Determining Parental Dependency for Disability Compensation

Trainee Handout

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Objectives

At the end of this lesson, the VSR will be able to:

* Comprehend the laws, terms, and regulations that guide the determination of parental dependency for disability compensation
* Recognize the forms that must be completed in order to accurately process a claim for a dependent parent
* Recall the types of eligible parental relationship VA may consider, the specific requirements for establishing parental relationships, and the development process to obtain the required evidence
* Understand the specific financial requirements for establishing parental dependency including the circumstances under which dependency can be established or must be denied
* Distinguish the circumstances where an administrative decision for parental dependency must be completed, and the required elements that must be addressed in an administrative decision
* Know the process for generating an award for parental dependency and the requirements for notification that must be sent to the Veteran
* Discuss the circumstances under which parental dependency should be reevaluated and/or discontinued

References

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* [38 CFR 3.59](https://www.ecfr.gov/cgi-bin/text-idx?SID=2eb3a1647cf22e71b98a5cc2647a85a5&mc=true&node=se38.1.3_11&rgn=div8), Definitions, parent
* [38 CFR 3.250](https://www.ecfr.gov/cgi-bin/text-idx?SID=2eb3a1647cf22e71b98a5cc2647a85a5&mc=true&node=se38.1.3_14&rgn=div8), Dependency of Parent; compensation
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* [38 CFR 3.401(b)](https://www.ecfr.gov/cgi-bin/text-idx?SID=dbfb9cf4e753f3f155f2bbd6100dff18&mc=true&node=se38.1.3_1401&rgn=div8), Veterans, Additional compensation or pension for dependent
* [M21-1, Part III, Subpart iii, Chapter 1, Section B](https://vaww.vrm.km.va.gov/system/templates/selfservice/va_kanew/help/agent/locale/en-US/portal/554400000001034/content/554400000014152/M21-1-Part-III-Subpart-iii-Chapter-1-Section-B-Evidence-Requested-From-the-Claimant) – Evidence Requested from the Claimant
* [M21-1, Part III, Subpart iii, Chapter 5, Section A](https://vaww.vrm.km.va.gov/system/templates/selfservice/va_kanew/help/agent/locale/en-US/portal/554400000001034/content/554400000015798/M21-1-Part-III-Subpart-iii-Chapter-5-Section-A-General-Information-on-Relationship-and-Dependency) – General Information on Relationship and Dependency
* [M21-1, Part III, Subpart iii, Chapter 5, Section I](https://vaww.vrm.km.va.gov/system/templates/selfservice/va_kanew/help/agent/locale/en-US/portal/554400000001034/content/554400000015804/M21-1-Part-III-Subpart-iii-Chapter-5-Section-I-Establishing-Parental-Relationship) – Establishing Parental Relationship
* [M21-1, Part III, Subpart iii, Chapter 5, Section J](https://vaww.vrm.km.va.gov/system/templates/selfservice/va_kanew/help/agent/locale/en-US/portal/554400000001034/content/554400000015805/M21-1-Part-III-Subpart-iii-Chapter-5-Section-J-Establishing-Parental-Dependency) – Establishing Parental Dependency
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* [VBMS Core User Guide](https://vbaw.vba.va.gov/VBMS/docs/0003BF_VBMS_18_0_VBMS_User_Guide_20191206.pdf)
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Topic 1: Overview of Parental Dependency and Eligibility

Along with the Veteran’s spouse and children, the VA can also pay additional compensation for the Veteran’s dependent parent(s). As with the other dependents, the Veteran must have an overall combined disability evaluation of at least 30% in order to be eligible. However, the requirements and process for determining entitlement is distinctly different.

**Definitions**

Understanding which individuals are eligible for consideration as a parent for VA purposes is crucial to correctly processing claims involving parental dependency. So, for a clear understanding of this subject, we should refer to the Code of Federal Regulations (CFRs) for a few definitions under the law.

The first term we will define is the term parent. The term parent is defined in 38 CFR 3.59 and essentially includes the following:

* biological parent
* adoptive parent, and
* foster parent.

It is important to understand the definition of this term, as it dictates the types of parental relationships claims processors may consider when determining a Veteran’s eligibility for additional disability compensation. All three of these distinct types of relationships will be discussed in more detail later in this lesson.

The next term we will define is the term dependent parent. This term is important as well since one of the requirements, as we will learn later in this lesson, is based on the parent’s finances as it relates to being dependent upon the Veteran for support.

The term dependent parent does not necessarily mean that the parent is not self-supporting. Rather, it means that either:

* the parent’s income and net worth are minimal, or
* a parent with substantial income and assets has correspondingly high expenses

**Distinction Between Relationship and Dependency**

The term relationship concerns an individual’s legal status with respect to the Veteran. As stated above, only certain types of parental relationships can be recognized when determining eligibility for additional compensation: biological, adoptive, and foster parent. Since VA requires evidence to prove the relationship type, development actions for this evidence may be required on the part of the Veteran Service Representative (VSR).

