

Appeals Management Office (AMO)

Quality Call Bulletin

May 2020

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NOVEL CORONAVIRUS (COVID-19) CLAIMS & APPEALS PROCESSING GUIDANCE

Target Audience: DROC QRTs and Management

Presenter: Fred Somers, Program Analyst, AMO

On March 11, 2020, the World Health Organization upgraded the status of the COVID-19 outbreak from epidemic to pandemic. On March 13, 2020, the President declared that the COVID-19 outbreak constituted a national emergency, beginning March 1, 2020. While United States Postal Service operations and other delivery services have continued uninterrupted, in some cases, local travel restrictions or other COVID-19-mandated health and safety precautions may impact Veterans and claimants' abilities to timely file forms, documents or other responses in connection with VA claims and appeals. VA is also sensitive to claimants who wish to have their claims and appeals processed as quickly as possible, and a system-wide extension would negatively affect Veterans and claimants who need timely benefits and healthcare. Therefore, VA is providing options for Veterans and claimants who specifically request extensions on filing dates and requested evidence dates, as well as rescheduling examinations and hearings.

On April 6, Policy Letter 20-02 was published to inform 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 to reschedule a Compensation and Pension (C&P) examination or hearing. In addition, for the purpose of determining the date of entitlement, VA will accept the postmark date as the date of VA receipt on any correspondence received from any claimant containing claims, information, or evidence. To provide public notice of these date of receipt protections, VA is publishing notice in the Federal Register.

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A claimant or a claimant's authorized representative may request an extension of a time limit associated with a required action based on the COVID-19 pandemic, including,

- the filing of a claim that would perfect a previous expired communication of intent to file,
- the filing of a response to a proposed adverse action,
- the submission of requested evidence, or
- attendance at a hearing or C&P examination.

This guidance applies from March 1, 2020 and will expire 60 calendar days following the date the President ends the national state of emergency.

Removal of School Children from a Beneficiary's Award

On May 4, 2020, Office of Field Operations (OFO) in coordination with Compensation Service (CS) released guidance on School age dependents and impacts from COVID-19.

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, do not remove the school child from the beneficiary's award. 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 do not 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.

Impacts on National Personnel Records Center (NPRC) Requests

Due to the ongoing COVID-19 pandemic, NPRC reduced operations to an extremely limited capacity. NPRC continues to process records requests related to burial benefits and emergent cases, but other requests will experience significant delays. VBA is issuing temporary guidance to timely meet the needs of Veterans, while mitigating risk and preserving program integrity.

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To ensure VA meets the needs of claimants whose claims depend on service records held by NPRC, effective immediately and until further notice, claims adjudicators will accept uncertified service verification documents, such as DD-214s, as valid proof of service unless reasonable evidence of fraud or forgery exists. Claims adjudications will take appropriate 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.

Full guidance on processing Instructions for Development of Claims During NPRC Delay, to include PIES requests, is found in jointly signed memorandum titled “Temporary Guidance on Delayed Processing of Requests to the National Personnel Records Center (NPRC).” This memorandum is available on the Compensation Service Novel Coronavirus (COVID-19) Operational Information page.

VBA continues to identify and implement measures to assist Veterans and other claimants in the processing of benefits claims during the pandemic. The guidance discussed today and any new guidance related to compensation and pension benefit claims and appeals may be found on the [Compensation Service Novel Coronavirus \(COVID-19\) Operational Information Page](#). Offices should routinely check here for updated guidance and processing instructions.

For additional questions, please contact one of the following:

- Compensation Service Procedures at M21-1.VBAVACO@va.gov or
- AMO Program Administration at AMO-Appeals.Admin@va.gov

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ERROR TRENDS: OCTOBER 2019 – MARCH 2020

Target Audience: DROC QRTs and Management

Presenter: James Fogg, Program Analyst, AMO

Claims-Based Accuracy

Authorization			
DROC	Claim (BE Accuracy)	Total Count	In Error
St. Petersburg:	86.6%	119	16
Seattle:	90.0%	110	11
Total	88.2%	229	27

Rating			
DROC	Claim (BE Accuracy)	Total Count	In Error
St. Petersburg:	83.7%	43	7
Seattle:	97.9%	47	1
DC:	90.7%	43	4
Total	91.0%	133	12

Please note that the data presented is raw and does not correlate to the Director's Dashboard for each DROC.

