

**Pension & Fiduciary Service**

**Inquiry Response Highlights**

**March 2020**

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# **Pension Management Center Related Inquiries**

# VA Form 21-686c

**Target Audience**: PMC Claims Processors

**Question**:A new VA Form 21-686c, Application Request To Add And/Or Remove Dependents, was recently released (attached). The form does not ask how many times the Veteran/claimant have been married (was previously block 6). In addition, the form tells the claimant “If no prior marriages, this section may be left blank”.

M21-1 III.iii.5.A.4.c., Blocks on VA Form 21-686c That a Claimant May Leave Blank, states that we must have the number of marriages listed in block 6 on the VAF 686c. However, this reference is specific to an older version of the form.

Do we need the number of marriages in order to process a dependency claim to add a spouse? Or is this requirement fulfilled when the marital history is completed on the September 2018 form (without the number listed separately) when there is no conflicting information of record? If the number of marriages is required, would it be possible to have this field added back onto the VAF 686c? Would it also be possible to update the manual to reflect P&Fs response (the number of marriages is required regardless of the form or the number of marriages is not required)?

**Response**: Changes to M21-1, Part III, Subpart iii, 5.A were published on March 6, 2020. This change effectuated different processes for dependency claims received on a September 2018 or later version of VA Form 21-686c, Application Request to add and/or Remove Dependents, and prior versions.

Claims processors are not required to develop for any information that is not requested on the September 2018 version of the VA Form 21-686c. Also, the requirement noted in M21-1, Part III, Subpart iii, 5.A.4.e, to contact a claimant by telephone or letter to obtain evidence/information that is missing from an application does not apply to claims filed on a September 2018 or later version of VA Form 21-686c. The detailed instructions that now accompany the form regarding the evidence/information the claimant must provide justified elimination of this requirement.

Since the September 2018 version of the VA Form 21-686c does not request the number of marriages, this information is not required when that form is submitted. However, if the form is complete but contains information that conflicts with other evidence of record, attempt to obtain clarification by telephone. If efforts to obtain clarification by telephone are unsuccessful follow the instructions in M21-1, Part III, Subpart iii, 1.B.1.e, for documenting the unsuccessful attempt, and follow the table in M21-1, Part III, Subpart iii, 5.A.4.i to determine the next action(s) to take.

**Result:** M21-1 updated March 6, 2020.

# Request to Allow Typed Signatures During Pandemic

**Target Audience**: PMC Claims Processors

**Question:** VR&E Service sent out the below information to VSOs allowing a typed signature on forms instead of the usually required wet, digital, or electronic signature. Two of the forms listed are also used in other business lines and could cause great confusion for the Veteran when a typed signature is accepted for one business line, but not others. Would Compensation Service and P&F Service consider temporarily amending policy and adopting similar guidance for forms that a Veteran is submitting?

The two forms listed that are used in multiple business lines include the 686c and the 674; however, consideration to expand this guidance to other highly used forms is requested during the current circumstances.

**Response**: With very few exceptions, the M21-1 and FPM do not require that disability claims or other forms only have “wet” signatures to be accepted by VBA. Current guidance allows for acceptance of other signatures—to include electronic or digital signatures; or, other image of a signature on a claim decision review request, or legacy appeal for benefits, or associated form. A typed signature would qualify under the current definition of electronic signature. Unless there are clear indications of fraud or inauthenticity of the signature, regional office personnel can continue with existing policy guidance and accept these signatures for its disability claims or forms.

Additionally, an accredited power of attorney may submit a form or application on a Veteran’s behalf with the exception of original applications and forms requiring claimant certification (See M21-1, Part I, Chapter 3.A.4.b).

