Compensation Claims

Trainee Handout

**Table of Contents**

[Objectives 2](#_Toc448323614)

[References 3](#_Toc448323615)

[Topic 1: Compensation Overview 4](#_Toc448323616)

[Topic 2: Types of Compensation Claims 10](#_Toc448323617)

[Topic 3: Application Requirements 16](#_Toc448323618)

[Topic 4: End Products (EPs) and Statutory Obligations 20](#_Toc448323619)

[Practical Exercise 23](#_Toc448323620)

Objectives

1. Define disability compensation, service-connection, and related terms
2. Identify Veteran status
3. Differentiate between acute and chronic disabilities
4. Recognize and identify methods of service-connection
5. Define and identify a complete claim, intent to file, and request for application
6. Identify original claims, reopen claims, and claims for increase or reconsideration
7. Define new and material evidence and recognize its role in reopen claims
8. Recognize prescribed forms for compensation claims
9. Identify proper end products (EPs)
10. Identify VA statutory obligations upon receipt of a substantially complete claim

References

* [38 CFR 3.303](http://www.ecfr.gov/cgi-bin/text-idx?SID=22093ff882dc290e3eb98ab993b79e5e&mc=true&node=se38.1.3_1303&rgn=div8), Principles relating to service-connection
* [38 CFR 3.310](http://www.ecfr.gov/cgi-bin/text-idx?SID=22093ff882dc290e3eb98ab993b79e5e&mc=true&node=se38.1.3_1310&rgn=div8), Disabilities that are proximately due to, or aggravated by, service-connected disease or injury
* [38 CFR 3.12](http://www.ecfr.gov/cgi-bin/text-idx?SID=ea88b0fe9df5c3b08187415afa42b80c&mc=true&node=se38.1.3_112&rgn=div8), Character of Discharge
* [M21-1, Part I, 1](https://vaww.compensation.pension.km.va.gov/system/templates/selfservice/va_ka/portal.html?encodedHash=%23!agent%2Fportal%2F554400000001034%2Ftopic%2F554400000003063%2FChapter-1-Duty-to-Assist), Duty to Assist
* [M21-1, Part III, Subpart ii](https://vaww.compensation.pension.km.va.gov/system/templates/selfservice/va_ka/portal.html?encodedHash=%23!agent%2Fportal%2F554400000001034%2Farticle%2F554400000014108%2FM21-1-Part-III-Subpart-ii-Chapter-1-Section-A-Process-Overview), 1.A, Process Overview
* [M21-1, Part III, Subpart ii, 2](https://vaww.compensation.pension.km.va.gov/system/templates/selfservice/va_ka/portal.html?encodedHash=%23!agent%2Fportal%2F554400000001034%2Ftopic%2F554400000003077%2FChapter-02-Benefit-Programs-and-Types-of-Claims), Benefit Programs and Types of Claims
* [M21-1, Part III, Subpart ii, 6](https://vaww.compensation.pension.km.va.gov/system/templates/selfservice/va_ka/portal.html?encodedHash=%23!agent%2Fportal%2F554400000001034%2Farticle%2F554400000014143%2FM21-1-Part-III-Subpart-ii-Chapter-6-Determining-Veteran-Status-and-Eligibility-for-Benefits), Determining Veteran Status and Eligibility for Benefits
* [M21-1, Part III, Subpart iii, 1.A](https://vaww.compensation.pension.km.va.gov/system/templates/selfservice/va_ka/portal.html?encodedHash=%23!agent%2Fportal%2F554400000001034%2Farticle%2F554400000014151%2FM21-1-Part-III-Subpart-iii-Chapter-1-Section-A-Initial-Considerations-Regarding-the-Development-Process), Initial Considerations Regarding the Development Process
* [M21-1, Part IV, Subpart ii, 1.A](https://vaww.compensation.pension.km.va.gov/system/templates/selfservice/va_ka/portal.html?encodedHash=%23!agent%2Fportal%2F554400000001034%2Farticle%2F554400000014321%2FM21-1-Part-IV-Subpart-ii-Chapter-1-Section-A-Developing-Compensation-Claims), Developing Compensation Claims
* [M21-4, Appendix B](https://vaww.compensation.pension.km.va.gov/system/templates/selfservice/va_ka/portal.html?encodedHash=%23!agent%2Fportal%2F554400000001034%2Farticle%2F554400000011474%2FAppendix-B-End-Product-Codes-and-Work-Rate-Standards-for-Quantitative-Measurements), Section II, End Products – Compensation, Pension, and Fiduciary Operations

Topic 1: Compensation Overview

**Terminology**

* **Service-Connection**: with respect to disability, such disability was incurred or aggravated in line of duty in active military service.
* **Compensation**: monthly benefits to Veterans in recognition of the effects of disabilities, diseases, or injuries incurred or aggravated during active military service.
* **Acute Condition**: conditions, often of sudden onset, that resolve with either time or treatment and leave no residual effects. Any subsequent recurrence of the same condition is unrelated to the prior incident. The U.S. National Center for Health Statistics states that am acute condition is one that last less than 3 months.
* **Chronic Condition**: conditions that continue to reoccur and each episode is related to the previous episode. The U.S. National Center for Health Statistics states that a chronic condition is one that last 3 months or more.
* **Veteran**: a person who served in active military service and was discharged or released under conditions other than dishonorable.
* **Character of Discharge**: A Veteran’s character of discharge (COD) must be under other than dishonorable conditions to establish eligibility for VA benefits based on his or her military service.