Issue-Based Accuracy

Rating			
DROC	Issue (BE Accuracy)	Total Issues	Issue Errors
St. Petersburg:	92.0%	112	9
Seattle:	99.3%	141	1
DC:	96.0%	124	5
Total	96.0%	377	15

Please note that the data presented is raw and does not correlate to the Director's Dashboard for each DROC.

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Top Benefit Entitlement (BE) Error Questions in National AMO Reviews

Authorization:

The top authorization BE error questions were Question 8, *Were all dependency adjustments and/or decisions correct*, and Question 9, *Were all required withholdings/reductions correctly implemented?* There were 12 errors for each of these questions. The main descriptors in error were:

- Dependency adjustment effective date not correct, and
- Dependent minor biological child/children established, denied, or removed incorrectly
- Drill pay not withheld or withheld incorrectly, and
- CRDP or CRSC adjustment incorrect

Please note that Question 8 has now joined Question 9 as the top authorization BE Error Questions.

Rating:

The top rating BE error question was Question 7, *Are all effective dates affecting payment correct?* There were 7 errors for this question. The main descriptors in error were:

- D1j: Incorrect effective date for all other situations (general), and
- D1e: IU criteria met or not met from an earlier date

Please note that Question 7 remains the top rating BE Error Question.

Top AMA Error Questions in National AMO Reviews

Authorization:

The top authorization AMA error question was Question 10, *Was the claimant properly notified?* There were 15 errors for this question. The main descriptors in error were:

- A summary of the applicable laws and regulations, and
- Non-rating decision failed to explain met and/or not met

Please note that Question 10 continues to be the top authorization AMA Error Question.

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Rating:

The top rating AMA error question was Question 9, *Was Decision Documentation correct?* There were 6 errors for this question. The main descriptors in error were:

- E4b: An explanation of the laws and regulations applicable to the claim was not provided (AMA), and
- E4c: A summary of favorable findings made by the decision maker was not provided (AMA)

Please note that Question 9 continues to be the top rating AMA Error Question.

ACCEPTABLE CLINICAL EVIDENCE (ACE) DISABILITY BENEFIT QUESTIONNAIRES (DBQS) AND BOARD REMANDS

Target Audience: DROC QRTs and Management

Presenter: Bryan Yost, Program Analyst, AMO

On April 14, 2020, AMO released a reminder to the field to continue the appropriate use of Acceptable Clinical Evidence (ACE) Disability Benefit Questionnaires (DBQ), or ACE DBQs. This was released in conjunction with the updated Fact Sheet regarding Acceptable Clinical Evidence to support the Disability Examination Process.

In lieu of scheduling an in-person examination, VHA and contract examiners generally have the option to complete a DBQ based on a review of existing medical evidence, in conjunction with a telephone interview with the claimant as needed. The ACE examinations are based upon medical records and history without an actual in-person clinical examination or testing.

AMO encourages DROC personnel to utilize ACE DBQ examinations wherever possible for processing of decision reviews and legacy appeals, while being mindful of limitations to utilizing the ACE DBQ process as outlined in the manual ([M21-1, Part III, Subpart iv, 3.A.4.b](#)). Although not previously allowed, DROCs may now utilize the ACE DBQ process in appropriate circumstances, regardless of whether the Board remand instructions specify an “in-person exam.”

It is important to remember a VA examination is not necessary when the private, military, or VA medical evidence in the file is sufficient to grant the benefit sought.

The link for the revised ACE DBQ Fact Sheet is <http://vaww.demo.va.gov/factsheets.asp>. Additionally, the link to the ACE Examinations section of the manual, which includes information on the types of exams that are prohibited for use under the ACE process, is

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[M21-1, Part III, Subpart iv, 3.A.4.b.](#)

DROC QRT QUESTIONS SUBMITTED IN ADVANCE

Target Audience: DROC QRTs and Management

Presenter: James Fogg, Program Analyst, AMO

Are decision-makers required to cite 38 CFR 3.2500 in conjunction with 38 CFR 3.400?

The Seattle DROC requested clarification whether it would be sufficient for a decision-maker to cite only 38 CFR 3.400 as the effective date regulation for a continuously pursued claim.

