Dependency and Apportionment Claims Establishment

Trainee Handout

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Objectives

* To understand the procedures for and how to effectively establish a dependency claim.
* To understand the procedures for and how to effectively establish a claim for apportionment.

References

* [M21-1, Part III, Subpart iii, Chapter 5, Section A](https://vaww.vrm.km.va.gov/system/templates/selfservice/va_kanew/help/agent/locale/en-US/portal/554400000001034/content/554400000015798/M21-1-Part-III-Subpart-iii-Chapter-5-Section-A-General-Information-on-Relationship-and-Dependency#1)
* [M21-1, Part III, Subpart i, Chapter 4, Section E](https://vaww.vrm.km.va.gov/system/templates/selfservice/va_kanew/help/agent/locale/en-US/portal/554400000001034/content/554400000032435/M21-1-Part-III-Subpart-i-Chapter-4-Section-E-Processing-of-Claims-for-and-Correspondence-Affecting-a-Beneficiarys-Entitlement-to-Additional-Compensation-Benefits-for-Dependents)
* [M21-1, Part III, Subpart ii, Chapter 3, Section D](https://vaww.vrm.km.va.gov/system/templates/selfservice/va_kanew/help/agent/locale/en-US/portal/554400000001034/content/554400000031819/M21-1-Part-III-Subpart-ii-Chapter-3-Section-D-Claims-Establishment#3)
* [M21-1, Part III, Subpart iii, Chapter 1, Section F](https://vaww.vrm.km.va.gov/system/templates/selfservice/va_kanew/help/agent/locale/en-US/portal/554400000001034/content/554400000071983/M21-1-Part-III-Subpart-iii-Chapter-1-Section-F-Record-Maintenance-During-the-Development-Process#2)
* [M21-4, Appendix B](https://vaww.vrm.km.va.gov/system/templates/selfservice/va_kanew/help/agent/locale/en-US/portal/554400000001034/content/554400000011474/Appendix%20B.%20End%20Product%20Codes%20and%20Work-Rate%20Standards%20for%20Quantitative%20Measurementshttps%3A/vaww.vrm.km.va.gov/system/templates/selfservice/va_kanew/help/agent/locale/en-US/portal/554400000001034/content/554400000011474/Appendix%20B.%20End%20Product%20Codes%20and%20Work-Rate%20Standards%20for%20Quantitative%20Measurements)

Topic 1 - Establishing a Dependency Claim

Dependency Claim Overview

Establishing an individual’s relationship to a Veteran is critical in determining benefits because

* The Department of Veterans Affairs (VA) may pay additional disability compensation to a Veteran for his/her dependent(s) if the Veteran has a combined disability rating of at least 30 percent
* VA may pay additional Dependency and Indemnity Compensation (DIC) to a surviving spouse for any of his/her children that VA recognizes as children of the Veteran on whose death the DIC award is based
* The existence of dependents and the amount of their income is a factor in determining entitlement in both Veterans pension and survivors pension cases
* A claimant’s entitlement to survivors benefits, such as DIC and survivors pension, is contingent on his/her relationship to the Veteran on whose death the benefit is based.

Prescribed forms for dependency.

Effective March 24, 2015, a claimant must submit [VA Form 21-686c](http://www.vba.va.gov/pubs/forms/VBA-21-686c-ARE.pdf), or one of the prescribed forms listed in the bottom row of the table under [M21-1, Part III, Subpart ii, 2.B.1.b](https://vaww.vrm.km.va.gov/system/templates/selfservice/va_kanew/help/agent/locale/en-US/portal/554400000001034/content/554400000014119/M21-1%2C-Part-III%2C-Subpart-ii%2C-Chapter-2%2C-Section-B---Claims-for-Disability-Compensation-and-or-Pension%2C--and-Claims-for-Survivors-Benefits) below to initiate the process of adding a dependent to his/her award.

