Compensation Service
Rating Quality Call Notes
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Current National Rating Accuracy Measures

Presented by Diana Williard, Quality Assurance Officer (QAO), Program Review Staff

Target Audience: All Veterans Service Center (VSC) employees and management

The national 12-month claims-based rating benefit entitlement (BE) accuracy is 90.99 percent (%) and the issue-based rating BE accuracy is 96.01%.

As we begin the second quarter of fiscal year 2015 (FY15), we need to remain focused on providing quality ***CUSTOMER*** service to *OUR* Nation's Veterans, their families, and Survivors. Through your "attention to detail", positive attitude, and commitment of service to *OUR* Veterans, "We Can & We Will" meet our goal! As we continue to work on the backlog, please keep in mind that Production and Quality go hand-in-hand.

Fully Developed Claim (FDC) Guidance Update

Presented by Dan Markey, Legal Consultant, Policy Staff

Target Audience: Veterans Service Representatives (VSRs), Rating Veterans Service Representatives (RVSRs), Decision Review Officers (DROs), Authorization Quality Review Specialists (AQRSs), Rating Quality Review Specialists (RQRSs), and management

Please see Pages 11 and 12 in this document for additional clarified guidance on FDC effective dates and evaluations.

There were several questions asked about the November 2014 presentation "Correction of Guidance Regarding the Assignment of Effective Dates for Fully Developed Claims (FDCs) Received from August 6, 2013, to August 5, 2015." All questions were encapsulated into these two (2) questions.

1. **If an informal claim pertaining to a FDC is received within the liberalizing period, and the FDC application is received beyond the one-year period, it would be to the Veteran's benefit to exclude the claim from FDC and consider the informal claim receipt date. Is it permissible to exclude the claim if it would be to the Veteran's benefit?**

Answer: You may assign an effective date based on the liberalizing law change even though the formal FDC claim was received more than one year following the liberalizing law change.

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As noted in the November 2014 and January 2015 presentation materials, a Veteran is entitled to the most favorable effective date allowable by law. Presuming that the claim referenced in the above question is an original compensation FDC, the Veteran would be eligible for up to a one year retroactive effective date under Section 506 of Public Law 112-154. As discussed in Fast Letter (FL) 13-17, the one year retroactive effective date must be calculated from the date the formal (complete) FDC claim is received. Additionally, the Veteran may be entitled to an effective date based on receipt of an informal FDC claim. Refer to the March 2014 Compensation Service (CS) Bulletin for the definition of "informal" FDC and its treatment in assigning effective dates. Generally, the effective date available under Section 506 of Public Law 112-154 would allow for a more favorable effective date than the date of receipt of the informal FDC claim. In the situation described in the question above, the informal FDC was received within one year of a liberalizing law change. As such, VA may apply 38 CFR 3.114 and assign an effective date up to the date of the liberalizing law change.

A similar outcome would occur if an informal FDC claim was received within one year of a Veteran's separation from active duty, but the formal FDC claim was received more than one year after separation. In that case, VA would apply 38 CFR 3.400(b)(2) using the informal claim date.

Important: Although you may assign an effective date that is earlier than the one year retroactive effective date afforded by Section 506 of Public Law 112-154, it is **not** permissible to exclude the claim from the FDC program. Instead, the proper course of action is to assign the most advantageous effective date, while noting in the rating decision "that the one year retroactive effective date for FDC claims was considered, but that an even earlier effective date was able to be assigned under [decision-maker will insert effective date rule applied and provide explanation]".

2. Traditionally, the only evidence we have is a claim with a VA examination dated several months later. I think the crux of the reason this issue was addressed in the CS Bulletin call is to address how liberal we should be viewing these types of situations where the evidence seems to indicate the Veteran had the same severity level for the last year but not concrete medical evidence from over a year back confirming this fact. Is it acceptable in these cases to grant a one year retroactive effective date since the evidence seems consistent or is this too liberal of an interpretation?

Answer: The issue of what disability rating to assign is a separate issue from what effective date to assign. Regarding the latter issue, the essential inquiry is "What is the earliest date for which it is ascertainable that the disability existed?"