It is important to note other types of parental relationships that do not fall under the requirements of the law **cannot** be considered when determining eligibility, including the relationship between a Veteran and their spouse’s parents (i.e. “in-laws”). However, a stepparent, grandparent, or another family member may be recognized as a parent for VA purposes if they stood in the place of a Veteran’s parent, which is a foster parent as defined by the regulations under the law.

Along with considering the relationship of the claimed parent to the Veteran, VA must also consider dependency, which relates to the income, assets, and expenses of the parent(s) and their financial dependence upon the Veteran, as discussed above in the term dependent parent.

In all parental dependency cases, the parent’s financial situation is a factor in establishing entitlement. Therefore, if the parent is not “dependent” according to the provisions of 38 CFR 3.250, which will be discussed at greater length later in this lesson, VA will not undertake development actions to establish the relationship between the Veteran and parent.

**Forms**

As with all other types of compensation claims, Veterans seeking additional compensation for a dependent parent received on or after March 24, 2015 must submit a claim on a prescribed claim form (M21-1 III.ii.2.B.1.b).

The standard claim form for a dependent parent is **VA Form 21P-509, Statement of Dependency of Parent(s)**. This form requests pertinent financial information needed to make a determination of dependency, but this form does not request the type of relationship between the claimed parent and Veteran, so additional evidence for the type of parental relationship will be needed.

The Veteran may use one of the other prescribed dependency forms to file their claim. These forms might include: VA Form 21-686c, Application Request to Add and/or Remove Dependents, or VA Form 21-0538, Mandatory Status of Dependents.

As these are also prescribed forms used to claim additional benefits for dependents and notify VA of changes in dependents’ status, VA will recognize these forms as a claim for additional compensation for a parent. However, VSRs will need to ask the Veteran to complete VA Form 21P-509 to obtain the financial information needed for a decision.

Understanding the definition of terms and the rules of basic eligibility is a great starting point for processing claims involving parental dependency. Now we will review one of the two key elements in working the claim: establishing the parental relationship.

Topic 2: Establishing Parental Relationship

As we discussed in the previous section, only certain types of parental relationships can be recognized when determining eligibility for additional compensation under the law: biological, adoptive, and foster parent. Unlike other types of dependents for which VA may not require documentary evidence to establish the relationship (such as birth certificates for biological children or marriage certificates for a spouse), parental dependency claims *must include documentary proof of the parental relationship*. In this section, we will discuss each type of relationship, the documentary evidence needed for each type, and the development process for obtaining this evidence.

**Establishing an Individual as the Veteran’s Biological Parent**

The relationship between a Veteran and their biological parent, referred to in CFR 3.59 as the natural mother or father, must be established by documentary evidence. In most instances, this documentary evidence consists of a copy or abstract of the public record of birth, the Veteran’s birth certificate. This document should show the biological parent(s) in question. If the biological father is not shown on the birth certificate additional evidence is needed to establish the relationship (M21-1 III.iii.5. I.4.c).

If a birth certificate is unavailable and the claimant has adequately explained the reason for its unavailability, claims processors may rely on secondary evidence to establish the parental relationship. This evidence can include any of the following (or additional evidence listed in M21-1 III.iii.5.F.4.c):

* Certified statement from physician or midwife present at birth
* Service department records
* Hospital, school, baptismal records
* Insurance policies

As we have stated, this evidence to establish the biological parental relationship is a requirement. If the Veteran does not provide the needed evidence (and the parent is considered “dependent” under the provisions of 38 CFR 3.250), development action will need to be taken to request the needed evidence.

**Establishing a Parental Relationship Through Adoption**

A person who adopts a Veteran has the same status as the Veteran’s biological parent. Therefore, an adoptive parent must also be established through documentary evidence. Much like the requirements to establish the relationship between a Veteran and their adopted child, the adoptive parent is established through a copy of the final adoption decree. Note that a copy of an interlocutory adoption decree or an adoptive placement agreement, alone, is **not** sufficient to establish a *parental* relationship.

If the final adoption decree may not routinely be released, claims processors may rely on the following alternative evidence to establish the parental relationship:

* a copy of the Veteran’s revised birth certificate, and
* statements of at least two disinterested parties who have personal knowledge of the adoption.

If the alternative evidence is not available or is deemed inconclusive, the VA must request an examination of the impounded record by a field examiner. Also note that there are additional requirements for a Veteran adopted by an individual living outside the U.S. (M21-1 III.iii.5. I.5.d).

As with a biological parent, in cases where the Veteran did not provide documentary evidence with their claim (and the parent is considered “dependent” under the provisions of 38 CFR 3.250), the VSR will need to take development action to request the evidence from the Veteran.

**Establishing a Foster Parent as a Veteran’s Parent for VA Purposes**

Unlike biological or adoptive parents, establishing the foster parent relationship can be slightly more complex. Defining the term *foster parent* for VA purposes is a great place for us to begin this discussion.

A *foster parent* is a person who stands in place of a Veteran’s parent (*in loco parentis* – “in place of a parent”) for a continuous period of at least one year.

* The one-year period must:
  + start before the Veteran’s 21st birthday, and
  + continue for one year before the Veteran entered active duty.
* The one-year period may end after the Veteran’s 21st birthday, as long as the requirements set forth in the previous bullet are met.

