|  |  |
| --- | --- |
| Slide 1 – Title Slide | Hello, my name is Jill Thomas and I work for the Compensation Service Training Staff. I’ll be conducting today’s training on VA Appeals Modernization Act – Introduction to Supplemental Claims.The objective of this training is to augment the previously presented training and take a deeper dive into some of the questions that have arisen since the implementation of the Appeals Modernization Act on February 19, 2019.The training will start with a PowerPoint and end with some questions. |
| Slide 2 – Objectives | At the end of this lesson the objective is that you will be able to define supplemental claims as outlined in the Appeals Modernization Act (AMA).You will be able to understand filing requirements for supplemental claims and understand the evidentiary standard of “new and relevant” evidence. And be able to process supplemental claims within VBMS. |
| Slide 3 – References | These are the citations and references associated with supplemental claims.* 38 CFR §3.155, How to file a claim
* 38 CFR §3.2501, Supplemental Claims
* 38 CFR §3.156, Receipt of New Evidence
* 38 CFR §3.159, Department of Veterans Affairs assistance in developing claims
* M21-1, Adjudication Manual Part III, Subpart ii, Chapter 2, Section D

Also, listed is the Appeals Modernization website, which will be a very helpful tool, once it goes live. |
| Slide 4 – Section Title (no audio) |  |
| Slide 5 - Appeals Modernization Act (AMA) | On August 23, 2017, the Appeals Modernization Act (AMA), Public Law 115-55 was signed into law. The law took effect on February 19, 2019.This law creates a new claims and appeals process, which features three decision review options. The focus of this specific training is on Supplemental Claims, which fall under the jurisdiction of the Veteran Service Center (VSC).The other two review decisions are the Higher-Level Review (HLR) and traditional Board Appeal, which do not fall under the jurisdiction of the VSC. |
| Slide 6 – Supplemental Claim Definition | Supplemental Claims are requests for review with new and relevant evidence, submitted by a claimant or their authorized representatives, which is based on a “disagreement with a prior VA decision.”This process replaces the previous “reconsideration” and “reopen claim” process. Supplemental Claims have an open evidentiary period, where we as claim processors are required VA to assist in the gathering of evidence.To better explain *open evidentiary period* – the record closes when a decision is issued, and we provide notice to the claimant, when the claimant files a supplemental claim, it will reopen the evidentiary record and they can submit new evidence in support of their claim, there is however a duty to assist the Veteran during this period.  |
| Slide 7 – Filing Requirements | VA Form 20-0995, Decision Review Request: Supplemental Claim is the prescribed form for supplemental claims. When a claimant files a supplemental claim, they must identify and submit new and relevant evidence, for the request to be considered a complete claim. This follows the previous guidance for new and material evidence for claims for reconsideration and reopen.A supplemental claim can be filed at any time; however, in order to maintain entitlement, to the earliest possible effective date, it must be filed with within one year of notice of the prior decision.If a Veteran has a legacy Appeal pending they can opt-in to the modernized appeals process after their receipt of a Statement of the Case (SOC). |
| Slide 8 - New and Relevant Evidence | At the time of filing a supplemental claim, claimants must identify or submit new and relevant evidence in support of their claimNew evidence is defined as not previously part of the actual record before the adjudicators at the time of the prior decision.Relevant is defined as evidence that tends to prove or disprove a matter at issue in a claim. The relevant evidence includes evidence that raises a theory of entitlement that was not previously addressed.It should be noted that the “new and relevant” evidentiary standard is lower than that of “new and material” of the past.For example, if a Veteran previously claimed direct service connection and was denied they now could claim secondary service connection.The intent of this is to broaden and allow evidence into the record and make a decision on the merits of the case. |
| Slide 9 - Section Title (no audio) |  |
| Slide 10 - Procedural Guidance | The procedural guidance for supplemental claims is located in M21-1, Part III, Subpart ii, Chapter 2, Section D, as mentioned earlier this process closely mirrors the prior guidance for claims for reconsideration and reopen.Other resources include the VBMS User Guide, Caseflow Intake Training Guide and Letter Creator Tool User Guide.Supplemental claims have replaced claims for reopen and reconsideration. After February 19, 2019, claims for reopen and reconsiderations will not be accepted. Only new and increased claims now fall under EP O20. |
| Slide 11 - Intake and Tracking | Intake personnel at the Decision Review Operations Center (DROC) will use a new system called *Caseflow Intake* to establish Supplemental Claims within VBMS.There is a separate training on *Caseflow Inake* (TMS 4497973)The end product associated with Supplemental Claims is EP O40. The claim label that will be used if supplemental claim rating or supplemental claim non-rating. So, for example, if a Veteran files a supplemental claim for dependency, the end product is still a O40 and the claim label will be supplemental claim non-rating. The claim label is what will delineate the type of supplemental claim that is filed.It should be noted that EP O20 and an EP O40 can run concurrently.If a supplemental claim is in a VSRs work queue and is labeled improperly as an EP O20, it will need to be routed back to the DROC for proper Cesting and *Caseflow Intake*. |