As discussed in the Addendum to the May 2014 CS Bulletin, unless there is affirmative evidence showing that the disability did not exist during the entire retroactive one-year period, reasonable doubt should be resolved in favor of the Veteran and the full one-year retroactive effective date should be assigned. Once the effective date has been assigned, the decision-maker must then determine what disability rating(s) the evidence supports throughout the applicable rating period, again affording any reasonable doubt in favor of the Veteran.

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Automated Decision Letter (ADL) Rating Decision Notices

Presented by Paul Shute, Program Analyst, Procedures Staff

Target Audience: VSRs, RVSRs, DROs, AQRSs, RQRSs, and management

The rating data associated with the rating decisions that are made in Veterans Benefits Management System – Rating (VBMS-R) directly impacts the language presented in the ADL decision notice. There was previously an ADL defect, that has since been resolved, that resulted in the appropriate additional benefits paragraphs not being inserted into the ADL.

Here is some of the current rules-based logic utilized by ADL to determine which additional benefits paragraphs are inserted into the letter:

If a decision notice is generated by ADL in relation to a rated issue, regardless of whether the issue is granted or denied, additional benefits paragraphs will be generated for the following items:

- VA guaranteed mortgage,
- mental health counseling for Veterans who served overseas in support of combat operations; and,
- information regarding blind rehabilitation programs.

If a decision notice is generated by ADL for a newly service-connected condition, or an increase in an existing service-connected condition, the following additional benefits paragraphs will be generated:

- eligibility to medical care by the VA health care system,
- refund or elimination of co-payments for VA-provided medical care,
- eligibility for clothing allowance,
- state tax, license, or fee-related benefits,
- VA dental treatment; and,
- eligibility to educational assistance allowance.

If a decision notice is generated by ADL and entitlement to Dependents' Education Assistance (DEA) has been granted as part of the current decision at issue, the following additional benefits paragraphs will be generated:

- Dependents' Educational Assistance program information,
- eligibility to CHAMPVA,
- eligibility to a waiver of government life insurance premiums,
- benefit programs offered by the Social Security Administration (SSA),
- Automobile and Adaptive Equipment eligibility information; and,
- specially adapted housing and special home adaptation grant eligibility information.

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The ADL Standard Operating Procedures (SOP) provides information regarding the various types of language that is generated by ADL, as well as a comparison between the ADL language and the language generated by PCGL.

In situations where the appropriate paragraph is not generated by ADL, the user (in this case, the Awards VSR or authorizer) has the ability to manually insert the appropriate paragraph via 'Free Text' functionality found on the 'Award Letter Interview' page with VBMS-Awards (VBMS-A).

If end-users believe that the legally necessary language or paragraphs were not generated by VBMS-R or ADL, he/she should consult with their Super User to determine if the system is functioning as intended, or if a trouble ticket should be submitted to the National Service Desk (NSD).

If the Super User feels as though the system generated language is legally inadequate, and needs to be updated or modified, please notify the Language Change Control Board (LCCB) so the issue can be addressed. Inquiries can be submitted to the LCCB by selecting the link found under the Procedures Staff (212) section on the CS Intranet Home Page or by emailing LCCB.VBAVACO@va.gov.

It is important that Super Users notify VA Central Office of language that is legally inadequate, not ideal, or not generated properly by the system (VBMS-R or ADL) via the LCCB or NSD because it is the vision of senior leadership to continue to reduce the opportunities for users to utilize free text, and instead to develop a more comprehensive rules-based logic system that will support automation.

In order for automation to function properly, accurate data must be reflected in the system of record. As decision-makers create their rating decisions by selecting the appropriate decision reasons, bases, analysis, and glossary items to reflect the decision that they are making, please continue to be cognizant of the fact that those selections are stored as data that will support both current and future automation.

Veterans Benefits Management System (VBMS) Updates

Presented by Christopher Whynock, Program Analyst, VBMS PMO

Target Audience: RVSRs, DROs, RQRSs and management

It is important to remember that separate evaluations for diagnostic codes (DCs) 5206 or 5207 and 5213 can be assigned in certain cases. If a Veteran demonstrates painful flexion and painful supination of his/her arm/elbow on examination, two 10% evaluations should be granted. One evaluation should be granted under DC 5206 based on painful motion of the elbow, and a second evaluation should be granted under DC 5213 for painful motion of the forearm. The July 2013 CS Bulletin explains why evaluations under DCs 5206 or 5207 and 5213 do not constitute pyramiding.