Another term that needs defining is the term *relinquishment of parental control*. This means:

* the parent has ceased to provide for the child, and
* the normal parent-child relationship has been broken.

It does **not** necessarily mean that a court has terminated parental rights. Relinquishment of control also does **not** necessarily imply abandonment on the part of the biological or adoptive parent. However, a finding that a parent abandoned a child automatically establishes relinquishment of control.

A thorough understanding of these terms can help a VSR to determine if the individual named in a parental dependency claim is a dependent for VA purposes. Additional guidance is provided in M21-1 for a situation in which an alleged foster parent is the same sex as a living biological or adoptive parent (M21-1 III.iii.5.I.6.d) and establishing a brother or sister as a foster parent (M21-1 III.iii.5.I.6.f).

If the Veteran indicates that the individual being claimed for parental dependency is a foster parent, M21-1 provides step-by-step guidance on processing the claim (M21-1 III.iii.5. I.6.h). As long as the alleged foster parent is considered “dependent,” the VSR will take the development action to request the completion of VA Form 21P-524, *Statement of Person Claiming to Have Stood in Relation of Parent*. M21-1 walks the VSR through the full process of development and decision-making for claims for additional compensation for foster parents.

**Development Actions for Establishing Parental Relationship**

When the evidence for establishing the parental relationship is needed, the VSR will take this action in the form of a subsequent development letter prepared under the established end product (EP 130), requesting the required information. These development letters are typically prepared using the letter-generation functionality in VBMS, although additional language may need to be added using the “free text” functionality in order to adequately communicate to the Veteran what is being requested and why. The Veteran is provided 30 days to respond, and the return of that information is tracked in VBMS Core under the appropriate tracked item.

It is important to remember that the Veteran may not always know what is required for the proper processing of their claim. So, when the claim is substantially complete (M21-1 I.1.A.4.f), but VA needs additional information to establish the relationship, we must notify the Veteran through a development letter and provide them the opportunity to return the requested information. This is our duty to assist the Veteran. Except in situations where the claimed parent is not considered “dependent” (i.e. does not meet the provisions of 38 CFR 3.250), VA cannot deny the claim without requesting these documents.

**Denial Decisions Based on Relationship**

There are several instances surrounding the parental relationship when the VSR might need to deny the claim. One of these instances is when the parental relationship is not biological, adoptive, or foster. In these cases, there is no eligibility under the law, so it would not be necessary to develop for additional documentation to establish a relationship that is not included in the CFR definition of the term *parent*.

Another instance in which the VSR might need to deny the claim due to an inability to establish a parental relationship is when the Veteran fails to return the evidence, we have requested to document the parental relationship. After the VSR sends a development letter to the Veteran requesting the appropriate documentation, the Veteran is given 30 days to respond. If the Veteran does not respond by sending us the requested evidence, the VSR must deny the claim for “Failure to Furnish Requested Evidence.”

M21-1 states that VA must make reasonable efforts to assist a Veteran in securing evidence, but the claimant always has the initial burden of proof. This means that unless the claimant furnishes evidence needed to establish the point at issue (the parental relationship), VA must deny their claim (M21-1 III.iii.5. A.2.a).

Finally, as previously mentioned, if the evaluation of the parent’s income, assets, and expenses shows the parent does not meet the criteria to be considered “dependent” per 38 CFR 3.250, then the claim should be denied outright, without any development being taken to establish the parental relationship.

With this new understanding of the process for establishing the parental relationship, we need to understand how to evaluate the finances of the claimed parent, which include his/her income, assets, and expenses. In the next section, we will discuss the rules and procedures surrounding the establishment of the dependency of the parent on the Veteran, or parental dependency.

Topic 3: Establishing Parental Dependency

As we learned in the first section of this lesson, the issue of whether or not a Veteran’s parent is *dependent* is distinct from the issue of whether or not the parental relationship may be established. For the purpose of determining entitlement to additional compensation for a parent, both the parental relationship **and** dependency of the parent must be established. In this section of the lesson, we will discuss the financial requirements that help VA determine if the parent is “dependent” upon the Veteran according to the law.

**Financial Requirements**

Throughout this lesson, we have mentioned that a parental dependency claim might need to be denied upfront if the financial evidence does not show the parent is considered “dependent” under the law. However, we have not discussed how to evaluate the financial information that is collected by the prescribed form 21P-509, *Statement of Dependency of Parent(s),* in order to make this determination.

There are two types of dependency that we will consider: **conclusive** dependency and **factual** dependency. Conclusive dependency exists in domestic cases when a parent’s income does not exceed established income limitations. Factual dependency exists when evidence shows the parent does not have sufficient income and/or net worth to provide reasonable maintenance for themselves and for members of their family. Factual dependency must be considered in all foreign cases and those domestic cases where the parent’s income exceeds the set income limitations for conclusive dependency.

