Effective Dates – Dependency Refresher Training

Instructor Lesson Plan

Time Required: 1.75 Hours

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| Lesson Description |
| TMS # | 4442937 |
| Prerequisites | Prior to this lesson, the employee should have completed Challenge Training. |
| target audience | The target audience for **Effective Dates - Dependency Refresher Training** is post-Challenge VSRs.Although this lesson is targeted to teach at the post-Challenge VSR employee level, it may be taught to other VA personnel as mandatory or refresher type training. |
| Time Required | **1.75 hours** |
| Materials | Lesson materials:* **Notification Letters** **Refresher Training** PowerPoint Presentation
* **Notification Letters Refresher Training** Trainee Handout
* **Notification Letters Refresher Training** Lesson Plan
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| Training Area/Tools  | The following are required to ensure the trainees are able to meet the lesson objectives: * Classroom or private area suitable for participatory discussions
* Seating, writing materials, and writing surfaces for trainee note taking and participation
* Handouts, which include a practical exercise
* Large writing surface (easel pad, chalkboard, dry erase board, overhead projector, etc.) with appropriate writing materials
* Computer with PowerPoint software to present the lesson material

Trainees require access to the following tools: * VA TMS to complete the assessment
* VA Intranet
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| Pre-Planning  | * Become familiar with all training materials by reading the Instructor Lesson Plan while simultaneously reviewing the corresponding PowerPoint slides. This will provide you the opportunity to see the connection between the Lesson Plan and the slides, which will allow for a more structured presentation during the training session.
* Become familiar with the content of the trainee handouts and their association to the Lesson Plan.
* Practice is the best guarantee of providing a quality presentation. At a minimum, do a complete walkthrough of the presentation to practice coordination between this Lesson Plan, the trainee handouts, and the PowerPoint slides and ensure your timing is on track with the length of the lesson.
* Ensure that there are copies of all handouts before the training session.
* When required, reserve the training room.
* Arrange for equipment such as flip charts, an overhead projector, and any other equipment (as needed).
* Talk to people in your office who are most familiar with this topic to collect experiences that you can include as examples in the lesson.
* This lesson plan belongs to you. Feel free to highlight headings, key phrases, or other information to help the instruction flow smoothly. Feel free to add any notes or information that you need in the margins.
 |
| Training Day  | * Arrive as early as possible to ensure access to the facility and computers.
* Become familiar with the location of restrooms and other facilities that the trainees will require.
* Test the computer and projector to ensure they are working properly.
* Before class begins, open the PowerPoint presentation to the first slide. This will help to ensure the presentation is functioning properly.
* Make sure that a whiteboard or flip chart and the associated markers are available.
* The instructor completes a roll call attendance sheet or provides a sign-in sheet to the students. The attendance records are forwarded to the Regional Office Training Managers.
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| Introduction to Effective Dates - Dependency Refresher Training |
| INSTRUCTOR INTRODUCTION | Complete the following:* Introduce yourself
* Orient learners to the facilities
* Ensure that all learners have the required handouts
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| time required | **0.25 hours** |
| Purpose of Lesson | This lesson is intended to provide a refresher on effective dates relating to decisions involving adding or removing dependents. This lesson is not intended as an introduction or deep dive into effective dates. |
| Lesson ObjectivesSlide 2*Handout 2* | In order to accomplish the purpose of this lesson, the VSR will be required to accomplish the following lesson objectives.The **VSR** will be able to: * define terms associated with effective and payment dates
* apply regulations concerning effective and payment dates for establishing dependents
* understand the effect of the Sharp v. Shinseki decision
* apply regulations concerning effective and payment dates for removing dependents from a Veteran’s award

Each learning objective is covered in the associated topic. At the conclusion of the lesson, the learning objectives will be reviewed. |
| Motivation | Claims for additional benefits for dependents are very common and generally very simple. However, due to the large number of fact patterns associated with these claims, it can be tough to internalize all of the regulations related to effective dates (especially if you do not work this type of claim regularly). A refresher about effective dates can help prevent any award errors. |
| STAR Error code(s) | This training was created to address national error trends associated with Decision Notices. While preparing for training, it would be wise to review any local error trends associated with effective dates for awards with dependents. If you need assistance identifying any local error trends, please see your local QR Team. |