In reviewing and processing an original claim for compensation, VA will determine if the claimant meets the eligibility criteria for service connection only if

* Veteran status has been established
* service has been verified, and
* character of discharge has been found to be other than dishonorable.

Normally, the military’s characterization of service is binding on VA if the discharge is honorable, under honorable conditions (UHC), or general.

A formal COD determination is required when an original claim for compensation is received from a Veteran with one of the following discharges:

* an undesirable discharge
* an other than honorable (OTH) discharge, or
* a bad conduct discharge.
* **Willful Misconduct**: an act involving conscious wrongdoing or known prohibited action. A wrongful act is either inherently wrong in itself, or forbidden by law. It involves deliberate or intentional wrongdoing with knowledge of, or wanton and reckless disregard of, its probable consequences.
* **Original Claim**: the initial complete claim for one or more benefits on an application form prescribed by the Secretary
* **Non-Original Claim**: any claim for benefits received after the completion of the Original Claim. This can be a claim for service-connection or increase.
* **Request for Reconsideration**: request from a claimant for reconsideration one of a VA decision that has not yet become final (the one-year appeal period has not yet expired).

**Veteran Status**

A Veteran is a person who served in active military service and was discharged or released under conditions other than dishonorable.

Active Service means:

1. Active duty
2. Any period of active duty for training (ACDUTRA) during which the individual concerned was disabled from a disease or injury incurred or aggravated in the line of duty
3. Any period of inactive duty training during which the individual concerned was disabled from an injury incurred or aggravated in line of duty or from an acute myocardial infarction (heart attack), a cardiac arrest, or a cerebrovascular accident (stroke) which occurred during such training

Active Duty:

* full-time duty in the Armed Forces, other than active duty for training
* authorized travel to or from such duty or service
* the period of time immediately following the date of discharge or release from active duty determined by the Secretary concerned to have been required for the individual to proceed to his or her home by the most direct route, and, in all instances, until midnight of the date of such discharge or release
* additional types of service as described in 38 CFR 3.6(b)

Active Duty for Training:

* full-time duty in the Armed Forces performed by Reserves for training purposes
* full-time duty performed by members of the National Guard of any State, under 32 U.S.C. 316, 502, 503, 504, or 505
* authorized travel to or from such duty
* additional types of service as described in 38 CFR 3.6(c)

Inactive Duty Training:

* duty (other than full-time duty) prescribed for Reserves by the Secretary concerned under 37 U.S.C. 206 or any other provision of law
* duty (other than full-time duty) performed by a member of the National Guard of any State, under 32 U.S.C. 316, 502, 503, 504, or 505, or the prior corresponding provisions of law
* additional types of service as described in 38 CFR 3.6(d)

Any individual who, when authorized or required by competent authority, assumes an obligation to perform active duty for training or inactive duty training and is disabled from an injury or covered disease incurred while proceeding directly to or returning directly from such active duty for training or inactive duty training shall be deemed to have been on active duty for training or inactive duty training, as the case may be.

*“Covered disease” means an acute myocardial infarction (heart attack), cardiac arrest, or cerebrovascular accident (stroke).*

**Principles of Service-Connection**

Service connection connotes many factors but basically it means that the facts, shown by evidence, establish that a particular injury or disease resulting in disability was incurred coincident with service in the Armed Forces, or if preexisting such service, was aggravated therein. This may be accomplished by affirmatively showing inception or aggravation during service or through the application of statutory presumptions.

Each disabling condition shown by a veteran's service records, or for which he or she seeks service connection must be considered on the basis of the places, types and circumstances of his service as shown by service records, the official history of each organization in which he served, his medical records and all pertinent medical and lay evidence.

Determinations as to service connection will be based on review of the entire evidence of record, with due consideration to the policy of the Department of Veterans Affairs to administer the law under a broad and liberal interpretation consistent with the facts in each individual case.

**Methods of Service-Connection**

**Acute vs. Chronic Disabilities**

Service connection is granted for *chronic,*rather than *acute,* disabilities. See the table below for definitions and examples of chronic and acute disabilities.

|  |  |
| --- | --- |
| A ***chronic disability*** is a disability of long duration and although it may go into remission or temporarily get somewhat better, it never goes away completely. | ***Examples:***   * arthritis * hypertension * diabetes mellitus |
| An ***acute disability*** is a disease or injury that   * has definite symptoms * is short in duration, and * results in a recovery without apparent residuals. | ***Examples***:   * common cold * pneumonia * bruise |
| ***Note:***Some conditions may be either acute or chronic. A back condition, for example, may clear up and resolve (acute) or it may become worse and persist (chronic). | |

**Direct**

***Direct*** means a disability resulting from an injury or disease incurred in line of duty during active service.

The current disability must have begun during active duty service either by manifestation of the disease entity or by the occurrence of an injury or traumatic event during service resulting in the current, chronic, ongoing disability.

