional prescribed form (e.g. VA Form 21P-534EZ, VA Form 21P-527EZ) and new and relevant evidence within a year of the prior decision letter issued (February 19, 2019 or thereafter), does that preserve the earliest entitlement date the same as it would if we receive a VA Form 20-0995?
- **Answer:** Claims submitted on the proper standard form are considered initial claims unless they submitted in support of a supplemental claim. If a claimant reports a change in income or net worth, VA does not require a supplemental claim to preserve earliest effective date. The effective date and time limits for reports of income and net worth has not changed with AMA. Refer to 38 CFR 3.660 for more information regarding effective dates based on changes in income and/or net worth.

To re-adjudicate a claim for pension that was denied for a reason other than income or net worth, VBA requires a supplemental claim to preserve an earlier effective date. Some examples include denials for failure to submit death certificate and failure to provide acceptable evidence of military service.

Previous claim was denied for Failure to Prosecute (FTP)

In order to preserve the earliest entitlement date for a claimant whose previous decision was denied for anything other than income or net worth, such as FTP, the claimant should submit a VAF 20-0995.

Example: On 10/01/19, we received a claim for death pension with aid and attendance from the surviving spouse. The Veteran’s date of death is 01/15/07. The 2680 that came in with the 534EZ shows entitlement to A&A. On 11/20/2019, we send a decision notification letter to deny the claim for FTP due to not providing the death certificate. Let’s examine a few different scenarios and how it would impact the effective date:

1. On 12/01/19 – we receive only the death certificate from the surviving spouse. This is a Request for Application (RFA) because we do not have a prescribed form (0995, 534EZ) to establish a claim.
2. On 12/01/19, we receive the death certificate and a 534EZ from the surviving spouse. All other eligibility criteria is met and the claim is made RFD. The effective date of the grant for A&A would be 12/01/19, the date we received the subsequent initial claim, as there was not a VAF 20-0995 (supplemental claim) received in order to preserve the earliest entitlement date.
Note 1: In this situation, the VSR awarding the claim should solicit in the notification letter for an 0995 so the claimant could try and submit a supplemental claim to preserve the earliest entitlement date. **Note 2:** in this example, if the Veteran’s date of death was less than a year from 12/01/19 (for example, 09/01/19), or whatever the date of receipt of the subsequent initial claim would be, then the benefit could be granted from the first of the month of the Veteran’s death, per 38 CFR 3.400.

3. On 12/01/19, we receive the death certificate AND a VAF 20-0995 from the surviving spouse, stating that she disagrees with the decision from 11/20/19 to deny the claim for pension with aid and attendance. All other eligibility criteria is met and the claim is made RFD. The effective date for the grant for A&A would be 10/01/19, the date of the original claim, as we received a supplemental claim within one year of the prior decision allowing us to preserve the earliest effective date, and all other eligibility criteria is met.

Below are applicable questions and answers from the PMC AMA FAQ for this scenario.

- **Question:** If we receive a traditional prescribed form (e.g. [VA Form 21P-534EZ](#), [VA Form 21P-527EZ](#)) and new and relevant evidence within a year of the prior decision letter issued (February 19, 2019 or thereafter), does that preserve the earliest entitlement date the same as it would if we receive a [VA Form 20-0995](#)?
- **Answer:** Claims submitted on the proper standard form are considered initial claims unless they are submitted in support of a supplemental claim. If a claimant reports a change in income or net worth, VA does not require a supplemental claim to preserve earliest effective date. The effective date and time limits for reports of income and net worth has not changed with AMA. Refer to [38 CFR 3.660](#) for more information regarding effective dates based on changes in income and/or net worth.

To re-adjudicate a claim for pension that was denied for a reason other than income or net worth, VBA requires a supplemental claim to preserve an earlier effective date. Some examples include denials for failure to submit death certificate and failure to provide acceptable evidence of military service.

- **Question:** We deny an EP 190 with date of claim (DOC) of March 1, 2019 for FTP for no death certificate on April 10, 2019. We receive a [VA Form 21P-534EZ](#) with a death certificate from the claimant on April 25, 2019. Are we allowed to grant from March 1, 2019, which would be the earliest entitlement date based on the original DOC?
- **Answer:** In this example, we would need a supplemental claim, [VA Form 20-0995](#), to grant from March 1, 2019. Process the [VA Form 21P-534EZ](#) as an initial claim and solicit a [VA Form 20-0995](#) for the earlier effective date in the development letter (if development is otherwise required) or the decision notice. Do not delay processing in anticipation of receiving a [VA Form 20-0995](#). If the death is less than a year from April 25, 2019, then the benefit could still be granted from the day after the Veteran's passing based on receipt of the [VA Form 21P-534EZ](#).