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| ReferencesSlide 3Handout 3 | Explain where these references are located in the workplace. All M21-1 references are found in the [**Knowledge Management (KM) Portal**](https://vaww.vrm.km.va.gov/system/templates/selfservice/va_kanew/help/agent/locale/en-US/portal/554400000001034/topic/554400000003061/M21-1-Adjudication-Procedures-Manual).* [**38 CFR 3.1, Definitions**](https://www.ecfr.gov/cgi-bin/text-idx?SID=ad275643432556b9dda942343fb89296&mc=true&node=pt38.1.3&rgn=div58#se38.1.3_11)
* [**38 CFR 3.114, Change of law or Department of Veterans Affairs issue**](https://www.ecfr.gov/cgi-bin/text-idx?SID=ad275643432556b9dda942343fb89296&mc=true&node=pt38.1.3&rgn=div58#se38.1.3_1114)
* [**38 CFR 3.31, Commencement of the period of payment**](https://www.ecfr.gov/cgi-bin/text-idx?SID=ad275643432556b9dda942343fb89296&mc=true&node=pt38.1.3&rgn=div58#se38.1.3_131)
* [**38 CFR 3.400, Effective Dates: General**](https://www.ecfr.gov/cgi-bin/text-idx?SID=ad275643432556b9dda942343fb89296&mc=true&node=pt38.1.3&rgn=div58#se38.1.3_1400)
* [**38 CFR 3.401, Effective Dates: Veterans**](https://www.ecfr.gov/cgi-bin/text-idx?SID=ad275643432556b9dda942343fb89296&mc=true&node=pt38.1.3&rgn=div58#se38.1.3_1401)
* [**M21-1, Part III, Subpart iii, 5.L, Adjusting Awards for Dependents**](https://vaww.vrm.km.va.gov/system/templates/selfservice/va_kanew/help/agent/locale/en-US/portal/554400000001034/content/554400000032212/M21-1-Part-III-Subpart-iii-Chapter-5-Section-L-Adjusting-Awards-for-Dependents?articleViewContext=article_view&isFeatured=undefined&topic=undefined)
* [**M21-1, Part III, Subpart iii, 6.B, Awards and Adjustments Based Upon School Attendance**](https://vaww.vrm.km.va.gov/system/templates/selfservice/va_kanew/help/agent/locale/en-US/portal/554400000001034/content/554400000014181/M21-1-Part-III-Subpart-iii-Chapter-6-Section-B-Awards-and-Adjustments-Based-Upon-School-Attendance?articleViewContext=article_view&isFeatured=undefined&topic=undefined)
* [**M21-1, Part III, Subpart iii, 6.C, Department of Veterans Affairs (VA) Education Benefits Under 38 U.S.C. Chapter 35**](https://vaww.vrm.km.va.gov/system/templates/selfservice/va_kanew/help/agent/locale/en-US/portal/554400000001034/content/554400000014182/M21-1-Part-III-Subpart-iii-Chapter-6-Section-C-Department-of-Veterans-Affairs-VA-Education-Benefits-Under-38-USC-Chapter-35?articleViewContext=article_view&isFeatured=undefined&topic=undefined)
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| Topic 1: Effective Dates – Terminology |
| Introduction | Awards processing has its own vocabulary. These terms usually have a different meaning than their usual English definition. It is important to know the VA definition.  |
| Time Required | **0.25 hours** |
| OBJECTIVES | Topic objectives:* define terms associated with effective and payment dates
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| REFERENCES | * [**38 CFR 3.1, Definitions**](https://www.ecfr.gov/cgi-bin/text-idx?SID=ad275643432556b9dda942343fb89296&mc=true&node=pt38.1.3&rgn=div58#se38.1.3_11)
* [**38 CFR 3.400, Effective Dates: General**](https://www.ecfr.gov/cgi-bin/text-idx?SID=ad275643432556b9dda942343fb89296&mc=true&node=pt38.1.3&rgn=div58#se38.1.3_1400)
* [**38 CFR 3.401, Effective Dates: Veterans**](https://www.ecfr.gov/cgi-bin/text-idx?SID=ad275643432556b9dda942343fb89296&mc=true&node=pt38.1.3&rgn=div58#se38.1.3_1401)
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| DefinitionsSlides 4-11Handout 4-5 | Understanding the following terms is vital to assigning the correct effective date when processing claims for additional benefits for dependents:* Date of Receipt
* Date of Claim
* Date Entitlement Arose
* Effective Date of Entitlement
* Effective Date of Payment
* Informal Claims

The ***date of receipt*** is the earliest date on which a claim, information, or evidence was actually received by any Department of Veterans Affairs facility. A Department of Veterans Affairs facility can be a:* Centralized Mail Facility
* VA Regional Office
* Pension Management Center
* VA Medical Center or Outpatient Clinic

