Introduction to Compensation Claims

Trainee Handout

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Objectives

* Recognize initial and original claims
* Identify supplemental claims
* Identify increase claims
* Identify claims for secondary service connection

References

* [38 CFR 3.150](http://www.ecfr.gov/cgi-bin/text-idx?SID=d4ce917b5f7da61f3fcc7a701a14e3bd&mc=true&node=pt38.1.3&rgn=div5#se38.1.3_1150), Forms to be furnished
* [38 CFR 3.151(a)](http://www.ecfr.gov/cgi-bin/text-idx?SID=d4ce917b5f7da61f3fcc7a701a14e3bd&mc=true&node=pt38.1.3&rgn=div5%20-%20se38.1.3_1150#se38.1.3_1151), Claims for disability benefits
* [38 CFR 3.155](https://www.ecfr.gov/cgi-bin/text-idx?SID=d4ce917b5f7da61f3fcc7a701a14e3bd&mc=true&node=pt38.1.3&rgn=div5%20-%20se38.1.3_1150), How to File a Claim
* [38 CFR 3.160](http://www.ecfr.gov/cgi-bin/text-idx?SID=d4ce917b5f7da61f3fcc7a701a14e3bd&mc=true&node=pt38.1.3&rgn=div5%20-%20se38.1.3_1150#se38.1.3_1160), Status of claims
* [38 CFR 3.310(a)](http://www.ecfr.gov/cgi-bin/text-idx?SID=d4ce917b5f7da61f3fcc7a701a14e3bd&mc=true&node=pt38.1.3&rgn=div5%20-%20se38.1.3_1150#se38.1.3_1310), Disabilities that are proximately due to, or aggravated by, service connection disease or injury
* [M21-1, Part III, Subpart ii, Chapter 2, Section D, Supplemental Claims](https://vaww.vrm.km.va.gov/system/templates/selfservice/va_kanew/help/agent/locale/en-US/portal/554400000001034/content/554400000014116/M21-1-Part-III-Subpart-ii-Chapter-2-Section-D-Supplemental-Claims)
* [M21-1, Part III, Subpart ii, Chapter 2, Section E, Claims for Increase](https://vaww.vrm.km.va.gov/system/templates/selfservice/va_kanew/help/agent/locale/en-US/portal/554400000001034/content/554400000014121/M21-1-Part-III-Subpart-ii-Chapter-2-Section-E-Claims-for-Increase)
* [M21-1, Part IV, Subpart ii, Chapter 2, Section B, Determining Service Connection (SC)](https://vaww.vrm.km.va.gov/system/templates/selfservice/va_kanew/help/agent/locale/en-US/portal/554400000001034/content/554400000014553/M21-1-Part-IV-Subpart-ii-Chapter-2-Section-B-Determining-Service-Connection-SC)

Prescribed Form Reminder

Beginning March 24, 2015, all claims governed by VA’s adjudication regulations must be filed on standard forms prescribed by the Secretary.

[M21-1, Part III, Subpart ii, Chapter 2, Section B](https://vaww.compensation.pension.km.va.gov/system/templates/selfservice/va_ka/#!agent/portal/554400000001034/article/554400000014119/M21-1-Part-III-Subpart-ii-Chapter-2-Section-B-Claims-for-Disability-Compensation-andor-Pension) provides a complete list of forms that must be submitted for a claim, including non-original compensation claims, on or after March 24, 2015.

Statements received without a prescribed form will be considered a request for application, if received on or after March 24, 2015.

VA EZ forms provide the required Section 5103 language for the majority of claims filed.

Topic 1: Initial and Original Claims

**Definition of Initial/Original Claim**

Claim means a written or electronic communication requesting a determination of entitlement or evidencing a belief in entitlement, to a specific benefit under the laws administered by the Department of Veterans Affairs submitted on an application form prescribed by the Secretary.

* Initial claim. An initial claim is any complete claim, other than a supplemental claim, for a benefit on a form prescribed by the Secretary. The first initial claim for one or more benefits received by VA is further defined as an original claim. (See original claim, §3.160(b)). Initial claims include:
	+ A new claim requesting service connection for a disability or grant of a new benefit, and
	+ A claim for increase in a disability evaluation rating or rate of a benefit paid based on a change or worsening in condition or circumstance since the last decision issued by VA for the benefit.