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Date of Claim (DOC) for End Product (EP) 600

Presented by Cindy Windham, Senior Authorization Quality Review Specialist, Program Review

Target Audience: AQRSs, RQRSs, and management

VBMS was updated on December 15, 2014, with VBMS Release 8.0 which enacted a change to the process of dating letters. In general, the letter date has been standardized to be the next business day, to include due process letters.

Because of this automatic dating, the letter date will likely not match the DOC on the corresponding EP 600. Since this is an automated system, due process letters dated after December 15, 2014, will no longer receive DOC errors during a quality review.

Tools Used to Request VA Compensation/Pension (C&P) Examinations

Presented by Maruta Grean, Performance Specialist, Disability Examination Management Office (DEMO)

Target Audience: All VSC employees and management

There has been a 12% increase in examination requests as we welcome 2015. New are the hopes, new is the resolution, and new are the spirits to achieve improved examination requests.

Using tools to request examinations can help reduce or eliminate the number of insufficient examinations or addenda that need to be requested-which creates rework, thus reducing the number of days it takes to complete a claim so that the 2015 goal of 125 days with 98% accuracy is achieved.

It is important to employ efficient management strategies for examination requests and to improve management and communication between the Veterans Benefits Administration (VBA) Regional Office and the Veterans Health Administration (VHA) regarding examinations.

There are three tools that will assist you in requesting examinations.

- Examination Request Routing Assistant (ERRA), to identify which VHA facility can perform the examinations required for the pending claim
- Disability Benefits Questionnaire (DBQ) Lookup, which selects the correct worksheet for the VA examination
- Examination Request Builder (ERB), which uses consistent language designed to minimize insufficiency in the examination reports – **use of the ERB will be mandatory at the end of February 2015**

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The ERRA is a tool designed as a guide to assist in the routing of examination requests. This tool makes calculations based on geospatial distance and is intended as a guide. Remember to take into account any local agreements, claimant preferences, topography/driving concerns, etc. when routing an examination request. If ERRA reports two routing locations at similar distances, use third-party map software to identify point-to-point driving directions for the Veteran which will give you a better idea of true driving distances for the routing locations. You may also telephone the VHA clinic to request clarification by using the C&P Clinic Point of Contact (POC) List. ERRA returns routing location data from the Compensation and Pension Record Interchange (CAPRI), so if you find something that should be corrected at a specific location, e-mail the information to VAVBAWAS/CO/CAPRI. An Internet Explorer Accelerator for ERRA is available, too. The ERRA Quick Search makes it easier to search ERRA for any Zip code you can highlight inside Internet Explorer. The accelerator is a form of selection-based search allowing a user to invoke an online service from any web page using only the mouse.

The DBQ Lookup tool searches for a particular word, phrase, or DC. Simply input your criteria in the "Search Criteria" text box. All results will contain the characters you input. For example, searching for “seizures” would specify a Neurological Seizure Disorders DBQ and show DC 8910. The word “epilepsy” would show more choices and you can also just search using DCs.

The ERB tool automatically selects tracked items to add when working a claim in VBMS. Once the word document generated by the ERB has been reviewed, pull up the Internet Explorer tab that was previously on the “Contentions List” chevron of the Veteran’s claim detail screen to review the tracked items added by the ERB. The tool will perform the following actions while your examination request is being generated:

- The tool will first navigate from the “Contentions List” chevron to the “Tracked items” chevron on the Veteran’s claim detail screen.
- Once this has been completed, the tool will pull up the “”Add Tracked Items” screen and begin adding tracked items that correspond to the examination requests generated in the ERB.
- Once the tracked items have been successfully added, they can be viewed under the “Items Requested” list on the “Add Tracked Items” screen. The tracked item suspense will default to 30 days for each examination.
- The tracked items can now be reviewed to ensure that all the exams selected in the ERB were successfully added as tracked items. Once all the tracked items are added in the items requested list, select add.

Using the ERB tool reduces the amount of time spent developing examination requests, it reduces the amount of key strokes entered by the user, and it reduces the amount of resources needed to develop an examination/medical opinion request. Additionally, the tool generates the examination request into a clear, concise and consistent format which makes it easier for examiners and examination schedulers to determine what is needed of them. Finally, the program also increases the quality of each examination request by ensuring that all necessary information is included.