The ***date of claim*** is generally the same as the ***date of receipt***.**Exception:** A pre-discharge claim is filed while the servicemember is still on active duty. Since the claim cannot be processed until after the servicemember is discharged, the date of claim is not the day VA received the claim but the day after the Veteran’s discharge from active duty. The ***date entitlement arose*** is the earliest date on which it is factually ascertainable that entitlement to VA benefits arose.**Example:** VA received the Veteran’s claim within one year of the Veteran’s release from active duty. The date entitlement arose is the day after the Veteran’s release from active duty.The ***effective date*** ***of entitlement*** is the specific date, selected in accordance with regulations, upon which benefit entitlement is deemed to have commenced, changed, or terminated. This could be the:* date of receipt **or**
* date entitlement arose

**Example:** The Veteran and his spouse get married on December 15, 2015. VA receives the Veteran’s claim to add his spouse to his award on November 12, 2016. The spouse is added to the Veteran’s award effective the date of the marriage (December 15, 2015).The ***effective date of payment*** is the date on which the VA will pay the Veteran. This is generally the first day of the month following the effective date.**Example:** Using the example above where VA added the spouse to award effective December 15, 2015, the payment date would be January 1, 2016.**Exception:**If the Veteran returns to active duty and then is subsequently discharged, the effective date of payment for the resumption of service connection is the day after the Veteran’s release from active duty.An **informal claim** is any communication or action (that is not considered a formal claim) that shows an intent to apply for benefits. ***As of March 24, 2015, informal claims are no longer used.*****Example:**On July 27, 2014, the Veteran notifies VA by telephone that his first child was just born on July 25, 2014. The Veteran requests that the child be added to his award. The Veteran is currently evaluated at 50% disabled.  Before March 24, 2015, VA could use an informal claim to preserve an earlier effective date. There was no requirement to submit a claim for additional benefits for a dependent on a prescribed form.After March 24, 2015, the Veteran must submit a claim for additional benefits for a dependent on an approved form. Any other communication or action **CANNOT** be used to preserve an earlier effective date. Remember, that a VA employee may complete an application for additional benefits for a dependent based on information the employee obtains from a Veteran by telephone. A VA Form, 21-0966, Intent to File (ITF), **CANNOT** be used to preserve an earlier effective date for a claim for additional benefits for a dependent. |
| Who Determines Effective Dates?Slide 12Handout 5 | An RVSR or DRO determines the effective date for the following issues:* service-connection
* evaluations of service-connected conditions
* other rating issues

A VSR determines the effective date for the following issues:* adding and removing dependents
* award adjustments
* other non-rating issues
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| Topic 2: Effective Dates – Adding a Dependent |
| Introduction | There are several factors that can affect the effective date for adding a dependent. Knowing each of these factors will ensure that the correct effective date is used. |
| Time Required | **0.50 hours** |
| OBJECTIVES | Topic objectives:* apply regulations concerning effective and payment dates for establishing dependents
* understand the effect of the Sharp v. Shinseki decision
 |
| REFERENCES | * [**38 CFR 3.114, Change of law or Department of Veterans Affairs issue**](https://www.ecfr.gov/cgi-bin/text-idx?SID=ad275643432556b9dda942343fb89296&mc=true&node=pt38.1.3&rgn=div58#se38.1.3_1114)
* [**38 CFR 3.31, Commencement of the period of payment**](https://www.ecfr.gov/cgi-bin/text-idx?SID=ad275643432556b9dda942343fb89296&mc=true&node=pt38.1.3&rgn=div58#se38.1.3_131)
* [**38 CFR 3.400, Effective Dates : General**](https://www.ecfr.gov/cgi-bin/text-idx?SID=ad275643432556b9dda942343fb89296&mc=true&node=pt38.1.3&rgn=div58#se38.1.3_1400)
* [**38 CFR 3.401, Effective Dates : Veterans**](https://www.ecfr.gov/cgi-bin/text-idx?SID=ad275643432556b9dda942343fb89296&mc=true&node=pt38.1.3&rgn=div58#se38.1.3_1401)
* [**M21-1, Part III, Subpart iii, 5.L, Adjusting Awards for Dependents**](https://vaww.vrm.km.va.gov/system/templates/selfservice/va_kanew/help/agent/locale/en-US/portal/554400000001034/content/554400000032212/M21-1-Part-III-Subpart-iii-Chapter-5-Section-L-Adjusting-Awards-for-Dependents?articleViewContext=article_view&isFeatured=undefined&topic=undefined)
* [**M21-1, Part III, Subpart iii, 6.B, Awards and Adjustments Based Upon School Attendance**](https://vaww.vrm.km.va.gov/system/templates/selfservice/va_kanew/help/agent/locale/en-US/portal/554400000001034/content/554400000014181/M21-1-Part-III-Subpart-iii-Chapter-6-Section-B-Awards-and-Adjustments-Based-Upon-School-Attendance?articleViewContext=article_view&isFeatured=undefined&topic=undefined)
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| Adding a DependentSlide 13-14Handout 6-7 | If a Veteran responds to a request for evidence/information required to add a dependent to his/her award within one year of our request, grant entitlement to additional compensation for the dependent effective the **later** of the following dates: * effective date of the evaluation awarded in the rating decision referenced in our decision notice, or
* the date shown in the table below.