Direct service connection may be granted for diseases diagnosed after discharge when all the evidence, including that pertinent to service, establishes that the disease was incurred in service.

|  |
| --- |
| ***Examples***   * A Veteran falls from a ladder and injures his back while on active duty. * During a weekend drill, an Army Reservist injures her knee while participating in a physical training class. |

**Aggravated**

***Aggravated*** means a disability existing prior to service and made worse due to military service.

A pre-existing injury or disease is considered to have been aggravated by active military service when there is an increase in disability during active military service, unless the evidence clearly and unmistakably shows the increase in disability is due to the natural progress of the injury or disease.

|  |
| --- |
| ***Example***  A Veteran has a low back condition documented on his military entrance examination. While on active duty, he injures his lower back while carrying heavy equipment. |

**Presumptive**

***Presumptive*** means a disability presumed to have been caused by service based on location or circumstances of service, or by military service itself.

Diseases or conditions entitled to consideration for presumptive service connection will be considered to have been incurred in or aggravated by service if manifested to a compensable level within the time frame specified for that certain disease under the regulation, *even if there is no evidence of such disease during service.*

Categoriesof diseases entitled to consideration for presumptive service connection under 38 CFR 3.309(e) include chronic diseases, tropical diseases, diseases specific as to former prisoners of war, diseases specific to radiation-exposed Veterans, and diseases associated with exposure to certain herbicide agents (including Agent Orange).

Additional disabilities entitled to consideration for presumptive service connection include, but are not limited to

amyotrophic lateral sclerosis (ALS)

* an undiagnosed illness or a diagnosable but medically unexplained chronic multi-symptom illness of unknown etiology, for Veterans with service in the Southwest Asia theater of operations, and
* certain infectious diseases, for Veterans with service in the Southwest Asia theater of operations or service in Afghanistan.

|  |
| --- |
| ***Example***  A Veteran is diagnosed with multiple sclerosis (MS) six years after service. Due to the nature of MS, it is presumed to have been incurred within his service period. |

**Secondary**

***Secondary*** means a disability resulting from, or worsened by, another service-connected condition.

Secondary service connection may be awarded for

* disabilities that are proximately due to, or the result of, a service-connected condition, and
* the increase in severity of a non-service-connected disability that is attributable to aggravation by a service-connected disability, and not to the natural progression of the non-service-connected disability.

The term *proximately due to* means the service-connected condition directly caused the claimed disability, as distinguished from having been a remote contributing cause.

|  |
| --- |
| ***Examples***   * A Veteran is medically discharged from service following an accident that shortened his left leg by two inches. He claims, and is awarded, service connection for his left leg condition. Four years later, the Veteran claims service connection for hip and back conditions that he believes are related to his service-connected left leg condition. There is no indication that he suffered hip or back injuries in service. * A Veteran claims service connection for stomach problems secondary to his service-connected heart condition. He indicates that since he began taking prescribed medications two years ago for his heart condition, he has experienced stomach problems to include constipation, pain, and indigestion. There are no specific diagnoses relating to his stomach symptoms noted in the evidence of record. |

Topic 2: Types of Compensation Claims

**Types of Compensation Claims**

A ***complete claim*** for disability compensation means a submission of an application form prescribed by the Secretary, whether paper or electronic, that meets the following requirements:

* Provides the name of the claimant; the relationship to the Veteran, if applicable; and sufficient service information for VA to verify the claimed service, if applicable.
* Is signed by the claimant or a person legally authorized to sign for the claimant.
* Identifies the benefit sought.
* Provides a description of any symptom(s) or medical condition(s) on which the benefit is based, to the extent the form prescribed by the Secretary so requires.

An ***original claim*** means the *initial* complete claim for one or more benefits on an application form prescribed by the Secretary.

A ***non-original claim for compensation*** means any disability compensation claim received after the initial eligibility decision.

|  |
| --- |
| ***Example 1***  In November 2013, a Veteran submitted a claim for service connection for a left knee condition on a VA Form 21-526EZ. Service connection was denied and he did not appeal the decision. In January 2016, the Veteran submitted a VA Form 21-526EZ for a right arm condition. The Veteran had never applied for benefits prior to November 2013.   * The November 2013 claim is the original claim. * The January 2016 claim is a non-original new claim. |
| ***Example 2***  In May 1971, the Veteran submitted a claim for service connection for chronic obstructive pulmonary disease (COPD) on a VA Form 21-526. Service connection for COPD was granted with an evaluation of less than 100%. In February 2016, the Veteran submitted a claim for an increased COPD evaluation on a VA Form 21-526EZ. The Veteran had never applied for benefits prior to May 1971.   * The May 1971 claim is the original claim. * The February 2016 claim is a non-original increase claim. |

**Non-Original Compensation Claims**

There are several types of disability compensation claims that may be filed after the Veteran has received an initial eligibility decision.

The non-original compensation claims portion of this topic is limited to claims for

* service connection for new disabilities
* service connection for previously denied disabilities, and
* increased evaluation of an existing service-connected disability.