As we transition from primarily regional claims and examinations processing to a more national one, it is imperative to have a standardized format for examination requests. Standardization built around the examination request will improve claims processing efficiency centered on the examination process and further leverage DBQ standardization. This standardization will help increase the success and leveragability of the National Work Queue. Your assistance in utilizing the recommended tools will ensure improvement throughout the VHA and VBA examination process.

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Quality Review Team (QRT) Q-Tips

Presented by David Hannigan, QRT Chief, Program Review

Target Audience: RQRSs and management

If you have a Q-Tip that you think would be worth sharing, please send it directly to David Hannigan at david.hannigan@va.gov.

The Q-Tip reminders this month come from Kerry Schafer, Senior Rating Quality Review Specialist (SRQRS) with Quality Assurance, and Sam Arreza, RQRS from the Honolulu RO.

Endocarditis is noted as chronic presumptive disability under 38 CFR 3.309a, and it includes all forms of valvular heart disease. In one particular Veteran's case, a diagnosis of valvular heart disease was provided within a year of discharge. A C1 STAR error was cited because the rating decision failed to grant the Veteran's claim for service connection for valvular heart disease on a presumptive basis, per the provisions of 38 CFR 3.309(a). All decision-makers need to pay close attention to the conditions listed under 3.309a, and it might help to review the overall list of those conditions as a refresher from time to time to ensure all disabilities are properly granted service connection.

From the February 2009 CS Bulletin:

- For purposes of entitlement to a schedular total evaluation for 12 months following one month of convalescence under 38 CFR 4.30, a total joint replacement is necessary
- Orthopedics has progressed exponentially since the advent of prosthetic joint replacements
- Surgical procedures named "joint replacement" can be simple procedures
- Surgical procedures that involve only "partial joint replacement" generally do not warrant the 13 months temporary total evaluation

Request for Reconsideration

Presented by Kerry Schafer, Senior Rating Quality Review Specialist, Program Review

Target Audience: RVSRs, DROs, RQRSs, and management

In this case, the Veteran claimed service connection for numerous disabilities to include left knee, left wrist, and right shoulder disabilities. The service treatment records showed complaints involving all three joints. The examination results showed objective evidence of left knee and right shoulder painful motion along with limitation of motion of the left wrist. The examination results did not provide a diagnosis for these three claimed disabilities nor did it provide any explanation as to why a diagnosis could not be rendered. The rating decision subsequently denied service connection for all three claimed conditions.

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During the quality review, a B2 development error was cited because the examination should have been returned as inadequate. The error citation noted the examiner is to either provide a diagnosis for the three claimed conditions or explain why a diagnosis cannot be rendered in spite of objective evidence of painful and limited motion per M21-1 MR III.iv.3.D.18.f (WARMS).

The RO contended the examination was sufficient since it presumed the examiner used medical expertise to determine there was no diagnosis for the three claimed disabilities.

Because the examination was not returned as inadequate in order to reconcile the objective exam findings in this case, the cited B2 error was upheld. Per M21-1 MR III.iv.3.D.18.f, the examination report must provide a diagnosis for each described conditions or a diagnosis or notation that that a chronic disability or disease was ruled out for each disability, complaint, or symptom listed on the examination report. In this particular case, the examiner should have reconciled the examination findings by either providing a diagnosis based on the objective findings found for each of the three joint disabilities claimed or adequately explained why a diagnosis could not be rendered.

Closing Remarks

Presented by Karen Townsend, Assistant Director, Quality Assurance

Target Audience: All VSC employees and management

Please utilize the examination tools to request examinations because they will help reduce B2 errors, especially those related to Insufficient Exams/Medical Opinions. Current data shows that 43.05% of all B2 errors were in this sub-element for the 12-month period of September 2013 to August 2014, and 48.42% for the 3-month period of June to August 2014. All of the examination request tools are designed to address areas where are data shows we have a high percentage of quality errors. We believe these tools will do the job they are meant to, but only if they are used.

Quality is important to us and to our leadership. Recent actions which impacted the QRTs were necessary to address our backlog. This does not mean we are sacrificing quality, but at the same time we do acknowledge it will impact quality. The QRTs are not being disbanded. The role QRTs serve is recognized by all. We realize many are wondering what QRT's role is now. We and leadership know that all VA employees (you) have worked hard and take a lot of pride in the accomplishments you have made to improve the quality and the consistency of the quality in the claims produced at your station. We are working with senior leadership to look at ways that we can get us back on track in the production arena without such an impact on quality. Many ideas are being discussed, so please hang in there.