| **Type of Dependent** | **Date** |
| --- | --- |
| spouse | date the Veteran married his/her spouse |
| stepchild | date the Veteran married the stepchild’s biological or adoptive parent |
| biological child | child’s birthdate |
| adopted child | date the Veteran adopted the child |
| parent | date dependency arose (date the parent became  financially dependent on the Veteran) |

When processing a claim involving a school child, the effective date of entitlement can also be affected by other factors:* Was the child in school on his/her 18th birthday?
* Did the child attend school continuously?
* Did the child turn 18 during a school holiday?
* When did the child start attending school?

The effective date of payment is the first of the month following the effective date of entitlement.**Example 1:**The Veteran has a disability rating of 50%. He was last notified that he was entitled to additional compensation for dependents on August 13, 2014. VA receives a VA Form 21-686c, Declaration of Status of Dependents, on October 1, 2017. On the form, the Veteran states he was married on July 7, 2017. All other necessary information is provided.The effective date of entitlement is July 7, 2017, the date of the marriage. The effective date of payment is August 1, 2017. **Example 2:**The Veteran has a disability rating of 70%. She was last notified that she was entitled to additional compensation for dependents on May 24, 2013. VA receives a VA Form 21-686c on August 23, 2017. On the form, the Veteran states her son turned 18 on July 21, 2017. He graduated from high school on June 2, 2017, and began attending college on August 21, 2017. The effective date of entitlement to additional benefits for a school child is July 21, 2017, the 18th birthday of the child. The child must first be added back onto the award as a minor child on his 18th birthday, July 21, 2017. The effective date of payment for additional benefits as a school child is August 1, 2017. |
| Sharp v. ShinsekiSlide 15-16Handout 7 | The *Sharp v Shinseki* decision allows VA to use evidence that is already of record to grant entitlement to additional benefits for dependents when processing any rating decision that assigns a combined disability evaluation of at least 30%. ***When determining whether entitlement to the additional benefits exists, VSRs may rely on evidence that is less than eight years old as of the day they reviews the claims folder.*****Example:**While processing a rating decision that increases the Veteran’s disability evaluation from 10% to 50%, the VSR notes VA received a completed VA Form 21-526, including dependent information, on January 10, 2010. The effective date of entitlement to the increase is March 7, 2013. The VA Form 21-526 shows the Veteran has been married since June 3, 2014, and contains enough information to add the spouse to the Veteran’s award.The VSR may add the spouse to the Veteran’s award because VA possesses the information required to take this action and the information is less than eight years old. The effective date of entitlement to additional benefits for the spouse is June 3, 2014, the date of the marriage. The rating decision established a potential earliest effective date of March 7, 2013; however, entitlement to additional benefits for the spouse did not arise until the Veteran was married on June 3, 2014.  In addition to allowing VA to establish entitlement to additional benefits for dependents based on older information, the court decision also requires VA to notify the Veteran of potential entitlement to additional benefits for dependents every time VA makes a decision that assigns a combined disability evaluation of at least 30%. |
| Time LimitsSlide 17*Handout 8* | The Veteran has one year from the date VA notified the Veteran of his/her eligibility for additional benefits for dependents to submit a claim.If the claim is received within one year of the date of the notification letter, VA may grant entitlement to the additional benefits from an effective date that is as early as the effective date of the combined disability evaluation referenced in the letter.If the claim is received one year or more after the date of the notification letter, VA may grant entitlement to the additional benefits, but the effective date may be no earlier than the date of claim (remember the definition of date of claim mentioned above). |

