

**PL 20-02: Novel Coronavirus (COVID-19) Claims and Appeals Processing  
Guidance  
FAQ Document  
March 9, 2021**

**Q1: If, prior to March 1, 2020, a claimant misses a deadline, or fails to attend a hearing or examination, and later requests that the deadline be extended, or the hearing/examination rescheduled due to COVID-19, can claims adjudicators still apply the liberal good cause guidance under PL 20-02?**

**A1:** No. Under PL 20-02, from March 1, 2020, until 60 calendar days following the date the President ends the national emergency, claims adjudicators are instructed to grant a claimant's good cause request if based on the COVID-19 pandemic. During this time, adjudicators will presume that the required action could not have been taken during the original time period and could not have been taken sooner than it was due to issues related to the pandemic.

The specific guidance of PL 20-02 only applies to claims pending or submitted on or after March 1, 2020; which is the date the President declared a national emergency resulting from COVID-19. However, requests for time limit extensions and statements of good cause for failure to report, received prior to March 1, 2020, should be considered on a case-by-case basis under current procedures.

**Q2: If a claimant requests additional time to submit evidence or to reschedule a hearing or examination, and all issues on the claim can be granted in full, should we proceed with this request?**

**A2:** Generally, VA should grant an extension request. However, if *all issues* claimed can be granted with the maximum schedular benefit for the earliest effective date possible, complete a rating decision and send to authorization to process and close the controlling End Product (EP). Include the following text in the notification letter directly after the salutation line:

*[On XXXX date, you notified VA that you need XXXX days to [submit evidence for your claim] [report for a hearing] [report for a scheduled VA examination] due to the COVID-19 pandemic. However, we reviewed your claim and were able to grant you the maximum benefit under the law for the earliest effective date possible. Because we were able to grant you the maximum benefit under the law we did not take action on your extension request. [If you still want to submit evidence in support of your claim please send us this information and note your prior request for an extension] [If you still want [a hearing] [an examination] scheduled, please contact us.*

In cases where the controlling EP was closed, and the claimant later submits evidence based on the previously requested extension or requests a hearing or examination to be scheduled, establish an EP 930 and complete the next action.

**Q3: If a claimant requests additional time to submit evidence or to reschedule a hearing or examination, and only *some issues* on the claim can be granted or partially granted, should we proceed with this request?**

**A3:** If one or more issues can be granted (to include a grant of service connection with a deferral for a higher evaluation, etc.), complete a partial rating for the grant, continue the EP, update the suspense date to the pending activity, and enter a VBMS note that includes the wording 'COVID-19 extension request and/or claim attributes to reflect any outstanding development or scheduling needs. Once the additional time the claimant requested expires, or the Veteran provides the evidence, adjudicate the case.

For partial ratings continued at authorization, include the following text in the notification letter directly after the salutation line:

*On XXXX date, you notified VA that you need XXXX days to [submit evidence for your claim] [report for a hearing] [report for a scheduled VA examination] due to the COVID-19 pandemic. While we have granted some benefits, based on your request we will postpone final action on the remaining issues in your claim for XXX days from the date of this letter. Once this time has expired, all issues remaining in your claim will be processed. Please notify us immediately if additional time is needed.*

**Q4: What action should I take when claimant requests a specific amount of time needed in order to take a required action?**

**A4:** Set a suspense for the time requested, if the request seems reasonable based on the facts presented. During the COVID-19 pandemic, VBA presumes that any request for an extension of 60 days or less is reasonable. For requests in excess of 60 days, these can be granted, on a case-by-case basis if reasonable, based on the facts presented.

Claims adjudicators will update any necessary suspense dates, enter a VBMS note that includes the wording 'COVID-19 extension request', and send an updated development letter. The letter notifies the Veteran of the following:

*On XXXX date, you notified VA that you need XXXX days to [submit evidence for your claim] [report for a hearing] [report for a scheduled VA examination] due to the COVID-19 pandemic. Therefore, we will postpone action on your claim for XXX days. Once this time has expired, your claim will be processed. Please notify us immediately if additional time is needed.*

Once the time expires, take the next actions on the claim (unless the claimant requested additional time-limit extensions, or unless other interim procedures require that the claim continue to pend until the outstanding development or appointment scheduling is resolved).

**Q5: What if a claimant does not specify the amount of time needed in order to take a required action?**

**A5:** When a claimant requests additional time for completing an action based on COVID-19, they will usually specify the amount of time needed. However, in cases where the request does not specify, claims adjudicators will approve the request and set a suspense for the same time limit initially granted when VBA first asked for the information (for example, 30 days), but not to exceed 60 days.