**Conclusive Dependency**

Per the requirements under 38 CFR 3.250, the ***conclusive dependency*** of a parent, other than a parent who resides in a foreign country, exists when the monthly income of the parent(s) does ***not*** exceed:

* $400 for a mother or father living alone, or
* $660 for a
  + mother and father, or
  + remarried parent and spouse living together

Also, to this monthly income limit, VA can add an additional $185 for each additional member of the family who the parent is under a legal or moral obligation to support. The term *members of the family,* for purposes of determining conclusive dependency in domestic cases, and for determining factual dependency in foreign and domestic cases, includes relatives:

* under age 21 who are supported by a parent under legal or moral obligation, and
* over age 21 who are dependent on the parent because of physical or mental incapacity

If $185 is added to the conclusive dependency income limit for an additional member of the family:

* consider any income of the family member that is available to the parent for support of the family member, and
* do *not* consider the family member’s net worth unless it is actually available to the parent

Although legal dependents of the Veteran’s parent(s) are considered for income limitation purposes when determining financial dependency, they may not be considered a dependent of the Veteran themselves as they do not fall under one of the eligible categories as a Veteran’s spouse, child or parent.VA must also consider any additional income that is available to the parent for their legal dependent(s).

If family income is within the income limits specified under 38 CFR 3.250, net worth is not a factor. If, however, the claimant reports substantial net worth, determine whether the assets are the type that should be generating interest or dividends, and all interest and dividends were reported. Net worth will be discussed later in this lesson section.

In processing all of this financial information, an affirmative determination for conclusive dependency of a parent may be made if the income of the parent(s) and any individuals that can be considered dependent on the parent(s) is ***less than*** the limit set forth under the law.

For example, if the Veteran files a claim for additional compensation for their biological mother, and the income information provided shows that the mother does not have any income, VA considers her conclusively dependent because her income is less than the $400 income limitation set forth by law.

Conversely, if that claimed biological mother receives $1200 monthly in social security benefits, she cannot be considered conclusively dependent, as her income exceeds the limitation set by law. However, VA may still recognize the biological parent as a dependent if factual dependency is shown.

**Factual Dependency**

As stated above, conclusive dependency is for consideration only in domestic cases. In all foreign cases and those domestic cases where income exceeds the limits for conclusive dependency under 38 CFR 3.250, use the following standard to determine whether factual dependency exists:

*Does the parent have sufficient income and/or net worth to provide reasonable maintenance for himself/herself and for members of his/her family?*

If the answer to this question is **no**, dependency exists.

The challenge in making this determination is that there are no hard and fast rules for determining whether factual dependency exists. This is a discretionary determination that is made by development and/or authorization activity.

In order to determine factual dependency, it is important for VSRs to understand some basic rules and terms defined under the law in 38 CFR 3.250.

* Our *basic rule* states that “dependency will be held to exist if the father or mother of the Veteran does not have an income sufficient to provide reasonable maintenance for such father or mother and members of their family under legal age and for dependent adult members of the family if the dependency of such adult member results from mental or physical incapacity.”
* Additionally, we must understand the definition of the term *reasonable maintenance.* Reasonable maintenance “includes not only housing, food, clothing, and medical care sufficient to sustain life, but such items beyond the bare necessities as well as other requirements reasonably necessary to provide those conveniences and comforts of living suitable to and consistent with the parent’s reasonable mode of life.”

In other words, if the parent(s) and any members of the family, as we defined in the section on conclusive dependency, do ***not*** have the income to sustain their basic needs as well as additional items beyond life essentials (i.e. phone, basic cable or internet, transportation etc.), then factual dependency may be established.

Determine whether factual dependency exists by comparing all appropriate income to the list of all expenses provided on VA Form 21P-509. As stated above, there are no hard and fast rules for what should be considered. With so many potential variables of both income and expenses, the consideration for factual dependency must be made on a case-by-case basis.

When determining factual dependency, and the parent’s income is not sufficient to provide their “reasonable maintenance,” the VA must also consider the parent’s net worth, or financial assets, and the potential to subsidize their income.

**Net Worth Considerations**

VA must consider a parent’s net worth when determining whether factual dependency exists. VA must consider whether a parent’s assets could be used to provide them with additional financial support.

VA must evaluate each parent’s net worth separately, even if the parents are living together, as some assets may not be held jointly. M21-1 provides a table that describes considerations about net worth and the establishment of factual dependency (M21-1 III.iii.5. J.3.b).

* If it is reasonable to expect the parent’s assets may be consumed for the parent’s maintenance, then VA may not conclude factual dependency exists.
* If one parent is not considered dependent because of excessive net worth, and the assets are one parent’s separate property and not joint or community property, then it is possible for one parent to be found dependent and the other not dependent, even though they live together in the same household. Attribute half of all joint or community property to each parent.
* If a parent marries someone who is not the Veteran’s other parent, only consider the parent’s net worth and half of any joint or community property.

Determining how net worth affects a parent’s dependency can be complicated. There may be times when additional information or clarification is needed and the VSR must take development actions to obtain this information/clarification.

**Development Actions Required**

Although we have already discussed some development actions for requesting the proper legal documentation to establish a parental relationship, we have not fully discussed development actions that might be needed to determine parental dependency.