|  |  |
| --- | --- |
| dependents | * [21-526](http://www.vba.va.gov/pubs/forms/VBA-21-526-ARE.pdf)
* [21P-527](http://www.vba.va.gov/pubs/forms/VBA-21P-527-ARE.pdf) (pension only)
* [21P-527EZ](http://www.vba.va.gov/pubs/forms/VBA-21P-527EZ-ARE.pdf) (pension only)
* [21-534](http://www.vba.va.gov/pubs/forms/VBA-21-534-ARE.pdf) (survivors only)
* [21P-534EZ](http://www.vba.va.gov/pubs/forms/VBA-21P-534EZ-ARE.pdf) (survivors only)
* [21-686c](http://www.vba.va.gov/pubs/forms/VBA-21-686c-ARE.pdf)
* [21-674](http://www.vba.va.gov/pubs/forms/VBA-21-674-ARE.pdf), (all 674-series forms), [Request for Approval of School Attendance, (school children over 18 only)](http://www.vba.va.gov/pubs/forms/VBA-21-674-ARE.pdf), or
* [21P-509, Statement of Dependency of Parent(s), (for dependent parent(s) only)](http://www.vba.va.gov/pubs/forms/VBA-21p-509-ARE.pdf)
* [21-4170, Statement of Marital History (for adding a spouse based on a common-law marriage)](http://www.vba.va.gov/pubs/forms/VBA-21-4170-ARE.pdf), or
* [21-0538](http://vbaw.vba.va.gov/bl/20/cio/20s5/forms/VBA-21-0538-ARE.pdf) (if submitted as part of the verification process described in [M21-1, Part III, Subpart iii, 5.K](https://vaww.vrm.km.va.gov/system/templates/selfservice/va_kanew/help/agent/locale/en-US/portal/554400000001034/content/554400000015797/M21-1%2C-Part-III%2C-Subpart-iii%2C-Chapter-5%2C-Section-K---Verification-of-Marital-Status-and-the-Status-of-Dependents)).

**Important**:  A Veteran may use [VA Form 21-0538](http://vbaw.vba.va.gov/bl/20/cio/20s5/forms/VBA-21-0538-ARE.pdf), to **initiate** the process of adding a spouse to his/her award. However, this form contains no sections wherein the Veteran may provide his/her marital history or the marital history of his/her spouse. Without this information, VA cannot determine whether the Veteran and his/her spouse are free to marry. Accordingly, a Veteran in this case must ultimately provide the information contained in [VA Form 21-686c](http://www.vba.va.gov/pubs/forms/VBA-21-686c-ARE.pdf)  **in addition to** the [VA Form 21-0538](http://vbaw.vba.va.gov/bl/20/cio/20s5/forms/VBA-21-0538-ARE.pdf). In accordance with [M21-1, Part III, Subpart iii, 5.A.4.h](https://vaww.vrm.km.va.gov/system/templates/selfservice/va_kanew/help/agent/locale/en-US/portal/554400000001034/content/554400000015798/M21-1%2C-Part-III%2C-Subpart-iii%2C-Chapter-5%2C-Section-A---General-Information-on-Relationship-and-Dependency), this information may be obtained through a phone call to the Veteran.**Note**:  A [VA Form 21-674](https://www.vba.va.gov/pubs/forms/VBA-21-674-ARE.pdf) can be accepted as a standard form for a school child claiming DIC in his or her own right if the child was previously on a surviving spouse’s DIC award |

**Dependency claims signed by VA employees.**

A VA call center employee can complete and sign a VA Form 21-686c and VA Form 21-674. However, it must include clear identification of employee executing the form through digital signature or wet signature when electronic submission is not available. The form can be signed by an RO employee such as a Public Contact Representative or LAS (Legal Admin Specialist) meeting the same signature requirements. The form must include clear identification of the employee executing the form through a digital signature or a wet signature, when electronic submission is *not* available.

* Treat a [*VA Form 21-686c*](http://www.vba.va.gov/pubs/forms/VBA-21-686c-ARE.pdf) or [*VA Form 21-674*](http://www.vba.va.gov/pubs/forms/VBA-21-674-ARE.pdf) that an RO or call center employee completes and signs on a claimant’s behalf as valid and direct communication from the claimant on a form VA has prescribed for reporting changes in the status or number of the claimant’s dependents.
* Do ***not*** treat a [*VA Form 21-686c*](http://www.vba.va.gov/pubs/forms/VBA-21-686c-ARE.pdf) or [*VA Form 21-674*](http://www.vba.va.gov/pubs/forms/VBA-21-674-ARE.pdf) that an RO or call center employee completes and signs on a claimant’s behalf as communication from a third party simply because the claimant did not personally complete and sign the form.
* Call center employee signatures can be identified by the inclusion of either a station designation (such as *325/NCC*) or their position title (such as *Legal Administrative Specialist* or *Public Contact Representative*) along with the employee's name.