Look in SHARE and review the “Inactive Comp & Pen” tab in BIRLS. There should be no entries in the *Diagnostics* table, *Entitlement Code* field or *Reason for Termination or Disallowance* field. Entries in any of these would indicate that there was a previous claim for benefits and therefore would be an initial claim or supplemental claim depending on the disability(ies) listed on the prior rating.

A first time claim for one or more benefits is considered an original claim until the resolution of that claim. The EP will remain opened until all issues have been decided.

**Reminder:** All claims received on or after March 24, 2015, must be on a prescribed form listed in [M21-1, Part III, Subpart ii, 2.B](https://vaww.compensation.pension.km.va.gov/system/templates/selfservice/va_ka/#!agent/portal/554400000001034/article/554400000014119/M21-1-Part-III-Subpart-ii-Chapter-2-Section-B-Claims-for-Disability-Compensation-andor-Pension). Most claims received on an EZ form satisfy Section 5103 Notice requirements. For any claim received prior to March 24, 2015, and/or not claimed with an EZ form, Section 5103 Notice may be required to satisfy the requirements of 38 CFR 3.159.

Topic 2: Supplemental Claims

**Supplemental Claim**

Is any complete claim for a Department of Veterans Affairs (VA) benefit on a prescribed application form where the claimant or his/her authorized representative disagrees with the decision VA made on an initial or supplemental claim for the same or similar benefit on the same or similar basis.

**Same or Similar Benefit on Same or Similar Basis**

Generally, the *same or similar benefit on the same or similar basis* means VA has previously decided a claim for the same benefit type.

***Examples of types of benefits:***

* service connection (SC) for right knee arthritis
* entitlement to individual unemployability
* SC for cause of death, and
* entitlement to non-service-connected pension

***Important*:**  In claims for compensation, a claim based on a new theory of SC is a supplemental claim.  A new theory of SC (for example, when direct SC was previously denied, and secondary SC is now claimed) is sufficient new and relevant evidence to satisfy the evidentiary threshold discussed in [M21-1, Part III, Subpart ii, 2.D.1.e](https://vaww.vrm.km.va.gov/system/templates/selfservice/va_kanew/help/agent/locale/en-US/portal/554400000001034/content/554400000014116/M21-1-Part-III-Subpart-ii-Chapter-2-Section-D-Supplemental-Claims?query=%22supplemental%20claim%22#1e).

Claim Labels for Supplemental Claims

An EP 040 will be used for supplemental claims and the proper claim label can be found in M21-4, Appendix C, Section I, b.

**Prescribed Supplemental Claim Form**

Supplemental claims must be submitted on the prescribed supplemental claim form, *VA Form 20-0995, Decision Review Request: Supplemental Claim*.

Supplemental Claims Establishment

All supplemental claims must be established in Caseflow using the appropriate end product (EP), claim label, and any applicable special issues.

**Duty to Provide Section 5103 Notice**

**Do not** provide Section 5103 notice for a supplemental claim that is filed within a year of the date VA issues notice of a prior decision on the same issue.

For supplemental claims filed more than a year after the prior decision on the same issue, review the claimant’s selection for the 5103 Notice Acknowledgement, Item 16 on VA Form 20-0995, to determine if the claimant received electronic Section 5103 notice. If the claimant checked the box in Item 16, there is no need to provide a Section 5103 notice.

**ITF and Supplemental Claims**

An intent to file is never to be associated with a supplemental claim.

**Handling Incomplete Supplemental Claims**

If the claimant submits a supplemental claim that is not substantially complete follow the procedures in M21-1, Part I, 1.B

Topic 3: Claims for Increase

**Definition of Claim for Increase**

Per [38 CFR 3.1(p)(1)](https://www.ecfr.gov/cgi-bin/text-idx?SID=5cf1f2b378ba58835c2586175cc4386b&mc=true&node=se38.1.3_11&rgn=div8), a *claim for increase* is a type of initial claim that requests an increase in a disability evaluation or rate of a benefit being paid based on a change or worsening in condition or circumstance since the last decision issued by the Department of Veterans Affairs (VA) for the benefit.

**Types of Claims for Increase**

Claims for increase may include, but are not limited to, claims for

* increased service-connected (SC) compensation including
	+ increased disability evaluation, and/or
	+ entitlement to special monthly compensation (SMC)
* an increased rate of benefits due to the addition of a dependent, or
* increased non-service-connected (NSC) pension including a claim
	+ showing either a reduction of, or a deduction from, income, or

for entitlement to special monthly pension (SMP).

