Favorable Findings for Dependency

Instructor Lesson Plan

Time Required: 1.25 Hours

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| Lesson Description | |
| The information below provides the instructor with an overview of the lesson and the materials that are required to effectively present this instruction. | |
| TMS # | 4492319 |
| Prerequisites | Prior to this lesson, the Veteran Service Representatives (VSRs) should have completed Challenge training. |
| target audience | The target audience for Favorable Findings for Dependency is VSR, Entry, Intermediate or Journey Level.  Although this lesson is targeted to teach the VSR, Entry, Intermediate or Journey Level employee, it may be taught to other VA personnel as mandatory or refresher type training. |
| Time Required | 1.25 hours |
| Materials/ TRAINING AIDS | Lesson materials:   * Favorable Findings for DependencyPowerPoint Presentation * Favorable Findings for Dependency Trainee Handouts |
| 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 * Compensation Service Homepage |
| 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 Favorable Findings for Dependency | | |
| INSTRUCTOR INTRODUCTION | | Complete the following:   * Introduce yourself * Orient learners to the facilities * Ensure that all learners have the required handouts |
| time required | | 0.25 hours |
| Purpose of Lesson  Explain the following: | | This lesson is intended to provide VSRs detailed training on favorable findings and when they should be utilized in processing dependency claims. This lesson will contain discussions and exercises that will allow you to gain a better understanding of:   * What are favorable findings * When they are utilized in dependency claims * How to input favorable findings in Decision Notices * When to overturn a favorable finding |
| Lesson Objectives  Discuss the following:  Slide 2  Handout 2 | In order to accomplish the purpose of this lesson, the VSR will be required to accomplish the following lesson objectives.  TheVSRwill be able to:   * Define favorable findings * Explain when to use and input favorable findings * Overturn a favorable finding(s) | |
| Explain the following: | Each learning objective is covered in the associated topic. At the conclusion of the lesson, the learning objectives will be reviewed. | |
| Motivation | As a result of the enactment of the Veterans Appeals Improvement and Modernization Act of 2017 (Public Law 115-55), the Department of Veterans Affairs (VA) is required to change its current appeals process.  The focus is on a more transparent and straight forward communication process. Ensuring proper information is communicated to the veteran in all decision notifications. Allowing veterans to clearly identify what elements where favorable to their claim and focusing on providing only the required elements that were not met. | |
| STAR Error code(s) | TBD | |
| References  Slide 3  Handout 3 | Explain where these references are located in the workplace.  All M21-1 references are found in the [Live Manual Website](https://vaww.compensation.pension.km.va.gov/).   * Public Law 115-55, Veterans Appeals Improvement and Modernization Act 2017 * 38 CFR 3.103(f), Decision Notices * M21-1, Part III, Subpart v, 2. B, Decision Notices | |

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| Topic 1: Define Favorable Findings | |
| Introduction | This topic will allow the trainee to define favorable findings and understand there purpose in the dependency claims process. |
| Time Required | 0.25 hours |
| OBJECTIVES/ Teaching Points | Topic objectives:   * Undertand the concept of Favorable Findings * Describe their purpose in the claims process |
| Definition  Slide 4  Handout 4 | |  | | --- | | A favorable finding is a determination of fact, based on applicable laws and regulations, made by the adjudicator on an issue under review. Favorable findings should relate to a material element that would be required to grant the benefit sought. | |
| Required Elements of Decision Notice  Slide 5  Handout 4 | PL 115-55 required a change to 38 CFR 3.103(f). As part of the change VA must identify all findings favorable to the claimant. Effective early 2019, 38 CFR 3.103(f) requires VA’s written notification of decisions to include all of the following elements:   * inform the claimant of the issues adjudicated * summarize the   − evidence VA considered  − laws and regulations applicable to the claim, and  − applicable review options the claimant may use to seek further review of the decision   * explain how to obtain or access evidence used in making the decision * identify, if applicable, the criteria required to grant SC or the next-higher level of compensation, and/or * identify   − for denied claims, the element(s) required to grant the claim that were not met, and  − a listing of findings that are favorable to the claimant under 38 CFR 3.104(c), if any  **Note:** These elements can be satisfied through a combination of the decision notice and its enclosures. |
| Favorable Findings Requirement  Slide 6-8  Handout 4-5 | Each notice of a decision affecting benefits must address any findings made by the adjudicator that are favorable to the claimant. When granting dependency claims favorable findings will be summarized in the decision notice. If we are denying a dependent claim the favorable findings will be displayed in list format in the decision notice. The proper selection of decision elements will populate the correct favorable finding language in the decision notice. The decision elements are specific to the dependency type.  ***For example***: If we denied a claim to add a dependent spouse the decision notice would identify the element(s) not met with a summary of applicable laws and regulations. Then list the element(s) met that are favorable to the veteran. The decision notice will state:  “We couldn’t pay for <Dependent’s Name> as a dependent, because not all required elements were met. The following list contains an explanation of the elements required to establish entitlement to additional compensation for your dependent:”  “You failed to provide the date and place of the marriage. (38 CFR 3.204).”  “Even though we aren’t able to pay additional compensation for your dependent, the following findings were favorable to your claim:”   * You provided < Dependent’s Name>’s social security number. * Your relationship with < Dependent’s Name> has been established. * You provided your spouse's name. * You provided < Dependent’s Name>’s social security number. * You provided marital history, as requested. * You provided your spouse’s date of birth. |