***References***:

* [M21-1 III.ii.1.C.2.g](https://vaww.vrm.km.va.gov/system/templates/selfservice/va_kanew/help/agent/locale/en-US/portal/554400000001034/content/554400000014112/M21-1,-Part-III,-Subpart-ii,-Chapter-1,-Section-C---Initial-Screening-Policies#2) indicates VBA must accept digital and electronic signatures unless there is a clear indication of fraud or inauthenticity
* [M21-1 III.ii.1.C.2.h](https://vaww.vrm.km.va.gov/system/templates/selfservice/va_kanew/help/agent/locale/en-US/portal/554400000001034/content/554400000014112/M21-1,-Part-III,-Subpart-ii,-Chapter-1,-Section-C---Initial-Screening-Policies#2) states this acceptance counts for all claims and claims related documentation
* [VBA Letter 20-17-11](https://vbaw.vba.va.gov/usb/letters/2017/20-17-11_VBALetter.pdf) states VBA cannot reject electronic or digital signatures unless there are indications of fraud, and
* [38 CFR 3.159(a)(3)(v)](https://www.ecfr.gov/cgi-bin/text-idx?SID=a5f953df79f2a6d8f4055b4019e07473&mc=true&node=se38.1.3_1159&rgn=div8) indicates a signature is required on all applications, however there is no indication as to the form of the signature.

**Result:** Clarification provided.

# ITF Date

**Target Audience**: PMC Claims Processors

**Question**: I believe that the VA is not appropriately adjudicating claims under the 38th code of Federal Regulations. This is specifically in reference to the effective date of benefits when an Intent to File has been received within one year from the date of the Veteran’s death, and an application for benefits is received within one year from the date VA received the Intent to File, but after the 1 year period following the date of the Veteran’s death.

I asked several other experienced adjudicators who all believe that if an Intent to File is received within one year from the date of the Veteran’s death, and the application is received within the 12 months following the date the ITF is received but after the 12 months immediately following the date the Veteran died, that we may pay benefits effective from the date of the Veteran’s death. This practice effectively changes 38 CFR 3.400 (c)(2), to allow benefits to be paid the first day of the month in which the veteran's death occurred if an application (claim) is received within 1 year after the date VA received the Intent to File, if the Intent to File is received within 1 year from the date of death. This misinterpretation of the law allows VA to pay benefits potentially up to 24 months retroactively. I do not believe this is the intent of the law as written. I humbly request that your office look into this matter.

**Response**: Please note, the Intent to File (ITF) process did not change, and is independent of, and in addition to statutory effective dates.  Also, as noted in 38 CFR 3.155(d)(ii),

*If VA receives a complete claim within 1 year of the filing of an intent to file a claim that meets the requirements of paragraph (b) of this section, it will be considered filed as of the date of receipt of the intent to file a claim.*

Therefore, for survivor claims, this means that if an ITF was received within a year of the death of the Veteran, and a completed claim was received within a year of the ITF, but more than a year from the death of the Veteran, VA will apply the statutory effective date within 38 U.S.C 5110(d), and 38 CFR 3.400(c)(3), to consider entitlement from the first of the month of the Veteran’s death.

**Result:** Clarification provided.

# Concurrent EP: 696/600

**Target Audience**: PMC Claims Processors

**Question:** After the 2019 Cost Of Living Adjustment (COLA) run, St. Paul Pension Management Center (PMC) identified an End Product (EP) 696 did not generate if this same EP (696) was still pending for 2018. Based on the November 11, 2019, Monday Morning Workload report, there were 6,034 2018 EP 696s pending between 499 and the three PMCs.

Per M21-4, Appendix B., EP 690 is authorized on specific Central Office direction and apply to special reviews which require authorization review only. It appears a station does not have the authority to establish the EP. Therefore, we are seeking clarification as a result of 6,034 2018 pending COLAs.

* 1. If we do have the authority, should the DOC match the pending EP 600?
  2. If we do not have the authority, how should the EP 600s be handled per this reference when there is no concurrent EP 696?

COLA reference included to highlight processing requirements. (III.v.10.A.3.a.)

|  |  |
| --- | --- |
| PMC is processing the EP 696 and 600 that were automatically established with automatic due process notification (for pension and Parents’ DIC beneficiaries only) | after the expiration of the due process period or notification from the beneficiary   * process an award that complies with the policies expressed in [**M21-1, Part V, Subpart iii, 1.H.2**](https://vaww.vrm.km.va.gov/system/templates/selfservice/va_kanew/help/agent/locale/en-US/portal/554400000001034/content/554400000014444/M21-1,-Part-V,-Subpart-iii,-Chapter-1,-Section-H---Improved-Pension---Adjustments-based-on-Changes-in-Status) for making a COLA adjustment, and notify the beneficiary of the action taken.   ***Note***:  If the COLA adjustment can be resolved without due process, cancel the EP 600 and process an award using the EP 696. |

PMCs prioritize work pushed by National Work Queue. Therefore, prioritization/completion of the 2018 COLA was not possible based upon the work assigned. It appears M21-4 was written with the idea that all prior year COLAs would be processed before to the next year’s run.

