**Slide 1**: Hello, my name is Valarie and I am here with Robert. We work with the Training Staff at VA Central Office. This short video will give you a quick review of the information that was provided in the VSCM call of August 2014. Please note that watching this video does not replace your responsibility to review all the information provided in the Bulletin related to the call.

**Slide 2**: The Bulletin can be found on the Compensation Service Intranet by clicking on “VSCM Call Agendas.” When you click on the link,

**Slide 3**: it brings you to the current year with each monthly Bulletin. Prior Bulletins can be found here also, by searching the correct year at the top of the page,

**Slide 4**: or by using the Search function on the left side of the page.

**Slide 5**: Some of the slides will cross target audiences regarding CA, VSR and RSVR. To begin, in service occupational and environmental exposure is helpful in determining a Veteran’s exposure in disability claims. One potential exposure was to radiation in Japan following the March 2011 earthquake and tsunami. DoD created an online registry of every American servicemember, family members, and civilians who were in the area at the time of release of radiation and the amount of dose for each individual. Claims based on this exposure are expected to increase. and The information in the registry will assist in processing these claims and can be found on

The United States (U.S.) Army Public Health Command has started documenting information on occupational and environmental exposures at U.S. military bases throughout the world. These summary reports are called Periodic Occupational Environmental Monitoring Summaries (POEMS). A POEMSis an official DoD technical document that describes occupational and environmental health (OEH) exposures and their associated health implications for a deployment location during a specific time. The POEMS describes the types of OEH hazards identified during that time, and provides a characterization of the base camp population’s exposures and potential associated health effects. It also provides a description of the risk estimates for short and long term medical implications and any recommendations for any medical action, follow up or surveillance. A POEMS may be accessed at the following website: <https://mesl.apgea.army.mil/mesl/>.

DoD has also developed a registry of servicemembers who were within 50 feet of a blast since mid-2010. Information can be obtained on claimed blast exposures when we cannot verify that a Veteran was exposed through existing DoD records, including STRs. If you receive a claim for residuals of a blast injury that occurred from the middle of 2010 to the present, and you are unable to verify that the Veteran was exposed, please e-mail Brad Flohr and Jacqueline Imboden of Compensation Service with identifying information. Compensation Service will then contact JTAPIC office within DoD to determine if there is a record of the exposure.

**Slide 6**: Attorneys from OGC’s Professional Staff Group VII (PSG-VII) represent the Secretary of Veterans Affairs (VA) before the Court of Appeals for Veterans Claims (CAVC). These attorneys, in litigating cases before the Court, may be required to contact the regional office (RO) for assistance in various matters, to include compliance with court orders, verifying claimants’ status, and substitution of claimants.

Offices must promptly respond to PSG-VII requests for assistance, as the attorney is often working under a Court-imposed deadline. Any request by a PSG-VII attorney for assistance must receive immediate and total compliance, as the requesting attorney is dependent upon the Office’s cooperation in order to represent the Secretary before the Court.

Failure to timely respond to Court orders is a serious matter and could potentially involve sanctions upon the Secretary and VA. .

**Slide 7**: Given that WARMS does not contain an embedded search function, Compensation Service would like field users to utilize Google to search for MR content housed in WARMS and ensure Google will only search within WARMS.

On the Google search page, input the following into the search box: site: http://www.benefits.va.gov/warms/

Enter the subject you would like to search before the word “site.” For example: “informal claims site: http://www.benefits.va.gov/warms/”

**Slide 8** [FL 11-24,*Disposition of Documents Scanned into an Approved Electronic System of Records*](http://vbaw.vba.va.gov/bl/21/publicat/Letters/FL11/FL11-024.doc)has been revised to reflect that ROs are not required to purchase additional STR jackets if the original STR jacket was lost or destroyed. The original paper STR may remain in VA’s white envelopes, VA Form 21-4582, *Service Department Records Envelope*.

ROs should not remove paper STRs from their original STR jackets and discard the STR jacket. This includes when shipping STRs to the VA scanning contractors. ROs **must** maintain all original STR jackets that are still intact.

**FL-130-09 *Certification of Completeness of the Service Treatment Records (STRs)* has** been revised version of the STR certification form (DD Form 2963). The revisions included changing the name of the form to “Service Treatment Record (STR) Certification” and removal of the mailing section within the certification form. Although United States Coast Guard (USCG) is still mailing certified paper STRs to VA, it has transitioned to the new version of the DD Form 2963.

