

Office of Administrative Review

AMA and Impacts to Legacy Appeals (VA 4492510)

Key Amendments Following AMA Implementation

Purpose



This Job Aid provides claims processors with the key amendments to 38 C.F.R. § Part 3 following implementation of the *Veterans Appeals and Improvement and Modernization Act of 2017*, otherwise known as the Appeals Modernization Act (AMA).

Audience



All claims processors.

Key Amendments



| Area | Notable Changes | Reference(s) |
|--------------------------|---|--|
| Definitions | <ul style="list-style-type: none">• Removal of “reopened claim” and “reconsideration”; replaced with supplemental claim• Differentiates between “initial claim” and “supplemental claim” | 38 C.F.R. §§ 3.1, 3.105, 3.151, 3.160 |
| Improved Decision Notice | <ul style="list-style-type: none">• Requires VA to modify decision notices for clarity and detail• Creates an 8-point notice letter | 38 C.F.R. § 3.103(f) |
| Review Options | <ul style="list-style-type: none">• After initial area of jurisdiction decision or supplemental claim, all three review options available• After higher-level review (HLR), only supplemental or appeal to Board• After Board decision, only supplemental | 38 C.F.R. §§ 3.156, 3.160, 3.400, 3.2501, 3.2500, 3.2400, 3.2601, 3.2502 |
| Favorable Findings | <ul style="list-style-type: none">• Binding on all subsequent VA adjudicators, unless rebutted by clear and unmistakable evidence | 38 C.F.R. § 3.104(c) |
| Duty to Assist (DTA) | <ul style="list-style-type: none">• DTA begins upon receipt of original claim or supplemental claim; ends when VA issues decision | 38 C.F.R. §§ 3.159, 3.2601, 3.103 |

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| | <ul style="list-style-type: none">• Not applicable to HLR or Board decisions• DTA errors in HLR and Board lane require return for correction and readjudication | |
| Effective Date Protections | <ul style="list-style-type: none">• For continuously pursued claims filed within a one-year period, VA will use date of receipt of the initial claim for effective date purposes | 38 C.F.R. §§ 3.400, 3.2500 |
| Finality of Decision/CUE | <ul style="list-style-type: none">• Decisions issued by agency of original jurisdiction are binding on VA adjudicators, unless clear and convincing evidence is shown to rebut the favorable findings, even though the decision is not finally adjudicated because the period for a claimant to seek review of the decision is still open• VA will require a higher standard of “clear and unmistakable” | 38 C.F.R. §§ 3.104, 3.105, 3.160 |
| Filing Requirement | <ul style="list-style-type: none">• “Intent to file” provisions are applied to supplemental claims, but are not applied to HLRs• Allows for submission of a supplemental claim at any time after notice of a VA decision• Request for review under the HLR and Board appeal options must be submitted within one year of the date of notice of a prior VA decision• If VA receives an incomplete request form, a complete request must be submitted within 60 days of the date of the VA notification of such incomplete request | 38 C.F.R. §§ 3.151, 3.155 |



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| Evidentiary Record | <ul style="list-style-type: none">• Claimant may reopen the evidentiary record by submitting a supplemental claim or claim for increase on the prescribed application form• Evidentiary record also reopens when claim must be re-adjudicated due to identification of DTA error on HLR or by the Board.• HLR consists of a closed evidentiary record | 38 C.F.R. §§ 3.103, 3.104(c), 3.151(d), 3.159 |
| New and Relevant Evidence | <ul style="list-style-type: none">• New evidentiary standard for supplemental claims• New evidence means evidence not previously submitted to agency adjudicators• Relevant evidence means information that tends to prove or disprove a matter at issue in a claim• “New and relevant” standard is not a higher evidentiary threshold• “Relevant” has no requirement to relate to an unestablished fact (just a matter of issue) and includes the raising of a new theory of entitlement | 38 C.F.R. §§ 3.156, 3.2501 |
| Independent Medical Opinion | <ul style="list-style-type: none">• VBA will obtain independent medical opinions requested in a Board remand | 38 C.F.R. § 3.328 |

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| Nomenclature Changes | <ul style="list-style-type: none">• Replaces “reopen claim” with “supplemental claim”• Updates to references to Part 19 and 20• Updates to cross references in impacted sections• Rescinds 38 C.F.R. § 3.161 Expedited Claims Adjudication Initiative - Pilot Program | Throughout 38 C.F.R. § Part 3 |
|----------------------|--|-------------------------------|