Claims adjudicators will update any necessary suspense dates, enter a VBMS note that includes the wording 'COVID-19 extension request' and send an updated development letter. The letter notifies the Veteran of the following:

*On XXXX date, you notified VA that you needed additional time to [submit evidence for your claim] [report for a hearing] [report for a scheduled VA examination] due to the COVID-19 pandemic. Therefore, we will postpone action on your claim for [enter applicable period] days from the date of this letter. Once this time has expired, your claim will be processed. Please notify us immediately if additional time is needed.*

Once the time expires, take the next actions on the claim (unless the claimant requested additional time limit extensions, or unless other interim procedures require that the claim continue to pend until the outstanding development or appointment scheduling is resolved).

**Q6: If a claimant submits information late without requesting an extension, can we assume the submission itself is also a request for extension?**

**A6:** No. In order to be considered for good cause extension of time limits, communication from the claimant must include a request for extension of such limits and identify the good cause basis for the request (e.g., COVID-19, COVID, Coronavirus, Pandemic, etc.).

**Q7: If a claimant contacts the National Call Center (NCC) to request an extension to submit a claim for benefits or challenge an adverse action based on COVID-19 and this request is documented in the claimant's record by the NCC, but a written request for extension is not submitted with the submission of the claim or challenge to the adverse action, can we grant this request?**

**A7:** No. Claimants must provide a written request for a time extension due to COVID-19 when applying for benefits or challenging an adverse action. If a written request is not provided, but the record shows documented intent to request such extension, the development VSR will send a development letter to the claimant with the following language:

*On XXXX date, you contacted VA to request an extension to file [describe the benefit that is being sought or the type of application] due to the COVID-19 pandemic. You must submit this request in writing. Please submit this written request within 60 days from the date of this letter.*

If the claimant does not submit the request in writing within 60 days, take the next action on the claim and do not apply the time limit extension.

Note, that a written request for a time extension for **evidence submission** is not required. This request should be properly documented on a 27-0820, *Report of General Information* per PL 20-02.

**Q8: Are there any circumstances where a claims processor acts for failure to report for a VA exam?**

**A8:** During the COVID-19 pandemic,

- 1) A request to reschedule, from a Veteran who is uncomfortable with a virtual or telephonic exam will be honored and will not be considered a failure to report. Claims processors should follow procedures similar to those discussed in the Medical Disability Examination Program Office's memorandum entitled, Updated "Force Majeure" Field Guidance. Append the *Force Majeure* special issue indicator to a contention associated with the examination scheduling request, such that claims are recalled from NWQ workload distribution until examination scheduling resumes its usual course.
- 2) Assume **any** failure to report for an examination, whether or not the veteran provides a reason, is due to the pandemic, even if the EMS vendor response is **No Show**. Append the *Force Majeure* special issue indicator to a contention associated with the examination scheduling request, such that claims are recalled from NWQ workload distribution until examination scheduling resumes its usual course. *Do not deny the claim based on failure to report for an examination.*

**Exception:** The guidance above is based on the assumption that the Veteran's inability or refusal to attend is a temporary reaction to the pandemic state, and that he/she *does* ultimately want the examination performed at a future time; such an assumption is valid absent evidence to the contrary. However, if the Veteran openly declares no intent to attend any examination, present or future, in connection with a pending claim and/or requests a determination based on the existing evidence of record, effectively waiving his/her right to examination under 38 CFR 3.159(c)(4), field stations should advance the claim in accordance with that request in an effort to provide expedited claims-processing service.

**Q9: If a claimant has multiple claims pending and does not indicate which claim for which they are requesting an extension, should we assume that the extension request is for all pending claims?**

**A9:** No. Review the VBMS record to ascertain if the claim for which the extension is requested can be identified. If unsuccessful, attempt to contact the claimant and/or representative and request clarification. Record the attempt and/or clarification on VA Form 27-0820, Report of General Information. If a determination cannot be made, the development VSR should send a development letter to the claimant with the following language:

*On XXXX date, you contacted VA to request an extension due to the COVID-19 pandemic. However, you did not indicate the claim for which you are requesting an extension. Please advise within 60 days from the date of this letter.*

If the claimant does not submit the requested information within 60 days, take the next action on all claims and do not apply the time limit extension.

**Q10: A decision was made on a claim and notification was provided to the claimant. However, the claimant submitted an extension request, prior to the decision notification and it was not associated with the claims folder. How should we proceed?**

**A10: If the decision was a full grant of the benefits sought (maximum benefit and earliest effective date allowed):**

The development VSR should send a development letter under an EP 400 with the following language.