Therefore, over 6,000 non-rating completions would be missed if the station doesn’t have the authority to establish an EP 696.

**Response**: The PMC does not have the authority to establish an additional EP 696. Use the one EP 696 for the 2018 COLA to process multiple COLA adjustments. (M21-4 Appendix B.1.b) If an EP 600 is needed, the date of claim is the date the EP is established for the proposed adverse action. (M21-4 Appendix B.2-600)

**Result:** Clarification provided.

# **Fiduciary HUB Related Inquiries**

# Wet Signature v. Typed Signature

**Target Audience**: All Hub Personnel

**Question**: We are requesting P&F guidance on wet signatures.

VR&E has published guidance that they will now accept typed signatures.

We are starting to see 4703s signed in the same manner.

**Response**: A typed signature entered electronically onto a [*VA Form 21P-4703, Fiduciary Agreement*](http://vbaw.vba.va.gov/bl/20/cio/20s5/forms/VBA-21P-4703-ARE.pdf) can be accepted under current procedures.

With very few exceptions, the M21-1 and FPM do not require that disability claims or other forms only have “wet” signatures to be accepted by VBA. Current guidance allows for acceptance of other signatures—to include electronic or digital signatures; or, other image of a signature on a claim decision review request, or legacy appeal for benefits, or associated form. A typed signature would qualify under the current definition of electronic signature. Unless there are clear indications of fraud or inauthenticity of the signature, regional office personnel can continue with existing policy guidance and accept these signatures for its disability claims or forms.

***References***:

* [M21-1 III.ii.1.C.2.g](https://vaww.vrm.km.va.gov/system/templates/selfservice/va_kanew/help/agent/locale/en-US/portal/554400000001034/content/554400000014112/M21-1,-Part-III,-Subpart-ii,-Chapter-1,-Section-C---Initial-Screening-Policies#2) indicates VBA must accept digital and electronic signatures unless there is a clear indication of fraud or inauthenticity
* [M21-1 III.ii.1.C.2.h](https://vaww.vrm.km.va.gov/system/templates/selfservice/va_kanew/help/agent/locale/en-US/portal/554400000001034/content/554400000014112/M21-1,-Part-III,-Subpart-ii,-Chapter-1,-Section-C---Initial-Screening-Policies#2) states this acceptance counts for all claims and claims related documentation
* [VBA Letter 20-17-11](https://vbaw.vba.va.gov/usb/letters/2017/20-17-11_VBALetter.pdf) states VBA cannot reject electronic or digital signatures unless there are indications of fraud, and
* [38 CFR 3.159(a)(3)(v)](https://www.ecfr.gov/cgi-bin/text-idx?SID=a5f953df79f2a6d8f4055b4019e07473&mc=true&node=se38.1.3_1159&rgn=div8) indicates a signature is required on all applications, however there is no indication as to the form of the signature.

**Result:** Clarification provided.

# Name Change

**Target Audience**: All Hub Personnel

**Question**: The November 27th update indicating the ways to update a name change the M21- 1 III.iii.8.1.b. is referenced in how to verify acceptable evidence is of record. Within M21-1 III.iii.8.1.b. it states evidence is not required when the beneficiary’s last name changes because of divorce or annulment when the beneficiary, or their appointed Veterans service organization/agent/attorney, notifies VA of the termination of marriage due to divorce or annulment. Fiduciaries, even though not listed, are included in this, right?

Also, the above reference states evidence isn’t required for a marriage that VA recognizes as valid. Is the fiduciary hub responsible for determining if a marriage is valid for the purposes of a name change? This would require additional training on several other references within the M21-1.

**Response**: Regarding marriage validity verification, FPM 4.C.12 was updated on January 27, 2020 to direct Hubs verify acceptable evidence including notation of those exceptions when documentary evidence is not required. If a fiduciary or beneficiary has changed his/her name, hub personnel should enter the change in Share, update the Beneficiary Fiduciary Field System, and, as appropriate notify the Philadelphia Insurance Center and the court of jurisdiction to correct court records. As directed by FPM 4.C.12, unless there are inconsistencies in a claimant’s statement, VA will accept the evidence a claimant or beneficiary provides. If, in the rare instance, the evidence brings into question the validity of the marriage for purposes of updating a name change, the hub should send the request to the Regional Office (RO) for resolution.