**Claims for New Disabilities**

Non-original new claims include

* claims for service connection for disabilities not previously adjudicated, and
* disability compensation filed for the first time, but received after a disability pension claim has previously been filed and adjudicated under an EP 180.

|  |
| --- |
| ***Examples of non-original claims for new disabilities***   * In March 2014, a Veteran filed an original claim for service connection for a left knee injury. No other issues were claimed. A rating decision was issued granting service connection for the left knee injury. In May 2014, the Veteran claimed service connection for asthma. The asthma claim is considered a non-original claim for a new disability. * In January 2013, a Veteran filed an original claim for non-service-connected pension. His pension claim was administratively denied because he did not have the requisite wartime service. In April 2014, the Veteran filed a claim for service connection for tinnitus on a VA Form 21-526EZ. Even though the Veteran had never previously claimed service connection, the claim for tinnitus is considered a non-original claim for a new disability. |

**Claims to Reopen Previously Denied Disabilities**

Claims for service connection received after the denial of an earlier claim for that same disability has become final are considered claims to reopen.

*Final* means the claim is no longer active and the appeal period has expired.

***Note:*** Do not confuse a claim toreopen with a claim for *reconsideration.* A claim to reopen differs from a claim for reconsideration in that the decision at issue in a claim to reopen has become final. For more information about claims for reconsideration, see M21-1, Part III, Subpart ii, 2.F

|  |
| --- |
| ***Examples of claims to reopen***   * In December 2014, a Veteran’s claim for service connection for a bilateral knee condition was denied because the VA examination revealed no diagnosed bilateral knee disability. The Veteran, who did not appeal the decision, again filed a claim for bilateral knee condition in February 2016. The February 2016 claim is considered a claim to reopen. * In June 1981, a Veteran’s claim for service connection for depression and anxiety was denied because his psychiatric disorder could not be linked to service. Although the Veteran appealed the decision, his appeal was denied by the Board of Veterans Appeals (BVA) in November 1982. In March 1994, the Veteran filed another claim for service connection for depression and anxiety. The March 1994 claim is considered a claim to reopen. * In August 2011, a Veteran’s claim for direct service connection for hypertension was denied and he did not appeal the decision. In October 2013, the Veteran filed another claim for service connection for hypertension, but this time as secondary to his service-connected diabetes mellitus, type 2. Even though the October 2013 claim was made under a different theory of entitlement, it is considered a claim to reopen because it is for the same disability (hypertension) that was previously denied. |

**New and Material Evidence Requirement for Claims to Reopen**

A claimant must submit new and material evidence before VA will reopen a finally denied claim. A previous, finally denied claim is considered reopened only when the evidence submitted is both new *and* material.

* ***Evidence*** means any type of proof offered to establish a fact. Examples of evidence include, but are not limited to, testimony (to include statements, contentions, and arguments), documentary proof, and medical examinations or reports.
* ***New*** means evidence not previously been considered.
* ***Material*** means evidence that by itself, or when considered with previous evidence of record, it relates to an unestablished fact necessary to substantiate the claim.

New and material evidence can be neither cumulative nor redundant of the evidence of record at the time of the last final denial, and must raise a reasonable possibility of substantiating the claim.

|  |
| --- |
| ***Examples of new and material evidence***   * A new opinion from a specialist after VA denies service connection due to ‘no nexus’ * A medical report not previously of record showing the existence of the disability after VA denies service connection because ‘disability does not exist’ |
| ***Examples of new and material evidence (cont’d)***   * A buddy statement for the first time from a friend who witnessed the Veteran injure his back in service after VA denies service connection for back injury as ‘not incurred in service’ |
| ***Examples of evidence that is not considered new and material***   * A record photocopied from the claims folder that was considered in the previously denied claim * A new medical nexus opinion incorporating an inaccurate history * Written testimony from an eyewitness that is substantially identical to a statement already on file * A layperson’s assertion about the cause (but not the onset) of a disability * Medical evidence that reveals the existence of a disability when previous evidence already revealed that the disability existed. * VA treatment records that were considered in the previously denied claim |

**Claims forIncrease**

Claims for an increased evaluation of an existing service-connected disability are, as one might expect, considered claims for increase.

|  |
| --- |
| ***Examples of claims for increase***   * A Veteran with service-connected post-traumatic stress disorder (PTSD) evaluated at 30% disabling files a VA Form 21-526EZ in December 2015, claiming that her PTSD has worsened. * A Veteran filed an original claim for service connection for bilateral hearing loss in September 1974. Service connection was granted, but entitlement to compensation was denied because the hearing loss was rated as noncompensable (0%). In July 2008, the Veteran filed another claim for service connection for bilateral hearing loss, not remembering that service connection had previously been granted for this disability. Though presented by the Veteran as a claim for service connection, the July 2008 claim is considered a claim for increase. |

**Reconsideration**

A request for reconsideration is a request from a claimant for the Department of Veterans Affairs (VA) to reconsider one of its decisions that has not yet become final (the one-year appeal period, which begins on the date the claimant was notified of the decision at issue, has not yet expired).

A prescribed form is not required for a request for reconsideration.

A request for reconsideration differs from a claim to reopen in that the decision at issue in a claim to reopen has become final (one-year appeal period expires).

5103 Notice is not required upon receipt of a request for consideration because the notice was already provided to the claimant.

**Determining Whether to Include Appeal Rights in the Decision Notice**

Include appeal rights in a decision notice issued in response to a request for reconsideration ***only if*** VA received or obtained ***new*** evidence in connection with the request for reconsideration.  Include the appeal rights and a [VA Form 21-0958](http://www.vba.va.gov/pubs/forms/VBA-21-0958-ARE.pdf)*, Notice of Disagreement,* regardless of whether or not the decision at issue changed.