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|  | Topic 2: When to Use and Input Favorable Findings |
| Introduction | This topic will allow the trainee to understand when favorable findings are required when processing dependency claims. |
| Time Required | 0.25 hours |
| OBJECTIVES/ Teaching Points | Topic objectives:   * Identify when favorable findings are required * Describe how to input favorable findings |
| Inputting favorable findings  Slide 9-11  Handout 5-7  Screenshots in HO  Dependency Example  Slide 12-15  Handout 7-8  Discuss with employees the dependency example and corresponding screen shots. This displays the proper selections in VBMS-A for elements being “met” or “not met” | Favorable findings are automatically included in the decision notice based upon the VSR selecting the required decision elements.  The proper selection of the decision elements as “**met**” or “**not met**” determines the favorable findings that will display in the decision notice letter.  In order to input favorable findings please follow the following steps:   1. Login to **VBMS - Awards** application as an Awards VSR 2. Enter **file number or SSN #** and select Search 3. Verify that "**All Claims**" section has a claim listed 4. Click on the appropriate claim 5. Click on the **Record Decisions** button 6. Click on the **Dependency link** on the left hand-side of the page 7. Select dependent you are processing from the dependency list 8. Select an Award Status such as **'Not an Award Dependent'** 9. From the Sub-Type column; select **appropriate** category 10. Under the Decision column; click the **Edit** button 11. A decision elements checklist displays select “**met**” or “**not met**” based on evidence of record and then click **Save** 12. Enter a valid **Award Effective Date** (if one is not populated) 13. Click the **Done** button to save the decision   John Smith a service connected veteran submits a VA Form 21-686c wishing to add minor child Larry Smith to his award. A review of the file show’s he is rated at 30% for sleep apnea. All information to add the minor child is present on the 686c except the minor child’s social security number.  All attempts to contact the veteran by phone have been unsuccessful. The veteran fails to respond within 30-days with requested information. |
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| Generated Favorable Finding Text  Slide 16-18  Handout 9-10  Employee handout on page 10 has copy of decision notice letter | The successful selection of the required decision elements in the decision element screen determines the favorable findings that will display in the decision notice letter.  Based upon the scenario presented the corresponding favorable finding text should generate into the letter as follows:   * You are rated 30% or greater service connected. * You provided < Larry Smith>’s age. * Your relationship with < Larry Smith > has been established. (38 CFR 3.57) * You provided your child’s name. * You provided < Larry Smith’s > place of birth. * < Larry Smith > is unmarried. * You provided < Larry Smith’s > address. * You provided < Larry Smith >’s date of birth. |
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| Topic 3: Overturning Favorable Findings | | | |
| Introduction | | This topic will allow the trainee to understand when a favorable finding must be overturned. This topic will also describe the process required to overturn a favorable finding. | |
| Time Required | | 0.25 hours | |
| OBJECTIVES/ Teaching Points | | Topic objectives:   * Recognize when a favorable finding must be overturned * Describe the process for overturning a favorable finding | |
| Overturning Favorable Findings  Slide 19-23  Handout 11-13  Screenshots in HO  Take this time to explain that to overturn a favorable finding the standard is of a less stringent nature than a CUE...it only needs to show that the evidence of record fails to support the prior favorable finding | | The veteran may file a new claim to add a previously denied dependent that calls into question a prior favorable finding. Once it is determined that a prior favorable finding is no longer favorable we must overturn that favorable finding and notify the veteran why the prior finding was overturned.  Always try to contact veteran by phone to clarify any discrepancy in information.  Take the following steps to overturn a favorable finding:   1. Login to **VBMS - Awards** application as an Awards VSR 2. Enter **file number or SSN #** and select Search 3. Verify that "All Claims" section has a claim listed 4. Click on the appropriate claim 5. Click on the **Record Decisions** button 6. Click on the **Dependency link** on the left hand-side of the page 7. Select appropriate dependent to be **removed** from the dependency list 8. Select an **Award Status** of **‘Not an Award Dependent’** 9. From the **Sub-Type** column; select proper relationship 10. Under the **Decision** column; click the **Edit** button 11. Select “**not met**” for the element being overturned and then **save** 12. The follow message appears, **“You are electing to overturn a prior favorable finding. Please provide a justification that meets the clear and unmistakable evidence standard necessary to overturn a favorable finding.”** 13. Enter favorable finding you are overturning and acceptable justification for overturning the favorable finding in the **text field** and save 14. Enter a valid **Award Effective Date** (if one is not populated) 15. Click the **Done** button to save the decision.   **Note:** To overturn a prior favorable finding, there must be clear and unmistakable evidence to rebut the favorable finding.  The clear and unmistakable rebuttal standard may be satisfied by a finding that the evidentiary record as a whole completely lacks any plausible support for the favorable finding. | |
| Overturned Generated Text  Slide 24-25  Handout 14 | | The following text displays in the letter:  Favorable Findings Overturned Based on evidence of record, we have overturned the following finding(s) that we had originally decided in favor of your claim:  <You are rated 30% or greater service connected.>”  “The overturned issue's explanation appears in the letter:  “The rating decision dated 2/1/2019 reduced your service connection percentage from 30% to 20% therefore you are no longer eligible for the benefit sought. (38 CFR 3.4)” | |
| Lesson Review, Assessment, and Wrap-up | | |
| Introduction  Discuss the following: | The Favorable Findings for Dependency lesson 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 <Insert Lesson Title> lesson.  The trainee should be able to:   * Define favorable findings * Explain when to use and input favorable findings * Overturning favorable findings | |
| Assessment | Remind the trainees to complete the on-line assessment 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. | |