*On XXXX date, you notified VA that you needed additional time to [submit evidence for your claim] [report for a hearing] [report for a scheduled VA examination] due to the COVID-19 pandemic. We reviewed your claim and noted that we granted you the maximum benefit under the law for the earliest effective date possible. Because we were able to grant the maximum benefit under the law, we did not act on your extension request. [If you still want to submit evidence in support of your claim please send us this information] [If you still want [a hearing] [an examination] scheduled, please contact us.*

**If the decision was not a full grant of the benefits sought, follow the below steps:**

- 1) If the postmark date of the extension request is prior to the date of the notification letter, establish an EP 930.
  - a. If the extension did not request a specific date, the development VSR will send the claimant a development letter with the following language:

*On XXXX date, you notified VA that you needed additional time to [submit evidence for your claim] [report for a hearing] [report for a scheduled VA examination] due to the COVID-19 pandemic. We will postpone action on your claim for 60 days from the date of this letter. Once this time has*

*expired, your claim will be processed. Please notify us immediately if additional time is needed.*

Then, update the suspense date accordingly and enter a VBMS note that includes the wording 'COVID-19 extension request'.

- b. If the extension requested a specific date or number of days to extend, the development VSR will send the claimant a development letter with the following language:

*On XXXX date, you notified VA that you needed additional time to [submit evidence for your claim] [report for a hearing] [report for a scheduled VA examination] due to the COVID-19 pandemic. Therefore, we will postpone action on your claim [for number days from the date of this letter] [or the date indicated by the claimant]. Once this time expires, your claim will be processed. Please notify us immediately if additional time is needed.*

Then, update the suspense date accordingly and enter a VBMS note that includes the wording 'COVID-19 extension request'.

- 2) If the postmark date of the extension request is after the date of the notification letter, establish an EP 400. The development VSR will send a request for application letter with the following language:

*On XXXX date, you notified VA that you needed additional time to [submit evidence for your claim] [report for a hearing] [report for a scheduled VA examination] due to the COVID-19 pandemic. However, we made a decision on your claim and notified you of our decision on [date]. Please refer to the decision review rights included in the notification letter for options to request further review on our decision.*

Then clear the EP 400.

**Q11: A decision was made on a claim, but it was not promulgated prior to receiving an extension request. How do we proceed?**

**A11:** Accept the request for extension. Follow the notification guidance in FAQ 4 or 5, whichever is applicable.

**Q12: Is the postmark date used for date of claim, or is it simply used for date of entitlement?**

**A12:** The postmark date is the date of claim for any claim received by VA from any claimant, during the period March 1, 2020, through 60 calendar days from the date the President ends the national state of emergency. Intake personnel should enter a VBMS note stating “COVID-19-postmark accepted” on all impacted cases. This note is for informational purposes for claims processors and does not negate the requirement to consider other effective date policies that may apply. Additionally, PL 20-02 expresses specific guidance on construing date of receipt for claims without a postmark date, and in all cases, that construed date of receipt should be considered commensurate with “date of claim” for claims-establishment purposes.

**Q13: What if the postmark date is illegible or is only partially legible?**

**A13:** In cases where the postmark is illegible, treat the correspondence as received without a postmark. In cases, where the postmark is partially legible apply the procedures in M21-1 III.ii.1.C.1.b.; provide the best estimate for the date of receipt and identify it as an estimate on the document or in the claims-processing system.

**Q14: For un-postmarked mail, if a mailed submission includes evidence that it was mailed *later than* February 29, 2020, must VBA still consider the correspondence received as of February 29, 2020? Or, alternatively, is it more appropriate to construe a later date of receipt?**

**A14:** The interim guidance found in PL 20-02 was updated on **August 27, 2020**, to differentiate date-of-receipt policies for claim-related correspondence received before and on/after that date in light of the ongoing duration of the COVID-19 pandemic. Generally speaking, this guidance is based on the assumption that the facts of the individual case do not plainly contradict the concept that the correspondence in question *could have been* received as of the prescribed date of construed receipt. However, in cases where the application of this liberal guidance would be clearly erroneous and incompatible with factual evidence of record, claims processors should apply the procedural guidance in M21-1, Part III, Subpart ii, 1.C.1.b, to make a best estimate for the date of document receipt. This approach allows VA to utilize a date of receipt that is more realistic and consistent with the facts of the individual case.