***Important***:  If the inclusion of appeals rights in the decision notice is appropriate, the claimant has one year from the date of that notice to file a notice of disagreement (NOD) with the corresponding decision.

**Letter to a Claimant Who Provides No Evidence or Evidence VA has Already Considered**

If a claimant who, in support of a request for reconsideration of a previously denied claim, provides

* no evidence, or
* evidence VA has already considered,

then send the claimant the appropriate letter. You may use PCGL or MAP-D to generate the letter. Make sure to update the letter accordingly.

The EP 400 must be cleared after sending the letter. Do **not** maintain EP control for a response. Further action on the claim is only required if the claimant responds to the letter.

**Initial Steps for Handling a Request for Reconsideration**

The table below describes the initial steps for handling a request for reconsideration.

|  |  |
| --- | --- |
| **If the claimant Submits…** | **Then…** |
| evidence VA has never before considered (new or material) | refer the claim to either the rating activity or authorization activity (whichever made the decision at issue) for reconsideration |
| no evidence but makes reference to available evidence that VA has never before considered | assist the claimant in obtaining the evidence.  **Reference:** For information about assisting claimants in obtaining evidence to support their claim, see M21-1, Part III, Subpart iii, 1.C.1, 2, and 3. |
| A statement indicating a willingness to report for examination(s) after failing to report to a previously scheduled exam(s) | reorder the missed examination(s). |
| * no evidence, or * evidence VA has already considered | Send the claimant the letter shown in M21-1, Part III, Subpart ii, 2.F.1.e. |

**Reconsideration**

New evidence

* is evidence not previously of record, and
* is neither cumulative nor redundant.

Material evidence

* is relevant evidence that, when considered by itself or considered with previous evidence of record, relates to an unestablished fact necessary to substantiate the claim
* has a legitimate influence or bearing on the decision in the case, and
* is neither cumulative nor redundant.

Topic 3: Application Requirements

**Prescribed Forms**

Effective March 24, 2015, VA only recognizes compensation claims if they are submitted on the required standard forms. These standard forms are commonly referred to as “prescribed forms.”

The table below provides guidance on the correct VA form to use based on the benefit sought.

|  |  |
| --- | --- |
| ***If the benefit sought is …*** | ***Then the appropriate prescribed forms include VA Form …*** |
| * service connection (original) * service connection (new or reopen) * increased evaluation | * 21-526EZ, Application for Disability Compensation and Related Compensation Benefits * 21-526, Veteran’s Application for Compensation and/or Pension * 21-526c, Pre-Discharge Compensation Claim * Benefits Delivery at Discharge (BDD) or Quick Start (QS) claims only * 21-0819, VA/DOD Joint Disability Evaluation Board Claim * Integrated Disability Evaluation System (IDES) claims only |
| ***Note:*** VA Form 21-526b, Veterans Supplemental Claim for Compensation, is also a prescribed form for new and reopen claims for service connection, as well as claims for increased evaluation. It is *not*, however, a prescribed form for *original* compensation claims. | |

**Request for Application**

**Additional Correspondence Received With a Prescribed Form**

A claimant may submit correspondence in conjunction with a prescribed form that identifies additional benefits being sought. VA may accept these statements as part of the claim under specific circumstances.

If the benefit sought in the correspondence is submitted with

* the appropriate prescribed form, consider the additional issue(s) as part of the pending claim.
* a form*not* prescribed for the specific benefit, consider the additional issue(s) a request for application (RFA).

|  |
| --- |
| ***Example – Additional issue may be accepted as part of claim***  A Veteran submits a claim for an increase for his service-connected posttraumatic stress disorder (PTSD), right and left knee patellofemoral pain syndrome, and lumbosacral strain on a VA Form 21-526EZ. The Veteran also submits a VA Form 21-4138, Statement in Support of Claim, with the VA Form 21-526EZ that describes the worsening of the disabilities as well as a new right hip problem caused by an altered gait related to the knee conditions.  ***Explanation***  The right hip condition can be accepted as a claim because the VA Form 21-526EZ is the prescribed form for service-connected disabilities and the VA Form 21-4138 was submitted with the VA Form 21-526EZ. |
| ***Example – Additional issue must be considered a request for application***  A Veteran submits a claim for coronary artery disease on a VA Form 21-526EZ. The Veteran also submits a VA Form 21-4138, Statement in Support of Claim, with the VA Form 21-526EZ requesting that he be granted non-service-connected pension benefits. He states he is unable to work due to a low back injury incurred after service.  ***Explanation***  The VA Form 21-4138 cannot be accepted as a claim for non-service-connected pension based on the low back injury because the VA Form 21-4138 was submitted with a VA Form 21-526EZ, which is not the prescribed form for pension. |

**Requests for Benefits not Filed on a Prescribed Form**

Consider a request for benefits which was not filed on (or with) an appropriate prescribed form on or after March 24, 2015, a request for application (RFA).