**Prescribed forms submitted by the claimant’s VA recognized representative (POA)**

[38 CFR 3.160(a)(2)](http://www.ecfr.gov/cgi-bin/text-idx?SID=accb3ca3a01f1ce4e9a2c87cbd2748fe&mc=true&node=se38.1.3_1160&rgn=div8) allows VA to accept a [*VA Form 21-686c*](http://www.vba.va.gov/pubs/forms/VBA-21-686c-ARE.pdf) that a VA-recognized representative (power of attorney) signs and submits to VA on a claimant’s behalf as if the claimant submitted it himself/herself.

**A claim for a child incapable of self-support**

A claim for a child incapable of self-support (helpless child) can be submitted on one of the following forms:

* [21-526](http://www.vba.va.gov/pubs/forms/VBA-21-526-ARE.pdf)
* [21-526b](http://www.vba.va.gov/pubs/forms/VBA-21-526b-ARE.pdf)
* [21-526EZ](http://www.vba.va.gov/pubs/forms/VBA-21-526ez-ARE.pdf)
* [21-686c, Declaration of Status of Dependents](http://www.vba.va.gov/pubs/forms/VBA-21-686c-ARE.pdf)
* [21P-527](http://www.vba.va.gov/pubs/forms/VBA-21P-527-ARE.pdf)
* [21P-527EZ](http://www.vba.va.gov/pubs/forms/VBA-21P-527EZ-ARE.pdf)
* [21-534, Application for Dependency and Indemnity Compensation, Death Pension and Accrued Benefits by a Surviving Spouse or Child (Including Death Compensation if Applicable)](http://www.vba.va.gov/pubs/forms/VBA-21-534-ARE.pdf)
* [*21P-534EZ, Application for DIC, Death Pension, and/or Accrued Benefits*](http://www.vba.va.gov/pubs/forms/VBA-21P-534EZ-ARE.pdf), or
* [21P-534a, Application for Dependency and Indemnity Compensation by a Surviving Spouse or Child - In-Service Death Only](http://www.vba.va.gov/pubs/forms/VBA-21P-534a-ARE.pdf).

**Note**:  Information about a child incapable of self-support submitted by a Veteran on [VA Form 21-0538, Status of Dependents Questionnaire](http://vbaw.vba.va.gov/bl/20/cio/20s5/forms/VBA-21-0538-ARE.pdf), will be accepted as a claim to add the dependent(s) to the Veteran’s award.

\*\* These claims require a rating decision. If a claim for a child incapable of self-support based on the veteran’s receipt of pension is received an EP 120 would be established if not already pending. If a claim for a child incapable of self-support based on the veteran’s receipt of compensation is received an EP 020 would be established if not already pending. If an EP 120/020 is already pending or being established for other issues the contention would be added to the pending EP 120/020.

**Establishing Dependency Claims in VBMS**

When a substantially complete claim for dependency has been received the appropriate end product (EP) will be established in VBMS. The guidance is the same as establishing any other EP in VBMS as outlined in [M21-1III.ii.3.D](https://vaww.vrm.km.va.gov/system/templates/selfservice/va_kanew/help/agent/locale/en-US/portal/554400000001034/content/554400000031819/M21-1-Part-III-Subpart-ii-Chapter-3-Section-D-Claims-Establishment#2). The only types of claims that are excluded from establishment in VBMS are not common and are outlined in [M21-1III.ii.3.D](https://vaww.vrm.km.va.gov/system/templates/selfservice/va_kanew/help/agent/locale/en-US/portal/554400000001034/content/554400000031819/M21-1-Part-III-Subpart-ii-Chapter-3-Section-D-Claims-Establishment#2).