QRT members should share their ideas on VA Pulse and vote on ideas that are posted. This is your opportunity to have a voice and be heard. The information in VA Pulse is forwarded to appropriate staffs for consideration. Your ideas and thoughts are seen, so please take advantage of this opportunity to be heard. Share your ideas on solutions to our problems. Maybe something we have done in the past did not work then, but it may work today.

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Questions and Answers *(Submitted during the October 2014 Rating Quality Call)*

Question: This question is regarding the evaluation of TBI and co-morbid mental disorders. PTSD DBQs have two similar sections. Section I.3.d asks "Is it possible to differentiate what symptom(s) is/are attributable to each diagnosis (mental disorder and TBI)". Section I.4.b & c asks "Is it possible to differentiate what portion of the occupational and social impairment indicated above is caused by each mental disorder?" AND "Is it possible to differentiate what portion of the occupational and social impairment indicated above is caused by the TBI?" How are decision-makers supposed to use this information in Section I.3 and Section I.4? Sometimes, the examiner marks "Yes" in one section and "No" in the other. For example, if the examiner cannot delineate symptoms, but can delineate occupational and social impairment, can you still provide two evaluations?

Answer: DC 8045, Residuals of traumatic brain injury (TBI), contains the following guidance under Note (1): "If the manifestations of two or more conditions cannot be clearly separated, assign a single evaluation under whichever set of diagnostic criteria allows the better assessment of overall impaired functioning due to both conditions. However, if the manifestations are clearly separable, assign a separate evaluation for each condition."

The mental disorders and PTSD DBQs contain a section tasking the examiner, in the event that there is the presence of TBI with a co-morbid mental disorder, to determine whether is it possible to differentiate what symptoms are attributable to the mental disorder and TBI diagnoses. The DBQs also contain another section in which the examiner, also in the event of the diagnosis of TBI with a co-morbid mental disorder, is required to differentiate what portion of occupational and social impairment is due to each diagnosis.

If the examiner is only able to differentiate the symptoms or the portion of occupational and social impairment attributable to each diagnosis, but not both, a single evaluation should be assigned under the DC, TBI or mental disorder, whichever allows the better assessment of overall impaired functioning due to both conditions.

In such a scenario, the threshold requirement that the manifestations of the two conditions being clearly separable have not been met. This may only be satisfied in such circumstances if both the symptoms and occupational and social impairment may be clearly differentiated and associated with the respective diagnosis.

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Question: If an informal claim is received and is properly formalized for a condition that qualifies for a retroactive payment under 38 CFR 3.114, should you calculate the effective date by using the informal date of claim (DOC) or the formal DOC?

Answer: The 3.114 rules should be applied using the informal DOC.

Question: This is a question about the effective date guidance that was provided in the September 2014 CS Bulletin. Specifically, this is a question about the guidance in the last paragraph to accept the claim under 38 CFR 3.400(o)(2) as this seems to contradict the theory of a claim being continuously prosecuted.

Answer: New effective date guidance will be posted in the February 2015 CS Bulletin.

Questions and Answers *(Submitted during the November 2014 Rating Quality Call)*

Question: In the October 2014 CS Bulletin it was noted that if a Veteran is service connected for PTSD rated 100% disabling, but is clinically determined to require the need for regular aid and attendance (A&A) due to his/her service-connected degenerative disc disease of the lumbar spine, which is rated 40 percent disabling with separate 20% ratings assigned for bilateral lower extremity radiculopathy, special monthly compensation (SMC) at the (L) rate may still be assigned because the Veteran has been determined to require regular A&A due to service connected disabilities. Does the Veteran warrant P2 for PTSD at 100% since that disability does not cause the need for A&A?

Answer: No. In the scenario presented, the Veteran would not warrant P2 based on the 100% for PTSD. The evidence presented in the scenario shows A&A is based on the service-connected spine disability. Since PTSD evaluated as 100% was used to reach the SMC L (A&A) level, PTSD cannot be used again to apply SMC P2.