VA must provide the prescribed application forms to the Veteran when he or she submits a request for application or desire for benefits either in writing or through electronic communications that is not on a standard claim form. Instructions for RFA processing can be found in M21-1 III.ii.2.C.2.b.

|  |
| --- |
| ***Example – Request for benefits is considered a request for application***  A Veteran submits a VA Form 21-4138, Statement in Support of Claim, stating that he would like to claim service connection for a back condition.  ***Explanation***  The VA Form 21-4138 cannot be accepted as a claim for service connection for the Veteran’s back condition because it is not a prescribed form for service connection, nor was it submitted with a prescribed form for service connection. The Veteran’s VA Form 21-4138 must be considered a request for application. |

**Substantially Complete Application**

Upon receipt of an application for benefits filed on an appropriate prescribed form, VA must determine if the application is substantially complete.

A substantially complete application for disability compensation must include:

1. claimant’s name and relationship to the Veteran, if applicable
2. sufficient service information for the VA to verify the Veteran’s service, if applicable
3. benefit claimed
4. disability(ies) on which the claim for benefits is based, and
5. signature of the claimant or another legally authorized individual.

**Signature Requirements for Claims Filed Electronically**

The signature requirement for a substantially complete claim is set aside when a claim is filed electronically through an online application.

***Exception*:** Claims may be submitted by powers of attorney (POAs) through the Stakeholder Enterprise Portal (SEP). Original compensation claims submitted through SEP involve additional signature requirements to be substantially complete. For more information on claims for compensation submitted through SEP, see M21-1, Part III, Subpart i, 4.B.2.

**Signature Requirements for Paper Applications**

All claims filed on paper applications must be signed by the claimant or a person legally authorized to sign for the claimant.

Acceptable claimant signatures include

* original signatures (“pen and ink” or “wet” signatures)
* faxed and photocopied signatures
* signatures by *X* mark or thumbprint, if witnessed by two persons who give their addresses, a VA employee, a Veterans Service Organization (VSO) representative, an attorney, an accredited agent, a notary public, or a person having the authority to administer oaths for general purposes
* signatures (or an *X* mark as a signature) made by pencil, and
* poor quality signatures due to low quality scanned documents.

**Alternate Signers**

VA may accept an alternate signature on behalf of claimants or beneficiaries who

* are under age 18
* are physically unable to sign a form, or
* lack the mental capacity to provide substantially accurate information needed to complete a form or to certify that the statements made on a form are true and complete.

38 U.S.C. 5101 requires that an alternate signer be at least one of the following:

* a court-appointed representative
* a person who is responsible for the care of the claimant or beneficiary, including a spouse or other relative
* an attorney-in-fact or agent authorized to act on behalf of the individual under a durable power of attorney (POA), or
* the manager or principal officer acting on behalf of an institution caring for the claimant.

When an alternate signer certifies or represents that he or she is an appropriate signer under the criteria set forth in 38 U.S.C. 5101, VA will generally accept the alternate signature in the absence of discrepant information.

Under the circumstances described in M21-1, Part III, Subpart ii, C.2, an application with an alternate signature requires additional development. An application with an alternate signature requiring additional development is considered an *incomplete application*.

**Incomplete Applications**

An incomplete application is any submission on a prescribed form that does not meet the requirements for a substantially complete claim.

Notification requirements for incomplete applications can be found in M21-1, Part I, 1.B.1. For incomplete applications requiring additional development related to an alternate signature, see M21-1, Part III, Subpart ii, C.2.

|  |
| --- |
| ***Example 1 – Incomplete application***  A Veteran files an application electronically through Veterans On-Line Application (VONAPP) Direct Connect (VDC). On his application, he requests service connection for Agent Orange exposure.  ***Explanation***  This application is incomplete because it does not identify the disability or disabilities on which it is based. A claim mentioning an exposure (such as to Agent Orange or anthrax) but not specifying a disability from the exposure is not substantially complete. |

|  |
| --- |
| ***Example 2 – Incomplete application***  A Veteran files a claim for compensation on a paper VA Form 21-526EZ. He requests service connection for diabetes mellitus, type II due to Agent Orange exposure in Vietnam. The claim was not signed by the Veteran or anyone else.  ***Explanation***  This application is incomplete because it was not properly signed. Unsigned or improperly signed applications are considered incomplete. |

Topic 4: End Products (EPs) and Statutory Obligations

**End Products (EPs)**

**What’s an EP?**

The end product (EP) system is the primary workload monitoring and management tool for the Veterans Service Center (VSC). Additionally, received and completed EPs are used to formulate the annual budget submission to the Secretary, Office of Management and Budget (OMB), the President, and Congress.

Upon receipt of a substantially complete application for benefits, an EP is established in VA computer systems. This EP will generally not be cleared until all issues raised by the claim have been resolved.

**EPs for Compensation Claims**

|  |  |
| --- | --- |
| Original compensation claim with 7 issues or less | EP 110 |
| Original compensation claim with 8 issues or more | EP 010 |
| Non-original compensation claims for   * service connection for new disabilities * service connection for previously denied disabilities * increased evaluation of an existing service-connected disability | EP 020 |

**EP 110 & 010**

The correct EP for an original compensation claim depends on the number of issues associated with the claim. Each disability claimed or identified and rated for disability compensation entitlement is counted as an issue.