The DROC decision-maker is not required to cite both 38 CFR 3.400 and 38 CFR 3.2500 upon assignment of an effective date for continuously pursued claims. The decision-maker must cite 38 CFR 3.400 to establish why they assigned a specific effective date. 38 CFR 3.400 explicitly cites 38 CFR 3.2500, which satisfies the requirement to provide a summary of the laws and regulations applicable to the claim. The quality reviewer should not call an error or comment if the decision-maker cites 38 CFR 3.400, but does not also cite 38 CFR 3.2500, when assigning an effective date for continuously pursued claims.

Note: If the decision-maker assigns the effective date based upon another regulation that 38 CFR 3.400 does not explicitly cite, then the decision must cite that other regulation along with 38 CFR 3.400.

When to address multiple theories of service connection?

The Seattle DROC requested AMO provide clarification concerning when decision-makers need to “raise” and address a theory of entitlement to service connection if the Veteran did not explicitly claim that theory of entitlement.

Although there may be multiple theories or means of establishing entitlement to a benefit for a disability, if the theories all pertain to the same benefit for the same disability, they constitute the same claim. A claim for service connection encompasses all potential theories of service connection, whether claimed or unclaimed.

The decision to specifically address a theory of entitlement to service connection (SC) generally depends upon the facts of the case. A claim for SC, without other

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qualification, such as a claim for SC based upon secondary SC, should be considered a claim for SC on a direct basis and must be addressed as such. Beyond addressing SC on a direct basis, the decision-maker must determine whether any other theory of SC has been raised based upon the facts of the case. As long as the decision-maker addresses all theories of entitlement raised by the facts of the case, the quality reviewer should not call an error or comment for not addressing all theories of entitlement. Please refer to M21-1 III.ii.2.B.1.m.

Examples:

The Veteran claims SC for left knee arthritis. The decision-maker must address SC on a direct basis as well as on the basis of presumption due to a chronic condition.

- The Reasons for Decision must address the claimant's contentions and the theory of SC being addressed in the decision (38 CFR 3.303; 38 CFR 3.309; M21-1 III.iv.6.C.5.a)

The Veteran claims SC for left knee arthritis due to their SC right knee arthritis. The decision-maker must address SC on a direct basis, presumptive basis due to a chronic condition, and secondary basis.

- The Reasons for Decision must address the claimant's contentions and the theory of SC being addressed in the decision (38 CFR 3.303; 38 CFR 3.309; 38 CFR 3.310; M21-1 III.iv.6.C.5.a)

The Veteran claims SC for multiple myeloma due to Vietnam Service. The Veteran served in the Republic of Vietnam. The decision-maker must address SC on a direct basis, presumptive basis due to a chronic condition, and on the basis of presumed exposure to herbicides.

- The Reasons for Decision must address the claimant's contentions and the theory of SC being addressed in the decision (38 CFR 3.303; 38 CFR 3.309; M21-1 III.iv.6.C.5.a; M21-1 IV.ii.2.C.3.h & i)

The Veteran claims SC for multiple myeloma due to Vietnam Service. The Veteran did not serve in the Republic of Vietnam. The decision-maker must address SC on a direct basis, presumptive basis due to a chronic condition, and on the basis of presumed exposure to herbicides.

- The Reasons for Decision must address the claimant's contentions and the theory of SC being addressed in the decision (38 CFR 3.303; 38 CFR 3.309; M21-1 III.iv.6.C.5.a; M21-1 IV.ii.2.C.3.h & i)

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Should we perform quality reviews on agent/attorney fee coordinator work?

The Seattle DROC requested clarification concerning whether work completed by VSRs towards Agent/Attorney Fee cases should be subject to Quality Reviews.

All outputs, associated transactions and work completed by VSRs/RVSRs/DROs is subject to quality review as outlined in each role's standards. AMO is testing functionality that we anticipate will be effective July 1, 2020 to ensure the EPs associated with AAFC are being pulled for reviews to DROC QRT.

QUESTIONS

1. Regarding the COVID guidance. Should the postmark date be the date of claim (DOC) or just be considered for possible entitlement date in decision?

Response: The postmark date should be the date of claim for any claim received by VA from any claimant, during the period from March 1, 2020, through 60 calendar days from the date the President ends the national state of emergency.