As noted in M21-1MR IV.ii.2.H.44.b (WARMS), "[a] single disability rated as 100% disabling under a schedular evaluation is generally a prerequisite for entitlement to A&A. Any lesser disability would be incompatible with the requirements of 38 CFR 3.352(a)." SMC S for housebound requires a single, 100% evaluation. Although not written in the statute or regulation pertaining to SMC L for Aid and Attendance, VA has determined that this single, 100% disability is required for A&A, as well, because it is a higher level of disability than for Housebound benefits. The disability evaluated as 100% may not necessarily be considered for purposes of the A&A determination itself, but because it represents a specific level of disability (L), it is not separate and distinct and would not warrant an additional increase. Only where there are multiple 100% disabilities in a similar scenario is a half-step or full-step increase warranted (e.g., a Veteran who has 100% for PTSD and 100% for a cardiovascular condition, where A&A is required only due to PTSD, would receive a full-step increase from SMC L to SMC M. The SMC Calculator notes this difference in the prompts generated with these scenarios.

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Questions and Answers *(Submitted during the January 2015 Rating Quality Call)*

Question: M21-1MR III.i.3.B.7 (WARMS) was updated on December 19, 2014, and it provides guidance on FDC effective dates and date entitlement arose. This new guidance presented in the M21-1MR seems inconsistent with the information presented in the May 2014 CS Bulletin Addendum and the January 2015 Quality Call presentation. Can you please explain this?

Answer: The May 2014 CS Bulletin Addendum information was clarified and changed by the November 2014 Quality Call. To the extent that the November 2014 Quality Call contradicted the May 2014 CS Bulletin Addendum, the November Quality Call information supersedes the May Bulletin information. This applies particularly to the issue of stacking of effective dates and can be summed up with this suggestion from Robert Johnson, SRQRS with Quality Assurance:

> *FDC effective dates for original compensation claims under Section 506 of Public Law (PL) 112-154 is an additional effective date rule that needs to be considered by decision-makers. When decision-makers contemplate which effective date law to use in each particular case (38 CFR 3.400(b)(2); 38 CFR 3.155; 38 CFR 3.114; Section 506 of PL 112-154; etc.), the decision-maker will choose the effective date rule that is most advantageous to the Veteran. Only one effective date law can be used for each service connected disability granted.*

To whatever extent the December M21-1MR III.i.3.B.7 updates contradict the information that was disseminated in all of the prior Bulletins and Calls, see the discussion in response to the question below.

Question: The update to the FDC M21-1MR on December 19, 2014, notes that entitlement arises on the date medical evidence of record first shows existence of a claimed disability and features of the disability that justify the assignment of a specific disability. The May 2014 CS Bulletin Addendum provides alternate information. The recent update to the M21-1MR appears to restrict when we can apply the provisions of Section 506 of PL 112-154, requiring that there be medical evidence of record to show the existence of the disability and features to support the evaluation. Some ROs have conducted FDC training classes in November based upon the May 2014 CS Bulletin Addendum. The ROs need to know if they need to change the training based upon the recent MR change.

Answer: In the January 2015 Quality Call, we stated:

> "The issue of what disability rating to assign is a separate issue from what effective date to assign. Regarding the latter issue, the essential inquiry is "What is the earliest date for which it is ascertainable that the disability existed?" As discussed in the Addendum to the May 2014 CS Bulletin, unless there is affirmative evidence showing that the disability did not exist during the entire retroactive one-year period, reasonable doubt should be resolved in favor of the Veteran and the full one-year retroactive effective date should be assigned. Once the effective date has been assigned, the decision-maker must then determine what disability rating(s) the evidence supports throughout the applicable rating period, again affording any reasonable doubt in favor of the Veteran."

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On the other hand, M21-1MR III.i.3.B.7.b states that entitlement arises on the date "medical evidence" of record first shows the existence of a claimed disability, and features of the disability that justify the assignment of specific disability rating.

In situations where the manifestation of a disability is not confirmed by "medical evidence" until after a claim is filed, there is a conflict between what the manual provides and the information disseminated by CS Policy Staff over the past year. An additional manual change is warranted because it is the view of CS Policy Staff that the general effective date policy in place prior to the FDC law should be maintained and applied in FDC cases as best as is possible. 38 USC 5110 (b)(2)(A) states that effective dates "shall be fixed in accordance with facts found" which is much broader and liberal than the manual language indicating they should be based solely on receipt of medical evidence. Generally, agency policy issue in any form (i.e. Manual provisions) should interpret but not detract from the scope of a statute. Moreover, the Court and the Federal Circuit have consistently interpreted similar language in the VA benefits framework to mean that effective date entitlement may arise prior to a medical diagnosis.