* The correct EP for original compensation claims with 7 issues or less is EP 110.
* The correct EP for original compensation claims with 8 issues or more is EP 010.

|  |
| --- |
| ***Example: EP 110***  A Veteran submits a substantially complete original compensation claim for service connection for hearing loss and tinnitus.  ***Explanation***  The correct EP is 110 because there are  *7 issues or less* associated with the claim:   1. Hearing loss 2. Tinnitus |

|  |
| --- |
| ***Example: EP 010***  A Veteran submits a substantially complete original compensation claim for service connection for diabetes mellitus, peripheral neuropathy of all extremities, diabetic retinopathy, a left knee condition, and post-traumatic stress disorder (PTSD).  ***Explanation***  The correct EP is 010 because there are *8 or more issues* associated with the claim:   1. Diabetes mellitus 2. Peripheral neuropathy, left upper extremity 3. Peripheral neuropathy, right upper extremity 4. Peripheral neuropathy, left lower extremity 5. Peripheral neuropathy, right lower extremity 6. Diabetic retinopathy 7. Left shoulder condition 8. PTSD |

**EP 020**

Claims related to service connection and claims for increase, subsequent to an initial claim under EP 110 or 010, are generally the disability claims applicable to EP 020, regardless of the number of issues associated with the claim.

|  |
| --- |
| ***Example: EP 020 (New)***  A Veteran submits a substantially complete non-original compensation claim for a left knee condition. He has never previously claimed service connection for the left knee condition. |
| ***Example: EP 020 (Reopen)***  A Veteran submits a substantially complete non-original compensation claim for asthma. Two years before filing her current claim for asthma, the Veteran was notified that her previous claim for service connection for asthma had been denied because there was no evidence showing that she had asthma. |
| ***Example: EP 020 (Increase)***  A Veteran submits a substantially complete non-original compensation claim for an increased evaluation of his service-connected plantar fasciitis. |

**End Products for Request for Reconsiderations**

If the claimant submits:

* new and material evidence,
* references evidence VA has never before considered, or
* a statement of willingness to report for an exam

then make sure an end product (EP) 020 with the *Reconsideration* claim label is established. This will ensure that the intent to file (ITF) batch process will not update the status of an *active* ITF to *claim received* upon establishment of the EP.

***Note:*** If additional conditions are claimed at the same time as the reconsidered issues, do ***not*** establish an EP 020 with the *Reconsideration* claim label, but instead establish the appropriate EP claim label based on whether the claimed conditions constitute new, increase, or reopened claims.

If the claimant submits no additional evidence or evidence VA has already considered, then establish a 400 EP with the *Correspondence* claim label. If a rating EP was erroneously established to control the request, change the EP to EP 400 with the *Correspondence* claim label.

**Duty to Notify**

Upon receipt of a substantially complete claim, VA has a duty to notify the claimant of any information and medical or lay evidence not previously provided that is necessary to substantiate the claim.

This statutory obligation, based on 38 U.S.C. 5103, is met when this notice, referred to as a *Section 5103 notice*, is provided to claimants on a standard EZ application form, through online claims submission, or by letter sent from the VA to the claimant (and representative, if any).

If the Section 5103 notice has been provided to the claimant but there is additional information needed from the Veteran to support his or her claim, VA is obligated to notify claimants of this required information.

**Duty to Assist**

Upon receipt of a substantially complete claim, VA also has a duty to assist the claimant by making reasonable efforts to help him or her obtain evidence necessary to substantiate the claim.

To fulfill VA’s statutory obligation to assist the claimant, reasonable efforts must be made to help the claimant obtain relevant evidence necessary to substantiate the claim, including

* relevant records in the custody of a Federal department or agency
* relevant non-Federal or private records from all sources that the claimant adequately identifies, and
* a medical opinion or examination, when warranted.

Practical Exercise

*Directions: Please complete the following exercise.*

1. Service-connected means that a disability was incurred or aggravated in line of duty in *active service*, which is defined as any of the following:

* \_\_\_\_\_\_\_\_\_\_,
* Any period of \_\_\_\_\_\_\_\_\_\_ during which the individual concerned was disabled from \_\_\_\_\_\_\_\_\_\_ incurred or aggravated in line of duty, and
* Any period of \_\_\_\_\_\_\_\_\_\_ during which the individual concerned was disabled from \_\_\_\_\_\_\_\_\_\_ incurred or aggravated in line of duty or from \_\_\_\_\_\_\_\_\_\_ which occurred during such training.

1. In line of duty means an injury or disease incurred or aggravated during a period of active military, naval, or air service unless such injury or disease was the result of the Veteran's own \_\_\_\_\_\_\_\_\_\_, or, for claims filed after October 31, 1990, was a result of his or her abuse of alcohol or drugs.
2. Is service-connected disability compensation paid for acute disabilities, chronic disabilities, or both?
3. Determinations as to service-connection will be based on review of the entire evidence of record, with due consideration to the policy of the Department of Veterans Affairs to administer the law under a \_\_\_\_\_\_\_\_\_\_ interpretation consistent with the facts in each individual case.
4. Enter *Direct*, *Aggravated*, *Presumptive*, or *Secondary* in the box that matches its description.

|  |  |
| --- | --- |
| Disabilities existing prior to service and made worse due to military service |  |
| Disabilities resulting from or worsened by another service-connected condition |  |
| Disabilities presumed to have been caused by service based on location or circumstances of service (or by military service itself) |  |
| Disabilities resulting from an injury or disease that occurred in line of duty in active service |  |