First and foremost, if the Veteran has not provided the VA Form 21P-509, *Statement of Dependency of Parent(s),* this form must first be requested from the Veteran. This action can be accomplished by sending the Veteran a subsequent development letter prepared under the letter chevron in VBMS Core.

There may be instances when additional information or clarification of financial information is needed in addition to the VA Form 21P-509. This additional development can be conducted by calling the claimant and documenting information obtained during the phone call on VA Form 27-0820, *Report of General Information*. It is important to remember that this additional or clarifying information may be obtained by phone (M21-1 III.iii.5. I.1.f). However, except as noted in M21-1III.iii.5.A.4.n, VSRs may not complete a claim form on the Veteran’s behalf by telephone.

If attempts to obtain additional information/clarification by telephone are unsuccessful, send the Veteran a development letter that includes a VA Form 21-4138, *Statement in Support of Claim*. Make sure the letter clearly identifies and describes the information or clarification VA is seeking and indicates the Veteran has thirty days to respond to the request.

After obtaining all the information required to determine parental dependency, complete an administrative decision that documents all of the legal and financial considerations and clearly states the final determination. In the next section of this lesson, we will discuss administrative decisions.

Topic 4: Parental Dependency Administrative Decisions

An administrative decision is not required to resolve all parental dependency claims. In most cases (save one exception listed later in this section), when VA grants the Veteran’s claim, no administrative decision is required. However, when VA’s decision is unfavorable, an administrative decision is required.

Depending on the circumstances of the case, the administrative decision might document different information or refer to different CFRs. However, M21-1 provides a standard for what should be included in an administrative decision. In this section of the lesson, we will review the administrative decision requirements as they pertain to claims for additional compensation for a parent.

**Administrative Decisions**

M21-1 identifies issues for which claims processors must prepare a formal administrative decision (M21-1 III.v.1.A.1.a). Claims processors must prepare an administrative decision when a parental relationship cannot be established, which is an unfavorable decision. In common VA terminology, this unfavorable decision is referred to as a denial.

When a decision is made that factual dependency cannot be established (unless the determination is due to excessive net worth), VA must prepare a two-signature administrative decision using the format provided in M21-1. Although some administrative decisions require review and approval by a Veterans Service Center Manager (VSCM) designee, these do not. They will simply be reviewed and approved by one other individual, the authorizing VSR.

The following are required elements of an administrative decision (M21-1 III.v.1.A.3.c):

* identification of the issue(s) adjudicated
* summary of the
  + evidence considered, and
  + laws and regulations applicable to the claim
* a list of findings that are favorable to the claimant under 38 CFR 3.104(c), if any, and
* identification of the element(s) required to grant the claim that were not met

As stated previously, the issues being adjudicated in a claim for additional compensation for a dependent parent are the recognition of an individual as a Veteran’s parent (i.e. establishing the parental relationship) and determining financial dependency of a Veteran’s parent. The administrative decision must clearly indicate the purpose of the decision and which issue is being decided.

The term *evidence* signifies all of the means by which an alleged matter of fact may be established or disproved. Evidence associated with a claim for additional compensation for a parent typically includes all documentary proof of financial dependency and parental relationship. Evidence can be either “positive” (supports the claimant’s position) or “negative” (disproves the claimant’s position). The absence of evidence that supports a claimant’s position is considered negative evidence that must be weighed when making a decision.

The summary of the laws and regulations must cite all applicable regulations within 38 CFR that refer to the types of parental relationships that are eligible as well as regulations that refer to the financial requirements and limitations under the law.

Under the Appeals Modernization Act, all unfavorable decisions (denials) must include a listing of the requirements for granting the benefit that were met by the claimant. These are referred to as *favorable findings*. For example, if VA concedes the proper type of parental relationship exists, but the parent’s income exceeds the income limitations, VA must cite the establishment of a parental relationship as a favorable finding even though parental dependency (financial dependency) was not established.

Along with favorable findings, the administrative decision must also identify the elements that are still required in order to meet eligibility. In other words, for the example above, the decision should also properly explain the income limitations that must be met in order for the parent to be considered dependent for VA purposes.

It is important to remember when preparing an administrative decision that the claimant (and his/her representative, if applicable) will receive a copy of the document. Therefore, the decision should be well-written, with valid reasons and bases written in clear, simple terms, and the conclusion should be obvious to the reader.

Further training on administrative decisions is available in subsequent training classes on the subject matter. Please note:

* sample formatting for an administrative decision can be found in M21-1 III.v.1.A.3.g.
* the process for electronically signing administrative decisions can be found in M21-1 III.v.1.A.3.e.

**VA Form 21-5427, *Corpus of Estate Determination***

As we noted above, there is a distinct exception to the requirement for preparation of an administrative decision in the format described above when resolving a claim for additional compensation for a dependent.

The VSR will use VA Form 21P-5427, *Corpus of Estate Determination*, when preparing an administrative decision under the following circumstances:

* the basis for denial of a claim or determination that parental dependency has ceased is excessive net worth, or
* factual dependency exists and a parent’s estate is $80,000 or more.