In *DeLisio v. Shinseki* 25 Vet.App. 45,2011, the Court wrote: "For instance, if a claimant filed a claim for benefits for a disability before he actually had the disability, the effective date for benefits can be no earlier than the date the disability first manifested. See *McGrath v. Gober*, 14 Vet.App. 28, 35 (2000)". But the Court qualified this: "("[A] medical diagnosis is not necessary to initiate a claim."); see also *Jandreau*, 492 F.3d at 1377 (holding that a medical diagnosis is not required to substantiate a claim in certain circumstances). Specifically, entitlement to benefits for a disability or disease does not arise with a medical diagnosis of the condition, but with the manifestation of the condition and the filing of a claim for benefits for the condition. 38 U.S.C. § 5110(a); see *McGrath*, supra." In an unpublished memorandum decision, the Court interpreted the *McGrath* holding to require VA to rely on "all the facts found" before simply limiting an effective date to the date of initial diagnosis of a condition (PTSD). See *Craig v. Nicholson*, 22 Vet.App. 72 (2007).

<u>If a Veteran claims a disability and his lay contentions are subsequently substantiated by medical evidence, the one year prior FDC effective date provisions will generally apply</u>. When considering whether to apply the entire one year earlier effective date for FDC's, VA should resolve doubt in the Veteran's favor before denying an earlier FDC effective date to a Veteran who filed a FDC but for whom medical evidence did not show a diagnosis until after a FDC was filed. To do otherwise would take away the purpose of the FDC law, and even potentially put an FDC claimant in a worse position than a traditional claimant.

This policy should be applied when establishing FDC effective dates unless field adjudicators conclude that, based on facts found, a disability was not manifest prior to the first diagnosis established by medical evidence. Consistent with VA law and regulations, an effective date cannot be established when, after resolving doubt in favor of the veteran, the evidence still preponderates against the existence of a disability during a given timeframe. Generally, this will be shown by affirmative evidence that a disability did not exist or that it only subsequently became manifest.

Consistent with our movement toward timelier Knowledge Management, a manual change which reflects the above guidance will be implemented.

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Question: This is a question regarding ADL language and when updates are processed. VBMS Super Users at ROs are not notified when the legal language is changed in an update in VBMS. When Super Users investigate the reasoning behind the change, it can take months to find out it is an authorized change. Can the updates and changes be posted to allow Super Users to view them in a more timely fashion?

Answer: All changes to VBMS correspondence, including the ADL, are authorized changes that have been approved by CS. Changes to VBMS correspondence are reflected in the VBMS Release and Patch Notes and are also usually reflected in the LCCB Index of Changes.

As we continue to update the M21-1MR to reflect all current procedural guidance, the vision of CS is to coordinate changes to VBMS correspondence with M21-1MR changes for situations where the existing procedural guidance is not reflective of the changes to VBMS correspondence.

Question: So, if a diagnosis of "Forearm Strain" is provided, would that fact change the answer in the scenario? (e.g. 4.59 application – see FAQ 07/28/14)

Answer: The answer to this question will be posted in a future Rating Quality Call Notes.

Question: If there is a distal radius fracture affecting flexion of the wrist and supination/pronation, would separate evaluations be warranted in that case. If there is a distal fracture it will affect the wrist. If it is a proximal fracture, it will affect the forearm. Supination/Pronation could be affected with both injuries. I meant to note the proximal fracture would affect the elbow as well as the forearm, which supports the example given today to assign separate evaluations under 5206 and 5213. I am asking if there are scenarios where using both DC 5215 and 5213 could be appropriate?

Answer: The answer to this question will be posted in a future Rating Quality Call Notes.

Question: The ERB tool is not compatible with Centralized Administrative Accounting Transaction System (CAATS). Can someone please address this issue?

Answer: CS is exploring a version of the ERB that is compatible with CAATS.

Question: Our regional office has our VSRs and RVSRs placing ERB language under "Physicians Instructions or Comments" section. Is this okay?

Answer: The ERB is a work-in-progress, so putting ERB language under the "Physicians Instructions or Comments" section is okay.

