

Appeals Management Office (AMO)

Quality Call Bulletin

February 2020

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AMO DIRECTOR DASHBOARD MEASURE, SAMPLE SIZE & QUALITY REPORTS

Target Audience: Decision Review Operations Center (DROC) Quality Review Teams (QRTs) and Management

Presenter: Chad Phillips, Program & Management Analyst, AMO

On October 4, 2019, the Office of Field Operations (OFO) notified Directors of the FY20 Director Performance Plan (DPP) that includes DROC Appeals Modernization Act (AMA)/Legacy Issue-Based Rating Quality 12-month rolling as a Watch Metric.

AMO will begin reporting DROC Issue-Based Rating Quality (12-month rolling) to the Director's Performance Dashboard beginning in Quarter 2 of FY20.

AMO, in coordination with Performance Analysis and Integrity (PA&I), implemented a six (6) month quality trial period to capture National accuracy and track National production of higher-level review (HLR) cases. During this trial period, AMO conducted reviews of HLR cases from April 2019 through September 2019.

PA&I used the AMO quality trial data and applied the VBA Quality Assurance Methodology to determine the FY20 quality sample size for Seattle DROC and St. Petersburg DROC. PA&I will continue the previously established sample size for D.C. DROC legacy cases, which were previously conducted by Compensation Service, and AMO's Quality Staff will take responsibility for completion of all reviews.

The total National rating sample for FY20 is 24 cases per month.

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The breakdown of the sample size by DROC is as follows:

AMA Reviews:

Seattle DROC – 8 Cases

St. Petersburg DROC – 7 Cases

Legacy Appeals:

DC DROC – 9 cases

AMO will conduct rating and authorization quality reviews for HLR cases; however, per the FY20 DPP, AMO will only report Rating Issue Based quality to the Director's Performance Dashboard.

Quality is reported as a rolling 12-month period and is reported one month in arrears. For example, in February 2020, AMO will publish January 2020 results to the Director's Performance Dashboard for December 2019 cases.

ERROR TRENDS: JUNE 2019 - DECEMBER 2019

Target Audience: DROC QRTs and Management

Presenter: James Fogg, Program & Management Analyst, AMO

Authorization			
DROC	Claim (BE Accuracy)	Total Count	In Error
St. Petersburg:	90.8%	87	8
Seattle:	94.4%	71	4
Total	92.4%	158	12

Rating			
DROC	Claim (BE Accuracy)	Total Count	In Error
St. Petersburg:	90.2%	61	6
Seattle:	95.3%	43	2
Special Mission:	100.0%	1	0
DC	94.1%	17	1
Total	92.6%	122	9

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Top Benefit Entitlement (BE) Error Question:

Authorization:

Question 7 - Was necessary administrative decision or award generated/completed and correct?

Error Count: 9 BE errors

- Administrative decision provided incorrect entitlement outcome: 4
- Administrative decision was not procedurally complete (e.g., missing signatures, all decision(s) not provided, relevant evidence not discussed): 3
- Necessary payment change not effectuated: 1
- Restoration Resumption of benefits not implemented or implemented incorrectly: 1

Rating:

Question 4 (B2) - Does the record show VCAA compliant development to obtain all indicated evidence (including a VA exam, if required) prior to deciding the claim?

Error Count: 6 BE errors

- B2cc: VA Medical Opinion was needed: 3
- B2dd: VA treatment records not obtained: 1
- B2f: Insufficient VA examination/medical opinion: 1
- B2j: Service personnel records needed: 1

Top AMA Error Questions

Authorization:

Question 10 - Was the claimant properly notified?

Error Count: 18 AMA errors

- A summary of the applicable laws and regulations: 12
- Non-rating higher-level review decision failed to provide notice that there was evidence received after the record closed that was not considered: 3
- Non-rating decision failed to list favorable findings when required for denials: 2
- Non-rating decision failed to explain elements met and/or not met: 1

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Question 1 - Was proper pre-decisional notification provided and/or was proper development to the Veteran/claimant completed as required by regulations and/or the manual?

Error Count: 7 AMA errors

- Higher-level review informal conference not held when requested or attempts to schedule not documented properly: 7

Question 7 - Was necessary administrative decision or award generated/completed and correct?

Error Count: 3 AMA errors

- Decisionmaker considered and listed evidence received after the record closed for a higher-level review: 3

Rating:

Question 9 (E) - Was Decision Documentation correct?

Error Count: 9 AMA errors

- E4b - An explanation of the laws and regulations applicable to the claim was not provided (AMA): 2
- E4c - A summary of favorable findings made by the decision maker was not provided (AMA): 2
- E4h - Decisionmaker considered and/or listed evidence received after the record closed for a higher-level review: 2
- E2 - The basis for each decision not identified and/or each denial not explained: 1
- E4f: An explanation of how to obtain or access the evidence used in the decision was not provided (AMA): 1
- E4k: Higher-level review informal conference not held when requested or attempts to schedule not documented properly: 1

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MANUAL UPDATES

Target Audience: DROC QRTs and Management

Presenter: Rachel Jones, Program & Management Analyst, AMO

M21-1 I.7.2.b (AMA Controls and Other Activities) A claimant may opt-into the modernized appeals system for one, some, or all issues currently in the legacy appeals system.