This form helps to clearly delineate the assets, including stocks, bonds, real estate, and other personal property, as well as types of monthly income and monthly expenses, in order to make a clear determination which falls into one of the two categories listed above.

**Administrative Decision for Parental Dependency Claims**

Once the administrative decision has been completed for the types of decisions listed above, the VSR must also process an award transaction, either denying the parent as a dependent or adding the parent to the Veteran’s award so that proper payment will commence. Along with the award transaction, the VSR must prepare a decision notice and send it to the claimant. In the last section of this lesson, we will discuss the award process and the process for preparing a decision notice following resolution of a claim for additional compensation for a parent.

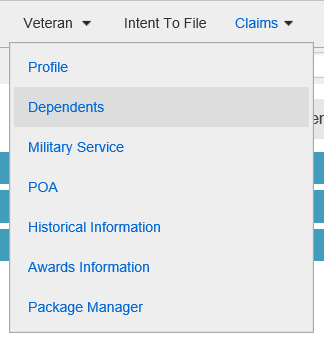
Topic 5: Awards, Notifications, and Additional Information

The processing of parental dependency claims does not stop once the administrative decision is completed. The process continues by inputting all of the decision information in the systems and notifying the Veteran of the decision made. In our final section of the lesson for parental dependency claims, we will discuss the award process and decision notice requirements, as well as any additional considerations for parental dependency claims.

**Award Processing**

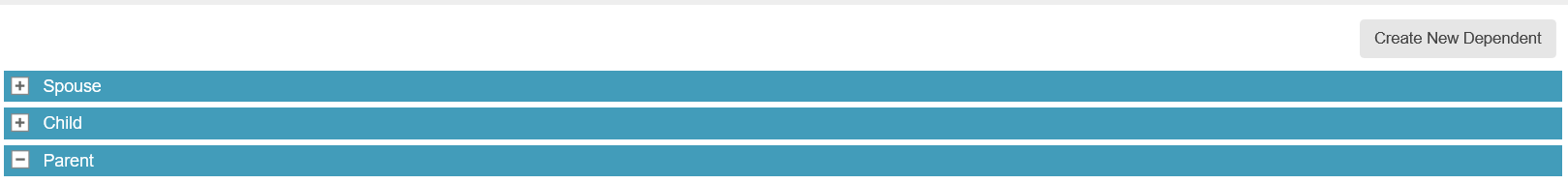
Once the determination has been made to either grant or deny the claim, action must be taken to record the decision in the appropriate systems. As we learned in prior courses on award processing and dependents, there are two tasks that must be completed in order to add a dependent to a Veteran’s award.

First, the dependent must be entered in VBMS Core as a potential dependent for that Veteran. This action must be completed first so the proper options will show up later when the VSR generates the award.

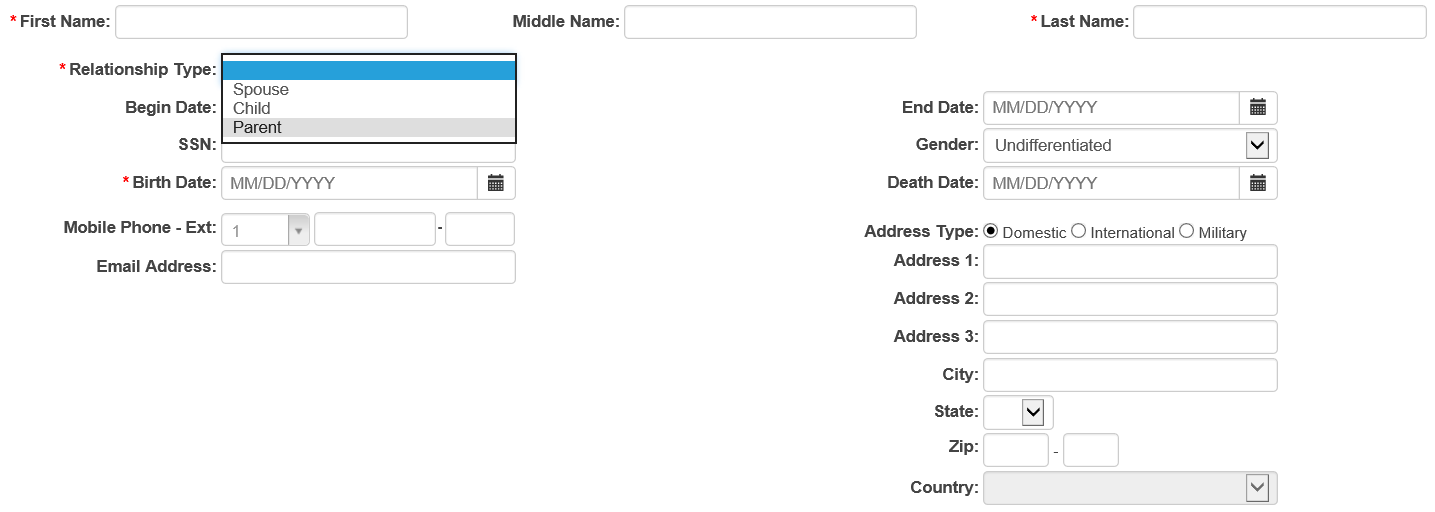


Remember, this action is NOT adding the dependent to the award; this action is only adding the dependent into the system as a potential dependent.