**Prescribed Form for a Claim for Increased Compensation**

A claim for an increased evaluation in an SC disability must be filed on *VA Form 21-526EZ, Application for Disability Compensation and Related Compensation Benefits*, or other prescribed form appropriate to the specific type of increased compensation sought.

Topic 4: Claims for Secondary Service Connection

**Secondary Claims definition**

Per [38 CFR 3.310(a)](http://www.ecfr.gov/cgi-bin/text-idx?SID=b37422caf145c28ee1ed9cdc3eeb4cba&mc=true&node=se38.1.3_1310&rgn=div8) and [38 CFR 3.310(b)](http://www.ecfr.gov/cgi-bin/text-idx?SID=b37422caf145c28ee1ed9cdc3eeb4cba&mc=true&node=se38.1.3_1310&rgn=div8), service connection may be awarded for the following:

* disabilities that are proximately due to, or the result of, a service connected (SC) condition, or
* the increase in severity of a non-service-connected (NSC) disability that is attributable to aggravation by an SC disability, and not to the natural progression of the NSC disability.

If it is determined that the Veteran is already SC for a disability(ies) and now the Veteran wants to claim a new condition based on the SC disability(ies), then you have determined that the current claim is a claim for secondary service connection.

If the claimant claims a disability secondary to a service connected condition and never previously claimed the secondary disability on a direct basis then this would be an initial claim. These claims will be submitted on VA Form 21-526EZ.

However, these types of claims can be supplemental claims so it is important to review the efolder to determine if the disability claimed as secondary was previously filed on a direct basis. If the disability claimed now as secondary was previously claimed direct then this is a supplemental claim and as such requires submittal on the prescribed form.

If it is determined the claim is a supplemental claim and the veteran submitted a request on any form other than VA Form 20-0995 follow the request for application procedure.

**5103 Requirement reminder**

Please review Item 16 on VA Form 20-0995, to determine if the claimant received electronic Section 5103 notice. If the claimant checked the box in Item 16, there is no need to provide a Section 5103 notice. If box 16 has not been checked then provide proper Section 5103 notice to claimant.

Practical Exercise

A Veteran files a claim for lumbar degenerative joint disease (DJD). A review of the claims folder reveals one rating decision of record and it granted hearing loss and denied right shoulder strain.

1. Is this an initial or supplemental claim?
2. This claim would be best categorized as a:
	1. new;
	2. new/increase;
	3. supplemental; or
	4. claim for increase

Instructions: Match the situation on the left with the correct definition on the right.

|  |  |
| --- | --- |
| **Situation** | **Action** |
| 1. Veteran previously filed a claim for ***sc*** for right knee condition which was denied. Now he files a claim for right knee condition secondary to ***sc*** lower back condition. He is ***sc*** for lower back condition at 10%.
2. Veteran was denied service connection in February 20, 2019 as they failed to report to their examination. March 1, 2019 the Veteran files VA Form 20-0995 and states willingness to report for exam.
3. A Veteran is rated 30% for PTSD. VA receives a VA Form 21-526EZ for PTSD.
4. Veteran is service connected for hearing loss and tinnitus. A claim is received for neck pain.
 | 1. Supplemental Claim
2. Initial Claim
3. Increase Claim
 |

Read the provided scenarios and answer the questions

Scenario: A Veteran files a claim for hearing loss on February 20, 2019 on a VA Form 21-526EZ and does not provide any other information. Review of the eFolder reveals a Rating Decision dated January 30, 2005 denying service connection for hearing loss due to lack of evidence to provide a current diagnosis. VA notified the Veteran of the rating decision and provided appellate rights information in a letter dated February 15, 2005.

1. Is this an initial claim or a supplemental claim?
2. Why or why not?
3. What other actions need to be taken at the establishment of the claim?

Scenario: A Veteran claims his service-connected lumbar back condition has caused a right hip degenerative joint disease of his right hip due to walking with an altered gait and placing more pressure on his right hip due to an adjusted sitting posture. Veteran submitted a VA Form 21-4142 and 21-4142(a) with his claim.

1. Is this an increase claim or a claim for a secondary condition?
2. What other actions need to be taken at the establishment of the claim?