For example, the claimant has three issues pending in the legacy appeal process: service connection for a back condition and a left foot condition and a request for an increased evaluation for his service-connected anxiety disorder. The claimant receives a statement of the case (SOC) for all three conditions. The claimant chooses to opt into the supplemental claim lane in AMA as he has identified new and relevant evidence he wishes VA to consider for his back and left foot conditions on his completed VA Form 20-0995, *Decision Review Request: Supplemental Claim*. The service-connected anxiety disorder will remain in the legacy appeal system.

Opting into AMA is issue based, not claim based.

M21-1 I.7.2.h (AMA Controls and Other Activities) The *Clarification of Decision Review Request* letter should be utilized when DROCs receive decision reviews for the same contentions in different lanes.

For example, the Veteran has claimed both a higher-level review and a supplemental claim for posttraumatic stress disorder in one submission. However, if one lane can be clearly eliminated, such as an HLR received outside of a year or if the Veteran very clearly identified new and relevant evidence, allow the Veteran into the appropriate lane and notify the Veteran via letter that we have accepted the claim as an HLR or supplemental claim. Advise the Veteran that if this is incorrect, the Veteran should contact VA.

Do not choose a lane for the Veteran if one lane cannot be clearly eliminated.

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BLUE WATER NAVY PROCESSING AND INQUIRIES

Target Audience: DROC QRTs and Management

Presenter: Gina Spilker, Program & Management Analyst, AMO

On June 25, 2019, the President signed Public Law (PL) 116-23, *Blue Water Navy Vietnam Veterans Act of 2019*. On July 1, 2019, Secretary Wilkie issued a memorandum staying decisions on affected claims. This stay was lifted on January 1, 2020, when the new law went into effect. As such, VA Policy Letter 20-19-13 directs the centralized processing of all herbicide exposure claims from Vietnam-era service at eight (8) Regional Offices, and from AMO designated processors at the DROCs and legacy appeals teams. This centralized processing includes the concession of qualifying service, and the rating and authorization of all claims affected by the new law (Veterans with nautical service). In addition to the centralized processing stations and AMO designated processors, a specialized Records Research Team was established to research complex cases using VBA-approved tools restricted to this team.

As part of centralized processing, AMO has designated six Quality Review Specialists (QRS) to conduct the individual quality reviews (IQRs) of AMO BWN higher-level reviews (HLRs) at the St. Petersburg DROC, as they are co-located with one of the eight centralized processing ROs. St. Petersburg DROC will conduct BWN HLR IQRs for both Seattle and St. Petersburg. These IQRs also began January 1, 2020. AMO will conduct national quality reviews of BWN HLRs, and Compensation Service will conduct national quality reviews of BWN-related legacy appeals.

Finally, AMO, Compensation Service, and P&F Service have created a Blue Water Navy SharePoint site. All AMO designated processors have access to a Documents Library on this site that houses three folders: (1) FAQs; (2) Policy Letters; and (3) SOPs. The published policy letters, most recent versions of the BWN SOPs, and the 'AMO Tip Sheet for Blue Water Navy Processing' are located within these folders. Each station has a supervisor designated to submit BWN-related questions to an Inquiry Form on the site. All BWN-related inquiries must be submitted through that supervisor to the SharePoint site; AMO will redirect employees who email BWN-related questions to utilize the SharePoint site. Use of the site helps ensure consistency and tracking of all responses, and the establishment of any needed FAQ documents.

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WHEN TO REQUEST CLARIFICATION OF A BOARD DECISION

Target Audience: DROC QRTs and Management

Presenter: James Fogg, Program & Management Analyst, AMO

AMO has received multiple inquiries from DROCs seeking clarification on implementation of a Board decision.

St. Petersburg and Seattle DROC QRT supervisors can submit a request for review and clarification of a Board decision to AMO through the VBA Feedback Loop SharePoint site. However, prior to submitting a request for review of a Board decision, the DROC must review the decision and verify that it violates an applicable law and/or regulation. We acknowledge that the Board may issue a decision that does not comply with VBA's manual; however, we direct your attention to 38 CFR 20.105 which states, in part:

In the consideration of appeals and its decisions, the Board is bound by applicable statutes, regulations and precedent opinions of the General Counsel. The Board is not bound by Department manuals, circulars, or similar administrative issues.

If the Board's Decision complies with applicable laws or regulations, VBA is required to implement the decision.