Additionally, on February 24, 2020, we updated M21-1, Part III, Subpart iii, 8.1.b to note that documentary evidence is not needed for a name change if reported by a fiduciary. M21-1 Part III, Subpart ii, 3.C.1.a was also updated to note that when a beneficiary has a spouse fiduciary, the RO will not update the name in VA systems. Instead, they will refer the name change request to the fiduciary hub of jurisdiction via a VAI in IRIS.

**Result:** FPM and M21-1 updated.

# Question Regarding Streamlined Exam POC

**Target Audience**: Legal Instruments Examiners and Field Examiners

**Question:** Previously, in 2017, after the FPM was introduced, Streamlined Exams were introduced to the field. Since that time 2.G.2. has continued to state the beneficiary’s fiduciary cannot be the POC in these situations. In early 2018, a question was posed to P&F as to whether or not the beneficiary’s POC could be employed by the fiduciary. The answer provided on the, now rescinded FAQ, stated the beneficiary’s POC for Streamlined exams could not be the fiduciary or a person employed by the fiduciary, due to a possible conflict of interest. Since then, the FAQ was taken down.

FPM 2.G.2.d. currently states:

Note: A beneficiary who is unable to provide responses and who has no spouse, friend, relative, care provider or another person who has direct and regular contact with the beneficiary and who is not also serving as the beneficiary’s fiduciary, to respond on his or her behalf must be visited through a face-to-face field examination.

Our question is as follows:

If the beneficiary’s facility (either Assisted Living or Nursing Home) is appointed as the VA-Appointed fiduciary, may we use an employee of that facility (such as a nurse or the business office manager) as the POC for Streamlined exam purposes?

**Response**: If the beneficiary’s facility is appointed as the VA-appointed fiduciary, the hub cannot use an employee of the facility as the POC for streamlined field examination purposes. This could be a conflict of interest as it may be difficult for that person to provide an impartial response regarding the fiduciary-beneficiary relationship and the beneficiary’s well-being.

**Result:** Clarification provided.

# Question Regarding Form Use

**Target Audience**: Hub Management, Legal Instruments Examiners and Field Examiners

**Question:** Attached is a locally created VA Form 21-3537b (Lincoln Fid Hub did not locally create this form). After review, we have a few concerns.

Are we legally allowed to use this template?

If so, are we allowed to amend it to better suit our purposes?



**Response**: No, you cannot use this form. While internal forms can generally be modified to an extent, Pension and Fiduciary Service does not endorse the modifications shown on the form as they are significant deviations from the original form. Under the Paperwork Reduction Act, VA requires approval for this level of modification.

**Result:** Clarification provided.

# **P&F Service Information**

# P&F Service Contact Information

Policy and Procedure questions from the PMCs or Fiduciary Hubs should be submitted to P&F Service at [VAVBAWAS/CO/P&F POL & PROC](mailto:PFPOLPROC.VBACO@va.gov) by the Quality Review coach or PMC/Fiduciary HUB Division Management.

P&F Service would like to remind you that all inquiries sent to the Policy and Procedures Mailbox must include the references previously researched, key words or phrases used to search in CPKM. P&F Service is available to assist when there is confusion about a certain policy or procedure, however, PMCs and Fiduciary Hubs are required to research and attempt to resolve the issue before sending the question to the P&F Service Policy and Procedures Mailbox. Additionally, including all words used to search topics in CPKM will allow P&F Service to add those search words into CPKM if they were not already in the metadata for a certain manual reference.

Training and Quality questions can be directed to: [VAVBAWAS/CO/P&F TNG QUAL OVRST](mailto:PFTNGQUALOVRST.VBACO@va.gov).

Systems-related questions can be directed to: [VAVBAWAS/CO/P&F BUS MGMT](mailto:PFBUSMGMT.VBAVACO@va.gov).

# Disclaimer

Please note that all responses provided are for informational purposes only. If changes to the M21-1 Adjudication Procedures Manual or Fiduciary Program Manual (FPM) are needed, they are made in conjunction with the response. The M21-1 and FPM supersede any inquiry response.