

Guidance for Utilizing “Force Majeure” Process during outbreaks of Contagious Diseases

To: Directors,
From: Medical Disability Examination Program Office (MDEPO)
SUBJ: Updated “Force Majeure” Field Guidance
Date: July 20, 2020

This memorandum serves to update previous guidance of the same name, issued May 15, 2020.

On June 19, 2020, MDE Vendors were approved to resume the scheduling of in-person examinations in a limited number of locations. Since that time, the number of locations approved for in-person examinations has increased greatly. However, due to COVID-19 concerns by Veterans and Clinicians, there will be instances when these examinations will not be able to be completed, such as:

- Veteran/Service Member refusal to attend/unavailability or multiple rescheduling attempts
- Clinic status/unavailability
- Provider unavailability
- Local non-essential travel restrictions

When the Vendor is unable to conduct or complete a scheduled in-person examination, they will note this inability by citing “Force Majeure” in the appointment cancellation messaging. Vendors are providing frequent updates concerning the examination requests affected by COVID-19, to the MDEPO staff.

- 1) For all ESRs where appointments have been scheduled since June 19, 2020, and could not be completed due to reasons such as those noted above:
 - a. Vendors will send an appointment cancellation message citing “Force Majeure”.
 - i. Assume any other appointment cancellation message, even those stating a “Failure to Report” or “No Show,” is due to the pandemic. No rating action should be taken on impacted cases.
 - ii. To determine the reason for the appointment cancellation, claims processors should review the history and detail of the exam request located under the exam chevron.
 - b. For all claims, and particularly for those flashed as a priority, take all necessary development actions and review all evidence to determine if a partial rating can be completed.
 - i. If a partial rating is not possible and no development action can be taken, update the claim suspense in accordance with OFO guidance and [M21-1, Part III, Subpart iii, 1.F.3.c](#) and place the

- “Force Majeure” special issue indicator on a contention associated with the Exam Scheduling Request (ESR), if not already present.
- c. Following promulgation of a partial rating, update the claim suspense in accordance with OFO guidance and [M21-1, Part III, Subpart iii, 1.F.3.c](#) and place the “Force Majeure” special issue indicator on a contention associated with the ESR, if not already present.
- 2) If, upon review, an ESR has received a Clarification Request citing “Force Majeure”:
 - a. Do not respond to the Clarification Request.
 - b. Do not close the “Clarification Requested” tracked item.
 - c. If no development action can be completed and no partial rating is possible, update the suspense date of the “Clarification Requested” tracked item to 30 days. This should trigger the recall of the claim.
 - d. If the Clarification Request concerns information needed to process the ESR, provide the appropriate response.
 - 3) If a vendor can schedule and complete any portion of an ESR using Acceptable Clinical Evidence (ACE) or Tele C&P:
 - a. The contentions with the Ace/Telehealth appointments will show as “Scheduled” and the ESR status will be “Open”.
 - b. Once the ACE/Telehealth appointments are completed, these contentions will show “Completed” and the ESR status will remain “Open”.
 - c. Any contentions that cannot be completed using ACE/Telehealth will remain in “Triage” status and the ESR status will remain “Open”.
 - d. For any ESR where the vendor is unable to schedule any appointments, the ESR status will remain “Triage”.

Reminder: The “Special Instructions” function available after an ESR is submitted is to add information concerning Veteran availability or to provide other information of this type, specific to the Veteran. It should not be used to request exam results or appointment status, change the examination request verbiage, or to ask the vendor to add or delete DBQs or Medical Opinions.

Previously released guidance for ESRs requested prior to June 19, 2020, can be found on the [Novel Coronavirus Disease \(COVID-19\) Operational Information Page](#).

Questions pertaining to this information may be directed to the Contract Examination mailbox, [VAVBWAS/CO/Contract Examination Inquiries](#).