VACOLS UPDATE ERRORS UNDER TASK 11

Target Audience: DROC QRTs and Management

Presenter: Ambria Davis, Program & Management Analyst, AMO

AMO consulted with Compensation Service concerning this topic. It has been determined that only errors included under the error descriptions on the Authorization Quality Review Checklist under Task 11 are considered system compliance errors. Although Veterans Appeals Control and Locator System (VACOLS) diaries are like VBMS tracked items, VACOLS diaries do not rise to the level of a system compliance error.

M21-1 I.5.K.1.d (VACOLS Review and Update)

Regional Office (RO) Employees are required to update all applicable VACOLS fields when action is taken on an appeal. This includes, but is not limited to:

Establishing and maintaining diaries for pending actions

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This responsibility applies to all RO and DROC employees working appeals. While QRT members should continue to review for the appropriate updates to VACOLS, only descriptors explicitly listed under task 11 rise to the level of an error. QRT personnel are instructed to issue comments with corrective action to ensure VACOLS data is accurate.

QUESTIONS

1. Should the reviewer check the Training Recommended Box when a VSR or RVSR is in a training status? Should the reviewer check the Training Recommended Box since critical errors are not called on trainees?

Response: The reviewer should check the Training Recommended Box when a critical error is not cited, and corrective action cannot be taken. Trainee status is not the determining factor for checking the Training Recommended Box. In addition to checking this box, the reviewer must explain to the decision maker that the action taken was incorrect. This should eliminate future instances of this error.

2. If the POA is incorrect in VACOLS, would this be a corrective comment and not an error under Task 11?

Response: Employees are responsible for system compliance in all systems. However, only errors that fall under the specific error descriptions on the checklist for task 11 are considered system compliance errors. Since POA is a specific descriptor for task 11, then failure to update it in VACOLS would result in a critical error.

3. AMO stated that new theories of service connection received from the Veteran after the previous decision, can and should be considered by HLR reviewers. We request an update and/or reconciliation with conflicting guidance provided in M21-1 III.ii.2.D.1.b., which currently states that this is new and relevant evidence meeting the threshold for a supplemental claim.

Response:

M21-1 III.ii.2.D.1.b is specific to a supplemental claim. *A new theory of service connection (for example, when direct service connection was previously denied, and secondary service connection is now claimed) is sufficient new and relevant evidence to satisfy the evidentiary threshold.*

For a Veteran who submits a higher-level review, the decision maker may consider new theories of entitlement not addressed in the prior decision as theories of entitlement for service connection are not considered as part of the closed evidentiary record. This is in accordance with M21-1 III.ii.2.B.1.m, which states, in part:

“A claim for service connection encompasses all potential theories of service connection, whether claimed or unclaimed. All claims must be liberally read to consider other potential theories of service connection. A denial of service

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connection is a denial for all potential theories, whether specifically addressed in the rating or not.”

4. AMO stated that evidence with a date stamp prior to the date of the decision notification letter, can and should be, considered by the HLR reviewer (this is consistent with 3.2601(f)).
 - We request update and/or reconciliation with conflicting guidance provided in M21-1 I.6.1.c. Restrictions of HLRs, which restricts HLR reviewers from considering any evidence not before the previous decisionmaker and M21-1 I.6.4.a. Handling New Evidence Received With or After a Request for HLR which specifies evidence submitted while an HLR is pending.
 - We further request clarification on considering evidence **date stamped before the decision notification letter** (or before the previous decision) and **uploaded to VBMS** after the decision notification letter. Does this have any impact on whether the HLR reviewer can consider the evidence?

Response: Late flowing evidence can be considered on a higher-level review if the evidence is date stamped prior to the notification letter of the decision being reviewed. Normally, a higher-level reviewer would only review evidence that was reviewed by the decision maker in the decision under review. However, if the evidence was received prior to the date that VA notified the claimant of the prior decision, then this evidence should be reviewed. Failure to associate this evidence with the file will not be held against the claimant. A change to M21-1 I.6.1.c is forthcoming.

5. What are VACOLS system compliance errors?

Response: Only errors included under the error descriptions on the VSR Quality Review Checklist under task 11 are considered system compliance errors. Task 11 descriptors apply to “all systems”, which include VACOLS. For example, failure to appropriately update the POA in VACOLS would result in a critical error. Please remember while VACOLS diaries are like VBMS tracked items, VACOLS diaries do not rise to the level of a system compliance error.

The accurate updating of VACOLS is significant for workload management and the expeditious elimination of the legacy appeal inventory. The VACOLS updates outlined in M21-1, I.5.K.1.d are the responsibility of all RO and DROC employees working appeal cases. QRT members should continue to review for the appropriate updates to VACOLS; however, only descriptors explicitly listed under task 11 rise to the level of an error. Otherwise, QRT personnel are instructed to issue comments with corrective action to ensure VACOLS data is accurate.