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| Topic 3: Effective Dates – Removing a Dependent |
| Introduction | Correctly removing a dependent from a Veteran’s award is even more important than correctly adding a dependent, as a mistake removing a dependent could potentially cause an overpayment.  |
| Time Required | **0.50 hours** |
| OBJECTIVES | Topic objective:* apply regulations concerning effective and payment dates for removing dependents from a Veteran’s award.
 |
| REFERENCES | * [**38 CFR 3.400, Effective Dates: General**](https://www.ecfr.gov/cgi-bin/text-idx?SID=ad275643432556b9dda942343fb89296&mc=true&node=pt38.1.3&rgn=div58#se38.1.3_1400)
* [**38 CFR 3.401, Effective Dates: Veterans**](https://www.ecfr.gov/cgi-bin/text-idx?SID=ad275643432556b9dda942343fb89296&mc=true&node=pt38.1.3&rgn=div58#se38.1.3_1401)
* [**M21-1, Part III, Subpart iii, 5.L, Adjusting Awards for Dependents**](https://vaww.vrm.km.va.gov/system/templates/selfservice/va_kanew/help/agent/locale/en-US/portal/554400000001034/content/554400000032212/M21-1-Part-III-Subpart-iii-Chapter-5-Section-L-Adjusting-Awards-for-Dependents?articleViewContext=article_view&isFeatured=undefined&topic=undefined)
* [**M21-1, Part III, Subpart iii, 6.B, Awards and Adjustments Based Upon School Attendance**](https://vaww.vrm.km.va.gov/system/templates/selfservice/va_kanew/help/agent/locale/en-US/portal/554400000001034/content/554400000014181/M21-1-Part-III-Subpart-iii-Chapter-6-Section-B-Awards-and-Adjustments-Based-Upon-School-Attendance?articleViewContext=article_view&isFeatured=undefined&topic=undefined)
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| Removing a DependentSlide 18-19Handout 9-10 | In most scenarios in which a dependent must be removed from a Veteran’s award, the end-of-month rule applies. This means that the effective date for removal of a dependent is the last day of the month in which the event that resulted in loss of the dependent occurred. The payment date for the removal of a dependent in these scenarios is the first of the month. The term payment date may seem misleading since we are not paying the Veteran but lowering the monthly payment. The end-of-month rule applies to the following scenarios:* loss of a spouse because of
	+ divorce
	+ a voided or annulled marriage
	+ death
* loss of a child because of
	+ marriage
	+ adoption\*
	+ death
	+ discontinuance of school attendance

***\*If the child was adopted out of the Veteran’s household before September 14, 2015, the effective date for removal is September 14, 2015. If the child was adopted out of the Veteran’s household on or after September 14, 2015, the end of month rule applies.\**** **Example:**The Veteran notifies us that he and his spouse were divorced on September 28, 2017. The effective date for removal of the spouse is September 30, 2017. The payment date for the removal is October 1, 2017. The end-of-month rule does not apply to all situations in which the removal of a dependent from a Veteran’s award is required. Different rules apply to different situations. Refer to M21-1 if you have any questions about effective dates. The following are examples of situations in which the end-of-month rule does not apply (not all inclusive):* the Veteran’s child turns 18
* the Veteran’s child turns 23
* the Veteran’s child begins receiving DEA benefits
* the Veteran’s stepchild is no longer a member of the Veteran’s household

 **Example:**The Veteran has a spouse and one school child on his award. VA receives notification that the Veteran’s child began receiving DEA benefits on August 21, 2017. The effective date for removal of the school child is August 20, 2017. The payment date for removal is August 21, 2017. |

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| Lesson Review, Assessment, and Wrap-up |
| Introduction | The **Effective Dates – Dependents Refresher Training** course is complete. Review each lesson objective and ask the trainees for any questions or comments. |
| Time Required | **0.25 hours** |
| Lesson Objectives | You have completed the **Effective Dates – Dependents Refresher Training** course.The trainee should be able to: * define terms associated with effective and payment dates
* apply regulations concerning effective and payment dates for establishing dependents
* understand the effect of the Sharp v. Shinseki decision
* apply regulations concerning effective and payment dates for removing dependents
 |
| Assessment  | Remind the trainees to complete the online assessment and survey in TMS to receive credit for completion of the course.The assessment will allow the participants to demonstrate their understanding of the information presented in this lesson.The survey will allow participants an opportunity to provide feedback so Compensation Service can make improvements to the training course. |