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Question: When using ERRA, there should be an investigation regarding local rules about scheduling exams. As we have been moving towards the National process, we know we have problems finding out about these agreements. We know because in doing claims from other stations, there is a problem scheduling exams in other areas. What is being done to eliminate these types of problems?

Answer: When using ERRA, ROs need to work with their VAMCs and other ROs regarding local agreements.

Question: Is the February 2015 QRT Challenge still taking place? If so, who will mentor the students when they return to their respective ROs?

Answer: Yes. Members of the Quality Review & Consistency Staff will be the mentors.

Question: Can the Coaches training for performing Individual Quality Reviews (IQRs) be expedited to ensure that the IQRs can be done in a timely manner so there won't be a backlog once the QRT resumes performing IQRs?

Answer: Coaches' IQR training will begin in February 2015.

Question: Will the Coaches be trained to rate a case?

Answer: No. We did raise the concern as to whether or not Coaches had the technical skill to perform these reviews; however ,the direction for us is to concentrate on instruction of how to perform an IQR.

Question: Could you comment on why the RQRSs and AQRSs must be certified yearly to perform and keep our positions, but now the task of conducting IQRs is given to uncertified individuals to perform our task?

Answer: As part of the requirements regarding the QRT, it was decided by leadership that the test will be taken yearly. The skill certification test matches the position you last held prior to becoming a member of the QRT. Coaches also take skill certification tests.

Question: With QRT members participating in Lean Six Sigma training, what will be expected of the QRT, if anything, with regards to utilizing the information received during the training?

Answer: Each member attending this training is expected to identify a project to work on to which they can apply the skill set they obtained from the training. Members complete a project to become Green Belt Certified. Upon completion of the project, members will have obtained a certain skill set that will allow for the ability to quickly identify areas of improvement which is a needed skill set for a QRT member.

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Question: Is there a projected date for the receipt of the last Inter-Rater Reliability (IRR) study, not the one from yesterday, but the previous month's study?

Answer: If your station has not received your results of IRR studies, please contact either the QRT mailbox or Karen Townsend so that this information can be provided to you without any further delay.

Question: The March 2014 CS Bulletin notes the *Brokowski* requirement is applicable to claims to reopen and claims for increased evaluation. For an original disability compensation claim, the informal claim only needs to contain a general indication of seeking entitlement to compensation benefits. Does this apply only to EP 010 and 110 claims? Or, can it also apply to running awards where the Veteran claims compensation for a new claimed issue (an original claim for that issue) and an EP 020 is established?

Answer: It would apply to only the original disability compensation claim. The purpose of the informal claim is to be a placeholder for the formal claim. After the filing of the original claim via a VA Form 21-526 and the adjudication of the claim, a formal application (at least until new guidance and forms are released on March 15, 2015) will not be required for any service connection claim. Any service connection claim will essentially be an informal claim. Therefore, the guidance of not requiring the Veteran to articulate any specificity regarding the disability is only applicable to the original, i.e., first-time compensation claim filed on a formal application.

TMS VA Talent Management System

We will post the recording of this call, the call notes (call transcript), and the PowerPoint to TMS. After participating during the live call or after viewing the recording, the survey responses in TMS will be used to improve each subsequent call.

The TMS number for the November 2014 Rating Quality Call is 3894279. If you listened to the call live, click the video link, then *immediately* return to Content Structure to complete the survey to receive credit for the call in TMS.

The TMS number for the January 2015 Rating Quality Call is 3897823. In the near future, you will receive a Calendar Blast showing the TMS number has been activated.

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Next Quality Calls

- Quality Calls will be held on Wednesday, February 11th and Wednesday, March 11th at 1:30 PM EST.
- Please feel free to forward suggested topics to VAVBAWAS/CO/214B.
- Quality Call Notes (transcript of call) can be found on the CS Intranet site here: http://vbaw.vba.va.gov/bl/21/star/star_call.htm
- Please ensure questions are being sent to the correct mailbox. Questions regarding the national call-up list and national quality reviews should be sent to the 214B mailbox – VAVBAWAS/CO/214B. Questions regarding local quality review and in-process reviews should be sent to the 214C mailbox – VAVBAWAS/CO/QRT.

"One person can make a difference, and everyone should try."

~ John F. Kennedy

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