1. *True or False:* Direct service-connection may *not* be granted for diseases diagnosed after discharge.
2. *True or False:* A pre-existing injury or disease is considered to have been aggravated by active military service when there is an increase in disability during active military service that is due to the natural progress of the injury or disease.
3. *True or False:* All diseases or conditions entitled to consideration for presumptive service-connection will be considered to have been incurred in or aggravated by service if manifested to a compensable level *at any time after service*, even if there is no evidence of such disease during service.
4. *True or False:* Secondary service-connection (SC) may be awarded for disabilities that are proximately due to, or the result of, an SC condition, or for the increase in severity of a non-service-connected (NSC) disability that is attributable to aggravation by an SC disability, and not to the natural progression of the NSC disability.
5. An original claim is the \_\_\_\_\_\_\_\_\_\_ complete claim for benefits on an application form prescribed by the Secretary. All subsequent claims for compensation, even if the disability claimed has never been claimed before, will not be designated as original.
6. \_\_\_\_\_\_\_\_\_\_ is required before the Department of Veterans Affairs (VA) will reopen a finally denied claim for service-connection for a particular disability.
7. After VA denies service-connection because the claimed ‘disability does not exist’ and that decision has become final, the Veteran submits a medical report showing the existence of the disability. Does this evidence meet the requirement to reopen the claim for service-connection for this disability?
8. A claim to reopen differs from a claim for reconsideration in that the decision at issue in a claim to reopen \_\_\_\_\_\_\_\_\_\_.
9. List the four prescribed forms for an original compensation claim. If any are prescribed for a VA pre-discharge program, state which program(s).

* \_\_\_\_\_\_\_\_\_\_
* \_\_\_\_\_\_\_\_\_\_
* \_\_\_\_\_\_\_\_\_\_
* \_\_\_\_\_\_\_\_\_\_

1. VA requires all claims to be filed on a standard application form prescribed by the Secretary (prescribed form). If a request for compensation is not filed *on* or *with* the appropriate prescribed form, the correspondence is considered a/an \_\_\_\_\_\_\_\_\_\_.
2. A substantially complete application for disability compensation must include:
   * claimant’s name and relationship to the Veteran, if applicable
   * sufficient service information for the VA to verify the Veteran’s service, if applicable
   * benefit claimed
   * disability(ies) on which the claim for benefits is based, and
   * signature of \_\_\_\_\_\_\_\_\_\_.
3. *True or False****:*** The only individuals who may sign a claim for compensation are the claimant, parent or guardian of a minor, or fiduciary of a claimant who is incompetent.
4. An application that is filed on the prescribed form, but is not substantially complete, is considered a/an \_\_\_\_\_\_\_\_\_\_**.**
5. The end product (EP) for an original compensation claim depends on the number of issues associated with the claim.

* EP 110 is appropriate if there are \_\_\_\_\_\_\_\_\_\_ issues or less.
* EP 010 is appropriate if there are\_\_\_\_\_\_\_\_\_\_ issues or more.

1. Upon receipt of a substantially complete claim, VA has a
   1. \_\_\_\_\_\_\_\_\_\_ the claimant of any information and medical or lay evidence not previously provided that is necessary to substantiate the claim, and a
   2. \_\_\_\_\_\_\_\_\_\_ the claimant by making reasonable efforts to help him or her obtain evidence necessary to substantiate the claim.
2. Veteran receives a decision notice on April 4, 2015, stating that his/her claim for service-connection (SC) for a right knee condition is denied. On May 10, 2015, the Veteran submits an intent to file (ITF) for compensation. VA receives a letter from the Veteran on June 16, 2015, requesting a reconsideration of the denial of the right knee condition, and simultaneously submits medical records that have not been previously considered (new evidence).

What EP and claim label should be established?

1. VA receives a claim for hearing loss on June 30, 2015. No additional evidence was received. A review of the claims folder shows an original rating decision dated February 3, 2015, denied the Veteran service-connection for hearing loss. The original claim received on August 26, 2014, and VA Exam dated December 15, 2014, did not include a diagnosis for hearing loss. The claim was denied due to not having a diagnosis of hearing loss. The Award Notification letter was dated February 5, 2015.

What EP and claim label should be established? What action should be taken?

1. On December 31, 2015, VA receives private medical evidence of a left knee replacement. The evidence shows the surgery happened on December 30, 2015. A review of the claims folder shows the Veteran is service-connected for a left knee condition. Further review shows that a Rating Decision dated October 31, 2015, denied a temporary 100% evaluation of a left knee replacement for failure to provide evidence of the surgery. The notification letter was sent November 5, 2015.

What EP? What action should be taken? If granted, what is the effective date?

1. VA receives a claim for diabetes on March 3, 2015. Veteran receives a decision notice on April 24, 2015, stating that his/her claim for SC for diabetes is denied for failure to report for an exam. On May 10, 2015, the Veteran submits an ITF for compensation. VA receives a complete VA Form 21-526EZ, *Application for Disability Compensation and Related Compensation Benefits*, on June 16, 2015, requesting a reconsideration of the diabetes claim, along with a statement of good cause for missing the exam and willingness to report to a VA exam, and also claims SC for peripheral neuropathy on the VA Form 21-526EZ.

What action should be taken? If granted, discuss the earliest possible effective dates for the diabetes and peripheral neuropathy.