**End Products (EP)**

Most dependency claims are controlled using EP 130. The claim label used would vary based on the type of dependency claim or the prescribed form it was received on. The use of a modifier would only be used if national guidance was published directing a modifier be added to certain types of dependency claims or if an EP 130 already was pending and another EP 130 was warranted. When the EP 130 is established it would be assigned to the Non-Rating (National) segmented lane on the claims establishment screen in VBMS.

Many dependency claims can be processed by a professional services contract in combination with Rules Based Processing System (RBPS) to ensure timely award adjustments for some dependency claims. M21-1III.ii.4.E notes that claims for dependents that fall under one of three categories. Category excluded, Category A, Category B as noted below. If the claim falls under category B a “9” modifier would be added to the EP 130 and an EP 139 would be established instead of an EP 130. This will direct these claims to be worked by RPBS.

| **Type of Claim/Correspondence** | **Category** |
| --- | --- |
| * claim/correspondence pertaining to an apportionment of benefits
* claim to add a dependent parent to an award
* claim/correspondence involving a child permanently incapable of self-support
* claim to add a dependent when an original claim for disability compensation is pending
* claim/correspondence from a beneficiary in receipt of pension or death benefits
 | Excluded |
| * request to remove a child from an award
* claim to add an adopted child to an award
* [VA Form 21-0538, Status of Dependents Questionnaire](http://vbaw.vba.va.gov/bl/20/cio/20s5/forms/VBA-21-0538-ARE.pdf) (to include the work item created when a beneficiary fails to return [VA Form 21-0538](http://vbaw.vba.va.gov/bl/20/cio/20s5/forms/VBA-21-0538-ARE.pdf))
* claim involving a beneficiary or dependent that resides in a foreign country
 | Category A |
| claim or correspondence that* involves a beneficiary’s entitlement to benefits for his/her dependent(s), and
* falls under neither of the previous categories referenced in this table.

**Examples**:* Request to remove a spouse from a Veteran’s award.
* Claim to add a school child to a Veteran’s award.
 | Category B |

Notes:

If a dependency claim is received with an initial claim for compensation **or** while an EP 110 or 010 is pending do not establish an EP 130.

An EP 120 would be established for an initial claim on a child incapable of self-support based on **pension** entitlement.

An EP 020 would be established for an initial claim on a child incapable of self-support based on **compensation** entitlement.

When information is received that suggests a potential under/overpayment may exist, Veterans Service Centers (VSCs) must establish an ***EP 693*** concurrently with a controlling EP to monitor timeliness in completing action on potential under/overpayments. Therefore an EP 693 would also be established when a claimant is requesting that their dependent be removed from their award.



Selecting the EP & Claim Label and Segmented Lane during VBMS claims establishment.



**The use of contentions for each claim is mandatory** and should be entered as soon as they are identified.  Each issue, including non-rating issues, must be entered as a separate contention.

***Example:***

* A Veteran submits a claim to add a spouse and a child to a running award.  Create separate contentions for the spouse and child as follows:
	+ *Dependency claim for* **[*name of spouse*]**, and
	+ *Dependency claim for* **[*name of child*]**.

As with any other claim established in VBMS ensure unsolicited evidence (claim form and other evidence received with the claim) is added in VBMS in the **Veteran Profile > Manage Evidence** screen.



**Topic 2 - Establishing an Apportionment Claim**

**General Information on Establishing Apportionment Claims**

An apportionment claim can be filed against the Veteran’s benefit, as described in [M21-1, Part III, Subpart v, 3.A](https://vaww.vrm.km.va.gov/system/templates/selfservice/va_kanew/help/agent/locale/en-US/portal/554400000001034/content/554400000014232/M21-1%2C-Part-III%2C-Subpart-v%2C-Chapter-3%2C-Section-A---Apportionment-Process).

Apportionment claims must be established in VBMS, unless otherwise directed by the Office of Field Operations (OFO).

An apportionment may be paid to

* an estranged spouse and child
* children in an estranged spouse’s custody
* a child or children not living with the primary beneficiary or surviving spouse and to whom the primary beneficiary or surviving spouse is not reasonably contributing, or
* a dependent parent (in compensation cases).