| Slide 12 - Development Requirements | Following the guidance in the M21-1 for supplemental claims, the initial review of the claim will review the pending End Product to make sure the contentions are correct.Caseflow Intake must be utilized to update or correct the contentions.The claim process must confirm that a complete claim was filed, review the form 20-0995 for completeness and identify any new evidence that was identified or submitted by the Veteran. The VSR will undertake any identified development and support the claim. Review the 20-0995 form for evidence identified by the claimant and complete a review of the eFolder for any incomplete developmental actions related to the issue under review. |
| Slide 13 - Prescribed Form | Supplemental claims must be submitted on the prescribed form, VA Form 20-0995. If the Veteran fails to submit the claim on the prescribed form, this will result in the request being processed as a Request for Application (RFA). The letter template for RFA is located in Letter Creator under Request for Application - AMA Review under the IPC drop-down selection. The Decision Review Operation Centers (the DROCs) will process the Request for Application. If the VSC receives a mail package without utilization of the prescribed form, it will need to be brokered back to the DROC to process. Similarly, if the Veteran submits a 20-0995 that has a mixed issue (i.e. a new supplemental claim and increase on it) then the claim will be Cested as O40 and a RFA letter will be sent for the new and increased contentions.The prescribed form for new and increase will remain VA Form 21-526EZ. This has not changed. |
| Slide 14 - Processing Incomplete Claims | If after review of the claim, the requirements for a supplemental claim have not been met (i.e. there was no new and relevant evidence submitted), then the VSR should follow the manual guidance for an incomplete application.If you are unable to obtain evidence from the Veteran by telephone, then established an EP 400 or change the incorrect EP to a 400 and use the Incomplete Application claim label.The date of the application that was received will serve as the control date, after this you can cancel the erroneously established EP. Make sure annotate in the subject of the document that it was an incomplete application. Finally, you will send an incomplete application letter found in Letter Creator and clear the end product 400. |
| Slide 15 - Processing Incomplete Claims (cont.) | If the Veteran submits a substantially completed claim within the required 60-day period from the incomplete application, use the date of receipt of the complete claim as the date of claim.The effective date can go back to the submission of the incomplete claim if the Veteran files within 60 days.If the application is received after 60 days, the Veteran will lose out on the earlier effective date. This process differs from the traditional Request for Application, which allows the Veteran one full year to submit a complete claim.Again, if the Veteran does not submit or identify evidence with the form VA 20-0995, the VSR will send the claimant the incomplete application letter telling the Veteran that no further action will be taken. As mentioned above, after sending the letter the P will be cancelled. |
| Slide 16 - Decision Requirements | The VSR will make the claim Ready for Decision when new evidence is received, and all the development is complete.A formal decision on relevance is required whenever new evidence is considered. The VSR or RVSR will either issue a decision that relevant evidence was not received or if new and relevant evidence was received then a decision will be made based on the merits of the case.This will take into consideration all of the relevant evidence of record.VSRs and RVSRs will continue to use existing decision templates located in VBMS-R, VBMS-Core and PCGL when completing a supplemental claim decision.All supplemental claim decisions must include AMA notice requirements.It should be noted that Intent to File does not apply at all to supplemental claims. |
| Slide 17 - Lesson Recap/Knowledge Check | The main takeaway from this slide deck is the following: The prescribed form 20-0995 Decision Review Request: Supplemental Claim must be utilized when filing a supplemental claim. The form must contain new and relevant evidence for it to be considered a complete.The Veteran can file a supplemental claim at any time; however, it must be filed within a year of a decision notice to maintain that effective date.Finally, a supplemental claim will fall under EP O40 series and will be delineated by the claim labels supplemental claims rating or supplemental claims non-rating. |
| Slide 18 - Questions | **Question 1**: How is new and relevant evidence different from new and material evidence? **Answer 1**: New and relevant evidence is defined in 38 CFR 3.2501 and M21-1 Part III, Subpart iv. Chapter 2, Section B as the following: new evidence is evidence not previously part of the actual record before agency adjudicators. Relevant evidence is information that tends to prove or disprove a matter at issue in a claim. Relevant evidence includes evidence that raises a theory of entitlement that was not previously addressed. New and relevant will not impose a higher evidentiary threshold than the previous new and material standard. Material evidence means existing evidence that by itself or when considered with previous evidence of record, relates to an unestablished fact necessary to substantiate the claim. The difference lies in “tends to prove or disprove” versus “establishing a fact necessary to substantiate the claim”. New and relevant results in a lower standard of application.**Question 2**: So, once new and relevant evidence is received, does the VSR consider getting exams and opinions? **Answer 2:** Yes, development actions should be taken if the requirements in M21-1, Part III, Subpart ii, Chapter 2, Section D. are met.**Question 3**: Has the definition of “new evidence” changed at all? Is cumulative evidence considered “new” now? **Answer 3:** No, according to 38 CFR 3.2501, new evidence means evidence not previously part of the actual record before agency adjudicators.**Question 4**: How can I track appeals under AMA now that VACOLs is not being used? I need it to determine whether the issues are already under appeal. Is it Caseflow? **Answer 4**: Caseflow is the new system/portal for all AMA appeals as of February 19, 2019. Legacy appeals will continue in VACOLS. DROCs maintain jurisdiction of legacy appeals and higher-level reviews.  |