**Slide 9:** For medical providers requiring an originally signed VA Form 21-4142, *Authorization and Consent to Release Information to the Department of Veterans Affairs*, when an original is unavailable, procedures outlined in [M21-MR III.iii.1.C.14.g](http://www.benefits.va.gov/WARMS/docs/admin21/m21_1/mr/part3/subptiii/ch01/pt3_sp3_ch1_secC.doc) state to send the claimant a subsequent VA Form 21-4142 for signature and return within 15 days. Scanning procedures require scanning of claimant mail upon receipt, therefore the subsequent VA Form 21-4142 is scanned into the VBMS eFolder, rendering it a scanned copy of the original.

If the claimant’s medical provider requests a signed original VA Form 21-4142, and the original is unavailable or already scanned into the VBMS eFolder, send the claimant an additional VA Form 21-4142 with the following development paragraph:

**Slide 10**:Now we will discuss some key points for Rating:

**Traumatic Brain Injury (TBI) and Co-Morbid Disabilities**

In evaluating TBI residuals, a co-morbid mental disorder may be present. The mental disorder and Post-Traumatic Stress Disorder (PTSD) examinations direct the examiner to determine, if the Veteran has TBI, whether symptoms related to TBI and a co-morbid mental disorder can be differentiated. If the symptoms can be differentiated, the examiner is directed to list the symptoms attributable to TBI apart from the symptoms resulting from the co-morbid mental disorder. If the examiner differentiates the symptoms, the co-morbid mental disorder may be rated separately under an appropriate diagnostic code under [38 CFR 4.130](http://vbaw.vba.va.gov/bl/21/publicat/Regs/Part4/4_130.htm) apart from other TBI residuals rated under cognitive impairment, subjective symptoms, or physical or neurological impairment under Diagnostic Code 8045 since the manifestations of a co-morbid mental disorder are clearly separable from the other TBI-related residuals.

**Evaluating Claims involving TBI (DC 8045) and Major or Mild Neurocognitive Disorder Due to TBI (DC 9304) following DSM-5 Revisions to 38 CFR 4.130**

VA recently published an interim final rule which updated VA Schedule for Rating Disabilities regulations pertaining to mental disorders to reflect changes in the Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition (DSM-5). One such change updated the terminology of diagnostic code 9304 from “Dementia due to head trauma” to “Major or mild neurocognitive disorder due to traumatic brain injury.” While the name of the disability has changed, the disease described and evaluation criteria remain unchanged and there are no changes required to processing claims involving TBI and a co-morbid mental disorder.

Claims processors should continue to follow the guidance contained in the M21-1Manual Rewrite, regarding multiple evaluations and pyramiding in TBI cases. If a Veteran has a diagnosed TBI and also has a confirmed diagnosis of Major or Mild Neurocognitive Disorder Due to TBI **and** you have sufficiently clear and unequivocal medical opinion evidence that manifestations are clearly separable, you should assign separate evaluations using each applicable diagnostic code.

**Evaluations for Shoulder Disabilities**

Separate evaluations may be given for disabilities of the shoulder and arm under diagnostic codes 5201, 5202, or 5203 if the manifestations represent separate and distinct symptomatology that are neither duplicative nor overlapping. The Evaluation Builder has been programmed to allow separate evaluations under these diagnostic codes if so warranted by the disability picture.

**Evaluation of Radiculopathy**

The proposed rule for the General Rating Formula for Diseases and Injuries of the Spine, published in the Federal Register on September 4, 2002, provides guidance in determining what constitutes “objective neurological abnormalities” consistent with the regulation’s intent in Note (1). In explaining the Note (1) guidance, the proposed rule’s preamble states: “We propose to add a note following the general rating formula that would direct the rating agency to separately evaluate any associated objective neurologic abnormalities, including, but not limited to, bowel or bladder impairment, and sensory or motor loss of the extremities. Such evaluations would be based on criteria in the Digestive, Genitourinary, and Neurologic System portions of the rating schedule, depending on the specific findings.” Accordingly, any finding of radiculopathy that sufficiently meets the criteria for an evaluation under the appropriate peripheral nerve code contained in [38 CFR 4.124a](http://vbaw.vba.va.gov/bl/21/publicat/Regs/Part4/4_124a.htm) meets the threshold for demonstration of an objective neurological abnormality that may be separately rated from the spine disability rated under the General Rating Formula.