The VSR should add the dependent into the system by selecting Dependents under the Veteran drop-down menu.



Once selected, the VSR can create a new dependent profile so the dependent will be one of the options in the award screen of VBMS-A.



In order to enter the dependent in VBMS Core, all selections with an asterisk must be completed.

It is extremely important to remember to select the correct relationship type: Parent. If this is not selected correctly, the award might not pay correctly (if VA is adding the dependent), or provide proper notification, if VA is denying entitlement to additional benefits for the parent.

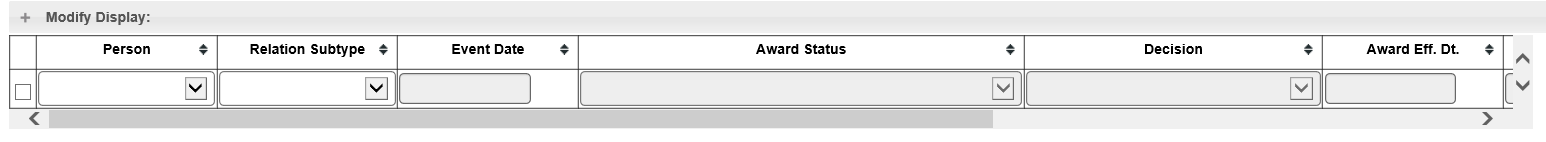
Once all information has been entered, the information must be saved before leaving the screen.



After the parent has been entered in VBMS Core, the VSR can move to creating the award to either add or deny the parent as a dependent. Once in VBMS-A, the decision concerning the dependent parent can be added to the award by choosing the Dependency tab on the left of the screen, just as you would for adding a spouse or child.

Since the parent profile was already created in VBMS Core, the parent should appear as one of the options in the Person drop-down menu. The VSR should continue filling out each of the drop-down menus in order to reflect the decision made to either add or deny the parent as a dependent.

As the addition of any dependent is considered an “authorization decision,” meaning a decision made by a VSR without the need of a rating decision, the VSR will need to determine the proper effective date (event date) for adding the dependent parent, which is typically the date VA received the claim, and the proper payment date (award effective date), which typically falls on the first day of the month following the effective date.



For claims that are being denied, the system will also prompt the VSR to indicate all of the requirements that were met by the claimant for the purpose of establishing the parent as the Veteran’s dependent. These favorable findings were discussed earlier in the administrative decision section of this lesson.

Once all information has been entered, the VSR can continue with generation of the award, showing the new monthly amount of compensation to be paid (plus any retroactive or back payment, if applicable), or no change in the amount if the claim is being denied.

Remember, whether you are granting or denying the claim, this award action must be taken. If VA granted the Veteran’s claim, the award action will ensure payments to the Veteran include additional compensation for the dependent parent. If VA denied the Veteran’s claim, the system will prompt the VSR to enter the favorable findings and other needed information for notification. Once the information is input into VBMS-A and the award is generated, the system then allows for the creation of a decision notice to reflect the decision made.

**Decision Notices**

Once the award is generated, a decision notice must be prepared and sent to the Veteran. As stated in M21-1 III.v.2.B.1.b, the decision notice must independently, or in combination with the administrative decision:

* 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
* explains how to obtain or access evidence used in making the decision
* identifies, if applicable, the criteria required to grant service connection (SC) or the next higher level of compensation, and/or
* identifies
  + 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.

If the decision results in the creation of an overpayment in benefits, VA must also tell the Veteran of their right to request:

* a waiver of the overpayment, and/or
* a repayment plan.

Under a few circumstances, which will be discussed later in this section, some associated actions may result in the creation of an overpayment.

When VA grants entitlement to a benefit, or makes an adjustment to a running award, the decision notice must also notify the claimant of:

* the monthly rate of payment
* the effective dates of entitlement and payment
* the amount of any benefits VA is withholding and the reason for the withholding.

Finally, many award actions have an impact on the Veteran’s monthly payments. When the award action is favorable, and the VA is able to grant the Veteran’s claim for additional compensation for a parent, or when the claim outcome is the removal of a parent already on the award, the result to the Veteran’s benefits is a change in pay. VA must communicate the new payment amounts, the effective and payment dates for these new amounts, and any reason why VA may have to withhold additional benefits for reasons such as the receipt of military pay like retired pay or severance/separation pay. All changes to the Veteran’s payments must be communicated in the decision notice.

The decision notice is typically generated in the VBMS-A system and is referred to as a Redesigned Automated Decision Letter (RADL). For many of these more complex cases, such as parental dependency, the free text function must be used to provide adequate explanation of the decision made to ensure all required elements of a decision notice are present. In rare cases when the RADL is insufficient and cannot be amended to fulfill the requirements, the VSR can revert to using a Personal Computer-Generated Letter (PCGL) to create the decision notice. Whichever letter is used, it should be supplied to the authorizer, along with the administrative decision and generated award, for review and approval prior to finalization of the claim.