**Establishing a claim for Apportionment**

In order for a claimant to receive an apportionment of a competent primary beneficiary’s benefits, the claimant must file a claim on [*VA Form 21-0788, Information Regarding Apportionment of Beneficiary’s Award*](http://www.vba.va.gov/pubs/forms/VBA-21-0788-ARE.pdf).

If a request for an apportionment is received and it is not on the prescribed form you would establish an EP 400 with the claim label *Request for Application* and use VBMS to generate the letter titled Request for Application – Apportionment

If a valid claim for apportionment is received follow the steps in the table below to establish an apportionment claim in VBMS.

| **Step** | **Action** |
| --- | --- |
| 1 | Open the Veteran’s profile page. |
| 2 | From the ACTIONS drop-down menu, select NEW CLAIM. |
| 3 | **Select the PAYEE code that identifies the individual who will receive the apportioned funds.** |
| 4 | Select the appropriate EP 130 claim label and modifier, if a modifier is applicable. |
| 5 | Click the drop-down menu after ensuring the* CLAIMANT field is set to *Person*, and
* SHOW ALL DEPENDENTS/CLAIMANTS radio button is selected.

| **If the individual to receive the apportioned funds ...** | **Then ...** |
| --- | --- |
| is available | * select the individual from the list
* verify and/or update the required claimant contact information fields, and
* proceed to Step 7.
 |
| is not available | the individual will need to be added to the corporate record.  Proceed to the next step. |

 ***Note***:  Claimants/dependents that are already in the corporate database under Veteran Relationships will appear as a selectable option if the SHOW ALL DEPENDENTS/CLAIMANTS radio button is checked. ***Example***:    |
| 6 | Click the SEARCH FOR PERSON button and attempt to lookup the individual by SSN and other details.

| **If the individual to receive the apportioned funds ...** | **Then ...** |
| --- | --- |
| is found | * select the individual from the search result list
* click the SELECT EXISTING CLAIMANT button, and
* verify and/or update the required claimant contact information fields.
 |
| is not available | * click the CREATE NEW CLAIMANT button, and
* complete the required claimant contact information fields.
 |

  |
| 7 | Enter the DATE OF CLAIM. |
| 8 | Assign the claim to the *Non-Rating (National)* segmented lane. |
| 9 | Click SUBMIT at the bottom of the page. |
| 10 | Ensure the mailing address is valid and in the proper mailing format on the address verification pop-up screen that appears. |
| 11 | VBMS will automatically open the CONTENTIONS LIST.  Using the table below, complete the NEW CONTENTION fields then click the SAVE button.

| **In the field ...** | **Enter ...** |
| --- | --- |
| CONTENTION | *Apportionment Claim*. |
| CLASSIFICATION | *Administrative Issue*. |
| DATE OF CONTENTION | date the claim was received. |
| TYPE | *New*. |
| MEDICAL | *No*. |

  |
| 12 | * Navigate back to the Veteran’s profile screen, and
* select MANAGE EVIDENCE from the ACTIONS drop-down menu.

***Example***:Image of the acttions drop-down menu. |
| 13 | Add each piece of mail or mail packet by* selecting the ADD unsolicited tab
* entering the required information and clicking the ADD EVIDENCE button, repeating until all evidence has been entered, and
* selecting COMPLETE.

Image of VBMS manage evidence screen.  |

***Important***:  If the apportionment claim is for a child, with the custodian as requestor, enter the child as the claimant. For the address, change the first line to read *C/O* **[CUSTODIAN’S NAME]**

# Practical Exercise

Answer the following questions.

1. What EP series are used to establish dependency claims?
2. Which form below by itself cannot be used to establish a claim for dependency?
	1. VA Form 21-4138
	2. VA Form 21-526
	3. VA Form 21-686C
	4. Both a. and b.
3. Can a call center employee sign a VA Form 21-686c and VA Form 21-674 on behalf of a veteran?
4. What EP would be established when a claim for a child incapable of self-support is received and the veteran is in receipt of compensation?
5. What payee code would be used when establishing an apportionment claim received from the veteran’s spouse?