**Procedures for Rating Mental Health Disabilities and Psychiatric Examinations Following the August 4, 2014 Publication of RIN 2900-AO96 - Mental Disorders and Definition of Psychosis for Certain VA Purposes**

On August 4, 2014, the Department of Veterans Affairs (VA) published an interim final rule on Mental Disorders and Definition of Psychosis for Certain VA Purposes, to update regulations in Parts 3 and 4 in accordance with the Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition (DSM-5). Please note that this ruling rescinds FL 13-15; effective August 27, 2014.

The interim final rule applies to **all** applications for benefits that are received or that are pending before the agency of original jurisdiction on or after August 4, 2014. It does **not** apply to claims that have been certified for appeal to the Board of Veterans’ Appeals (Board) or that are pending before the Board, the United States Court of Appeals for Veterans Claims, or the United States Court of Appeals for the Federal Circuit, as of August 4, 2014.

Any examination performed after August 27, 2014 which does not conform to DSM-5 criteria does not meet the requirements of 38 CFR § 4.125 and is inadequate for rating purposes. The Veterans Health Administration (VHA) has instructed examiners that, as of August 27, 2014, all mental disability benefits questionnaires (DBQs) must be performed using DSM-5 criteria.

If the record already contains a mental health DBQ based on historic DSM-IV criteria AND the issue under consideration is **entitlement to service connection or pension**, do NOT request a new examination based on DSM-5 criteria if:

* The examination is otherwise adequate for rating purposes,
* The DSM-IV examination renders an Axis I diagnosis of a mental disorder, and
* The benefit sought may be granted on the evidence already of record.

If the DSM-IV DBQ of record does not satisfy ALL of these requirements, a new examination based on DSM-5 criteria should be requested.

**Slide 11**: VIS was updated in April 2014, to provide enhancements that include Defense Finance Accounting System (DFAS) pay data.

An informational nationwide session was held on August 7, 2014.

More information will be provided via the Talent Management System (TMS) and training material.

**Slide 12**: There will not be a fast letter (FL) released for the 2013 COLA. The rates can be accessed at: http://vbaw.vba.va.gov/bl/21/publicat/Manuals/Rates/rates\_home.htm.

Some charts have a rate for December 1, 2013 and a rate for January 1, 2014. RO staff should use the applicable rate.

For write out and work item processing, ROs should continue to follow the guidance in M21-1 Part V, Subchapter III, Paragraph 19.10 (M21-1 V.III.19.10) regarding the date of claim when establishing a pending issue, the date shown on the message or, if no date is shown, the date of the review.

The one exception involves write outs/work items with the legend "Processing Date - Cycle XX, Month/Year". Use the Hines cycle schedule for date of claim purposes. Please see the Hines Cycle Schedule for more information.

**Slide 13:** Disability compensation is countable as income ***only if***

* two Veterans are married to one another; one is receiving disability compensation and the other is receiving current-law pension, ***or***
* a Veteran in receipt of current-law pension receives a retroactive payment of disability compensation. (This occurs when a Veteran in receipt of current-law pension becomes entitled to disability compensation as the greater benefit for a short period of time when, for example, the Veteran is granted a total disability rating under 38 C.F.R. 4.29 or 4.30. (See [M21-1MR, V.iii.1.I.57.c](http://www.benefits.va.gov/WARMS/docs/admin21/m21_1/mr/part5/subptiii/ch01/ch1_secI.doc).))

**Slide 14:** In order to determine entitlement to Medicaid, individual states routinely ask VA to report the amount of benefits it pays to a Medicaid claimant. There are certain benefits VA pays its beneficiaries that states do not consider as income for the purpose of determining entitlement to Medicaid. Both the states and SSA expect VA to report to them the amount of benefits it pays to a beneficiary *after* subtracting certain income exclusions.

Most states expect VA to calculate VA income for the purpose of determining entitlement to Medicaid using the same procedures VA uses (in [M21-1MR, Part III, Subpart iii, 3.B](http://www.benefits.va.gov/WARMS/docs/admin21/m21_1/mr/part3/subptiii/ch03/M21-1MRIII_iii_3_SecB.doc)) to calculate VA income for the purpose of determining entitlement to SSI. There are exceptions, however. Research to date has revealed that North Dakota and Minnesota *include* as income any special monthly pension (SMP) VA pays a beneficiary, and

* Connecticut *includes* as income the increase in benefits VA pays a beneficiary for unreimbursed medical expenses (UMEs).