**Reasons for Re-Evaluation or Removal**

There may be times that parental dependency must be reevaluated, and the associated additional benefit discontinued. Some prominent circumstances under which these actions would need to be taken are:

* change in the parent’s marital status
* significant change in parent income or net worth
* the dependent parent has died

If the parent has already been deemed dependent for VA purposes and is currently on the Veteran’s award as a dependent parent, any change in the parent’s marital status (which could impact finances) or any outright changes in finances could necessitate re-evaluation of a parent’s dependency status. VA will need to reevaluate the financial situation of that parent to determine if they remain dependent on the Veteran.

If evidence is received showing a dependent parent has married or experienced a significant improvement in their financial situation, advise the Veteran that VA Form 21P-509, *Statement of Dependency of Parent(s),* must be completed with any updated financial information in order to confirm continued dependency. This development action can be done using the subsequent development letter in VBMS Core, as discussed in other portions of this lesson.

If the Veteran notifies the VA that their parent is no longer financially dependent on them, the action to remove the parent can be taken immediately. However, if the Veteran returns VA Form 21P-509, and it shows the parent no longer meets requirements for financial dependency, or if the Veteran fails to complete and return the form, VA must take further action before removing the parent. VA will need to notify the Veteran of the intent to remove the parent by furnishing a notice of proposed adverse action (also known as due process) under 38 CFR 3.652.

Another circumstance where VA will reconsider the status of the dependent parent is in notification of the death of the parent. If notification is provided by the Veteran, VA will take immediate action to remove the dependent parent from the award from the date the parent passed away.

However, if notification of the death of the parent comes from another source, VA must provide a notice of proposed adverse action (due process) prior to taking final action to remove the parent. The parent cannot be removed from the award without either confirmation from the Veteran or the fulfillment of the requirements of due process.

The action to remove the parent from the award could lead to an overpayment of benefits to the Veteran depending on the date of removal, the timeliness of notification to VA, and the timeliness of action on the part of the VA. The only actions which VA has control over are the development actions needed, if any, and the award actions required to remove the parent. Both of these actions should be completed as quickly as possible, while still fulfilling all allotted times for development or due process, so the amount of the overpayment is as minimal as possible.

Also, there may be circumstances under which an award may be made for a parent whose present economic status warrants a determination of dependency but whose financial situation may reasonably be expected to improve in the future. This situation may exist in cases in which:

* the parent is comparatively young and has been unemployed because of poor health, or
* the award is predicated on the parent’s financial responsibility with regard to minor children

If an award is made and there is a reasonable expectation that the parent’s financial situation may improve, the VSR must establish a diary under reason code 22, *Verify Income or Dependency*, for a follow-up at an appropriate date to determine whether dependency has ceased.

If it appears probable that the parent’s financial situation may improve by reason of recovery of employability or similar circumstances, where a future date cannot be definitely estimated, establish the control for one to two years.

If the parent’s dependency is based on financial responsibility for a minor child or children, establish:

* a diary for release of the follow-up letter approximately 30 days prior to the date when the child (oldest child if more than one child is involved) will attain age 18, then
* a 30-day suspense period for receipt of the required evidence/information

As you can see from this lesson, the processing of a claim for parental dependency can be complicated depending on the claim. However, the basic processes that must be followed include:

* Establishing parental relationship – biological, adoptive, or foster parent
* Establishing parental dependency – based on financial information and laws/regulations
* Administrative decision
* Award processing
* Decision notice creation

With this basic understanding, you are now equipped to begin processing claims for additional compensation for a dependent parent.

Practical Exercise

**Directions:** Please review and complete the following questions and provide a manual reference to support your answers. The instructor will review the questions and answers with the class.

1. Which of the following prescribed forms cannot be used to initiate a claim for a dependent parent?
   1. VA Form 21-686c, *Application Request To Add And/Or Remove Dependents*
   2. VA Form 21-0538, *Mandatory Status of Dependents*
   3. VA Form 21-674, *Request for Approval of School Attendance*
   4. VA Form 21P-509, *Statement of Dependency of Parent(s)*
2. Name the three parental relationships that are eligible for consideration when determining entitlement to additional compensation for a parent.
3. What form must be completed in order to establish a foster parent relationship for the purpose of determining entitlement to additional compensation for a parent?
4. Provide the two types of dependency VA considers when evaluating the financial information of the Veteran’s parent(s).
5. What is the monthly income limit for establishing parental dependency as set by 38 CFR 3.250 for each of the following?
   1. Mother and father living together –
   2. Mother or father living alone –
   3. Remarried parent and spouse living together –
6. What is the Additional amount for each member of the family?
7. Which decisions regarding a Veteran’s entitlement to additional compensation for a parent require preparation of an administrative decision?
8. What form should be used to complete an administrative decision for a claim in which factual dependency exists and a parent’s estate is $80,000 or more?
9. Why should the status of a parent already added to the Veteran’s award as a dependent be reevaluated if the parent (re)marries? What form should be sent to the Veteran to complete and return to VA?