**Q15: For un-postmarked mail, PL 20-02 directs us to consider submissions received as of (1) February 29, 2020, if the VA date stamp or watermark is dated between March 1, 2020, and August 27, 2020, or (2) 10 calendar days prior to a date stamp or watermark dated August 27, 2020, or later. However, the letter also cautions that, in cases where application of that liberal guidance would be “clearly erroneous,” processors should estimate date of receipt in accordance with procedures found in M21-1 III.ii.1.C.1.b. What if the un-postmarked mail consists of a benefit application the claimant signed *after* one of the prescribed alternative**

**dates? Do we consider the application received as of an earlier date the PL guidance would allow, or do we reason that the application could have been received no earlier than the date the claimant signed it?**

**Example:** A Veteran properly completes and signs a VA Form 21-526EZ on September 14, 2020. The form was annotated as received at a VA scanning facility on September 20, 2020. There is no envelope scanned with a USPS, or other postal service, postmark. Would the date of claim be September 10, 2020, even though the veteran did not sign the form until September 14, 2020? Or, would it be September 14, 2020, or September 20, 2020, based on the facts of the case?

**A15:** The guidance found in PL 20-02, relative to construing an alternative date of receipt where mailed correspondence does not bear a postmark, is based on a fundamental assumption that the correspondence in question could have conceivably been received as of the construed date provided. When considering an alternative date of construed receipt, if the date of the applicant's signature (viewed in context of the evidentiary record) clearly makes it improbable that VA could have received the claim at any earlier point in time, the date of signature may be identified and accepted as a best-estimated date of receipt in accordance with M21-1 III.ii.1.C.

With regard to the specific example posed, assuming there are no contradicting facts of record, we know the application (VA Form 21-526EZ) was signed on September 14, 2020, mailed, and received at the Claims Intake Center on September 20, 2020. Because we know it was mailed prior to its receipt on September 20<sup>th</sup>, the date of receipt would be no earlier than September 14<sup>th</sup> (the date of the Veteran's signature) and no later than September 20<sup>th</sup> (since it was confirmed as received at the Claims Intake Center on that date). Processors would use M21-1 III.ii.1.C to review the entirety of the mail packet to apply the most reasonable date of receipt, which could be the date of the Veteran's signature (September 14, 2020).

**Q16: If claim-related correspondence, received via physical mail, contains electronic mail tracking information, but no clear postmark date, can the tracking number be used to determine the date the correspondence was received or otherwise accepted into postal custody?**

**Example:** A Veteran signed an application for benefits on November 2, 2020, and it was received by the Claims Intake Center on November 21, 2020. The envelope associated with the claim submission package did not display a postmarked date, but included a USPS tracking number. Research of that identifying number in the USPS tracking system revealed that the mail was first received/accepted at a postal origin/distribution facility on November 5, 2020, and arrived in Janesville, Wisconsin on November 21, 2020.

**Exhibits:**





<p><b>November 21, 2020, 6:04 am</b> Delivered, Individual Picked Up at Postal Facility JANESVILLE, WI 53547 Your item was picked up at a postal facility at 6:04 am on November 21, 2020 in JANESVILLE, WI 53547.</p>
<p><b>November 21, 2020, 3:31 am</b> Arrived at Post Office JANESVILLE, WI 53545</p>
<p><b>November 21, 2020, 1:34 am</b> Arrived at USPS Facility JANESVILLE, WI 53545</p>
<p><b>November 5, 2020, 9:49 pm</b> Accepted at USPS Origin Facility WILLIAMSBURG, VA 23188</p>
<p><b>November 4, 2020, 6:03 pm</b> Shipping Label Created, USPS Awaiting Item WILLIAMSBURG, VA 23188</p>

**A16:** PL 20-02 expresses that the purpose of the liberal guidance is “attempting to give claimants the earliest and most accurate date of claim. In situations where applying this liberal guidance would be clearly erroneous, VA will provide the best estimate for the date of receipt.” Although this claim submission does not include a postmark date appended by USPS, eFolder documents do present sufficient identifying information to

conduct some manner of research into the matter of when the documents were mailed and admitted into postal custody. In the example used above, because available postal tracking mechanisms identify November 5, 2020, as the earliest date upon which the correspondence was confirmed as received into USPS custody, it would be appropriate to use that date as the date of receipt. In such instances, claims processors should upload proof of postal tracking research to the claims folder to corroborate the date of receipt recognized. If no such proof of prior admission into postal custody can be obtained, then determine the date of receipt by otherwise applying the guidance within PL 20-02 and corresponding FAQs as if there were no postmark.