As Compensation Service learns of other states that require special calculation of VA income for the purpose of determining entitlement to Medicaid, it will notify the field. As soon as all states have been contacted for confirmation of their individual income-counting policies, Compensation Service will incorporate this information into [M21-1MR, Part III, Subpart iii, 4.2.d](http://www.benefits.va.gov/WARMS/docs/admin21/m21_1/mr/part3/subptiii/ch04/ch04.doc).

**Slide 15:** In the next few weeks, Compensation Service will batch mail a denial letter for pending dependency claims that meet the following criteria, Veteran is less than 30 percent service connected, and a 130 series end product (EP) is pending without a concurrently pending rating EP **or** a 130 series EP is pending with a concurrently pending EP 020.

After the denial letter is sent to the Veteran, the system will clear the 130 EP and upload a copy of the denial letter into the Virtual VA eFolder for record purposes.

Guidance regarding EP 130s was given in Dependency TIP Sheet. EP 130 can be pending along with a **supplemental** rating EP (claim for a new rating issue, claim for increase, or a reopened claim)regardless of the date of claim. Original claims are excluded unless all three requirements are met: the rating decision grants 30 percent or more **and** the original EP is deferred for additional rating issues, **and** a dependency claim is subsequently received Step 1 - Establish the appropriate rating EP (if applicable) along with an EP 130 (Date of claim for both should match the date stamp).Step 2 - If entitlement exists (Veteran rated at 30 percent or more) and the development information is incomplete: develop for the claimed contentions (if applicable) as well as the incomplete dependency information per current rules (telephone development should be used to the extent possible) Step 3 - If entitlement does not exist (Veteran less than 30 percent):Deny administratively, notify claimant, and clear EP 130

**Slide 16:** The [Automated Decision Letter (ADL) Standard Operating Procedures (SOP)](http://vbacodmoint1.vba.va.gov/bl/21/Transformation/docs/ADL%20SOP.docx) recently included clarification regarding the business rules that drive dependency solicitation language in the ADL. The guidance contained in the ADL SOP states that dependency solicitation language is not required when a dependency decision or dependency development is at issue as part of the decision notification letter.

In addition to decision notification letters processed through ADL, Personal Computer Generated Letters (PCGL) do not need to include dependency solicitation language when a dependency decision or dependency development is at issue in the decision notification letter. Adding the dependency solicitation language in PCGL for the situations described above would not be considered an error; however, we are asking field users to refrain from doing so to ensure consistency in our correspondence and to avoid confusion on the part of the Veteran.

**Slide 17:** [FL 12-08*, Implementation of the Simplified Notification Letter (SNL)*](http://vbaw.vba.va.gov/bl/21/publicat/Letters/FL12/FL12-008.doc), states that VSRs processing awards must attach one of the following Modern Awards Processing-Development (MAP-D) special issue labels to each issue in the decision: SNL-No Free Text, SNL-Free Text, or Traditional Rating. This is no longer a requirement because while Veterans Benefits Management System – Rating (VBMS-R) and ADL leverage the benefits gained by SNL, the process no longer requires the VSR to document the format of the rating decision or the use of free text within the rating decision.

**Slide 18-19:** The electronic indicator in the VSO work queue is sufficient notice for active claims. However, because the VSO work queue is geared towards active claims, it does not provide the same level of notification when the EP is cleared and the letter is sent to the Veteran. Claims processors should continue to provide a paper copy to the VSO in all instances where notification to the Veteran is provided and the pending EP is cleared.

All decision letters for rating EPs where the letter is sent and the EP is cleared

All dependency award decisions

Final decisions on due process that do not require a rating (EP 600s)

All non-rating EP decision letters that are sent at the same time the EP is cleared (EP 290s)

Continue to provide a paper copy of all notices for VSOs that *do not* have work queues (such as certain county representatives), or for VSOs who cannot view the eFolder due to restriction of access to records protected by Section 7332, Title 38, USC. VSO access to the eFolder can be verified under the Power of Attorney (POA) tab on the Veteran Profile screen in VBMS.

**Slide 20**: As a reminder, please subscribe to Calendar updates if you have not already done so. Subscribing to the Calendar will keep you updated on changes as they happen. To subscribe, go to the Compensation Service Intranet and click on “Calendar” on the left side.

 Then, click “Calendar – Subscribe” on the left side. You will enter your VA email address and then you will receive an email notification whenever a new item is added to the calendar, including Bulletins.

Please remember to complete the assessment in TMS to receive credit for viewing this video and reading the Compensation Service Bulletin. Thank you.