Applicable References for Continuously Pursued Claims

§3.2500 Review of decisions

(c) ***Continuously pursued issues.*** A claimant may continuously pursue a claim or an issue by timely and properly filing one of the following administrative review options, as specified (except as otherwise provided in paragraphs (c), (e), and (f) of this section), after any decision by the agency of original jurisdiction, Board of Veterans' Appeals, or by the U.S. Court of Appeals for Veterans Claims, provided that any appeal to the U.S. Court of Appeals for Veterans Claims is timely filed as determined by the court:

- (1) Following notice of a decision on an initial claim or a supplemental claim, the claimant may file a supplemental claim, request a higher-level review, or appeal to the Board of Veterans' Appeals.
- (2) Following notice of a decision on a higher-level review, the claimant may file a supplemental claim or appeal to the Board of Veterans' Appeals. (See appeal to the Board, 38 CFR 20.202).
- (3) Following notice of a decision on an appeal to the Board of Veterans' Appeals, the claimant may file a supplemental claim or file a notice of appeal to the Court of Appeals for Veterans Claims.
- (4) Following a decision on an appeal to the Court of Appeals for Veterans Claims, the claimant may file a supplemental claim.

(h) ***Effective dates***

- (1) ***Continuously pursued claims.*** Except as otherwise provided by other provisions of this part, including §3.400, the effective date will be fixed in accordance with the date of receipt of the initial claim or date entitlement arose, whichever is later, if a claimant continuously pursues an issue by timely filing in succession any of the available review options as specified in paragraph (c) of this section within one year of the issuance of the decision (or the time period specified in paragraph (f) of this section, as applicable to simultaneously contested claims), provided that any appeal to the U.S. Court of Appeals for Veterans Claims must be accepted as timely by that court.
- (2) ***Supplemental claims received more than one year after notice of decision.*** Except as otherwise provided in this section, for supplemental claims received more than one year after the date on which the agency of original jurisdiction issues notice of a decision or the Board of Veterans' Appeals issued notice of a decision, the effective date will be fixed in accordance with the date entitlement arose, but will not be earlier than the date of receipt of the supplemental claim.

VA Form 21-686c (Application Request To Add And/Or Remove Dependents)

- A new VA Form 21-686c (September 2018 version), Application Request To Add And/Or Remove Dependents, was recently released (attached). The form does not ask how many times the Veteran/claimant have been married (was previously block 6). In addition, the form tells the claimant “If no prior marriages, this section may be left blank”.
- Claims processors are not required to develop for any information that is not requested on the September 2018 version of the VA Form 21-686c.
 - Also, the requirement noted in M21-1, Part III, Subpart iii, 5.A.4.e, to contact a claimant by telephone or letter to obtain evidence/information that is missing from an application does not apply to claims filed on a September 2018 or later version of VA Form 21-686c.
 - The detailed instructions that now accompany the form regarding the evidence/information the claimant must provide justified elimination of this requirement.
- Since the September 2018 version of the VA Form 21-686c does not request the number of marriages, this information is not required when that form is submitted. However, if the form is complete but contains information that conflicts with other evidence of record, attempt to obtain clarification by telephone.
 - If efforts to obtain clarification by telephone are unsuccessful follow the instructions in M21-1, Part III, Subpart iii, 1.B.1.e, for documenting the unsuccessful attempt, and follow the table in M21-1, Part III, Subpart iii, 5.A.4.i to determine the next action(s) to take.

Acceptability of Signatures

With very few exceptions, the manual does not require that disability claims or other forms only have “wet” signatures to be accepted by VBA. Current guidance allows for acceptance of other signatures—to include electronic or digital signatures; or, other image of a signature on a claim decision review request, or legacy appeal for benefits, or associated form. **A typed signature would qualify under the current definition of electronic signature.** Unless there are clear indications of fraud or inauthenticity of the signature, regional office personnel can continue with existing policy guidance and accept these signatures for its disability claims or forms.

Important: The references and guidance found in this document are current as of May 20, 2020. Manual references and guidance are frequently subject to change. It is still the responsibility of each employee to stay current of all current manual changes and guidance for accurate claims processing.