Compensation Service Quality Call November 2021

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 Welcome to the November 2021 Compensation Service Quality call . This is Bonnie Kirby, Senior quality review specialist with the internal Q RT here in Nashville. This month, we have helpful updates on the procedures maintenance staff and we will look at the secretaries LGBTQ directive from several different angles. That we will shift into non-rating topics and talk about next month’s call. Without further ado, I will turn it over to Dustin Williams. Thank you.

 Thank you. Hello. I am Dustin. I am lead program analyst for the compensation service procedures maintenance staff. I'm here to talk about a couple of updates to M21-1 guidance and another procedural matter for your awareness. As noted here, we recently updated sections of the M21-1 the cover procedures for herbicide exposure claims. These changes are intended to clarify but not substantively change the policies surrounding the roles of the centralized processing team and regional office in the herbicide exposure process as well as the the rating and authorization activity jurisdictions. We have example workflows on the next slides that I will use to further explain how the cases move between the ROs and the centralized processing team . Note we have added a new overview table for the historical herbicide exposure policies for service in the Korean DMZ.

 Our first example workflow, we have a claim for agent orange presumptive disability. After all initial development steps are completed by the RO as outlined, the claim moves to the centralized processing T pick up the only service found was in Korea, Thailand, or another location outside of the Republic of Vietnam, the centralized processing table document that and in a note not an exposure memo. The claim will return to the regular RO process and the RO will determine if the veteran service in that location qualifies for herbicide exposure. The RO will complete the rating and authorization activities.

 In the next example, the same initial development steps apply, the claim goes to the centralized processing team and they find in country service only pick there is no allegation of Bluewater service from the veteran. The centralized processing team completes a herbicide exposure memo documenting the service and the claim will go back to the regular RO process for rating and authorization.

 The third example, all the same initial steps apply but the claim is for one of the new agent orange presumptive. The claim goes to the centralized processing team. They determine there is qualifying trying to service as well as at that point, they document the service in a memo and establish an EP 688. The claim has to remain with the centralized processing team for rating and authorization.

 Finally in the last example, we have a claim for one of the new presumptive disabilities as well as qualifying trying to service. At that point, the centralized processing team will add the processing not applicable special issue to the herbicide contingents. That will trigger reassignment of the claim to the normal RO process for rating and authorization. Take note also that on this like him there is a link for the transfer process claim which has roles in the reassignment for Nehmer claims.

 The next topic does not involve a M21-1 update. But we want to make sure everyone is aware that comp services added the interim guidance as well as associated FAQs for the military veterans advocacy versus Secretary of Veterans Affairs court holding which invalidated three regulations. The resources can be found in CP KM on FAQ page noted on the slides. A reminder, if your office has any questions for submission regarding the court holding, they can follow the instructions for doing so as they appear in the interim guidance itself.

 The remaining procedural update we have to discuss with you today involves M21-1 part 10, subpart four, chapter 1, section A. It has to do it character of discharged determination as it pertains to certain circumstances involving homosexual conduct. Notably, these revisions are not intended to communicate new positions in policy but to clarify existing military guidance that exist. At a high level, the changes highlight the position that general homosexual conduct and/or issues of sexual or gender identity are not to be used as bases for barring veterans to benefits and absence of another valid statutory regulatory bar. Specifically, we updated guidance in block 10 4 1 A 3 receipt to point out general homosexual conduct, gender sexual identity, and/or positive human HIV status are not in any way consistent with the regulatory bar for moral turpitude that is discussed under 38 CFR 3.12 D 3. As noted, moral turpitude is not usually invoked in the conviction of a felony. We also updated 10 for 1 A 3 D to point out they are not to be considered willful misconduct for the purposes of barring benefits under 38 CFR 3.1 2D 4. We added a new block specific to consideration of homosexual conduct in the context of COD. Importantly, homosexual conduct is only ever barred under 38 CFR 3.1 2D 5 if it involves aggravating circumstances or other factors affecting performance of duty. It is our intent that the revelatory standard is very closely read and is applied narrowly. Resolve reasonable doubt in favor of the claimants were possible in view of the entire evidentiary record including the claimant's credible payments or testimony. That is all I have for you today. Thank you so much for listening. Next we will hear more about a few other COD issues from Bonnie. Bonnie?

 Thank you. Hello. From the directive, compensation services quality assurance authorization not reading team conducted a special focus review on character of discharge special focus review decisions which determine the veterans service to be dishonorable for VA purposes. My presentation will provide results of this. For fiscal year 20, we received a sample of the five cases. Our team agree with this 64 the terminations made. We disagreed with one case with the character of discharge was felt to be dishonorable under the provisions of 38 CFR 3.12 D 4. However, willful and persistent misconduct was not shown in this case. There was only one offense leading to the service members discharge. The evidence of record shows that the former service member service was otherwise honest, faithful, meritorious. The characterization should have been determined to be honorable for VA purposes. All of you also identified for other than if entitlement errors. These were related to entitlement to healthcare benefits. One of these cases incorrectly denied healthcare benefits, even though the former service member had entitlement to healthcare as discharged under regulatory bar. The other three cases related to healthcare entitlement did not address service connection for treatment purposes on the rating after entitlement to healthcare was established. When we take these errors into consideration, the overall accuracy of the fiscal year 20 SFR is 92.3%. We did find several procedural da Vinci's that did not impact entitlement to benefits pick their errors were found in the following three areas. We have administrative decision not completed correctly, claimant not properly notify, and systems were not accurately updated.

 V8 is doing a great job with determining. Here we offer a few tips that may assist during the COD process. We recommend setting up local refresher training on the calculation of conditional discharge dates. Prior to closing out a claim, make sure to double check that the proper notification has been sent to the claimant and entity involved to include completing the forms provided by a VHA facility, regional loan center, or a non-VA agency. When claimants have a discharge that is other than honorable and mediate determines that there services barred, these payments should not be referred to as a veteran. They did not meet the definition as outlined. We ask that you please confirm the claimants are addressed properly and all communications, including the decision. Instead of referring to the claimant as a veteran, the person or individual, please address him or her as a former service member.

 Please also make sure to send the adequate due process letter when handling a COD claim. The notice to claimants of required information and evidence should not be sent until after the COD determination has been made and only if it is adequate based on the decision. Our staff has already begun to review the fiscal year 21 COD SFR and additional information will be relayed upon its completion. Please note that for any COD termination major in fiscal year 22 which will result in the discharge being founded dishonorable for VA purposes, regional offices are directed to send the case to the compensation service quality assurance team for validation. This needs to be done prior to finalizing the decision.

 Thank you so much for your attention. That is all for me. Have a wonderful day. I will turn it over to Bonnie Kirby for the very useful Q-tip.

 Thank you. I am writing a quick polity to based on a suggestion from the ratings specialists in the field. Thank you for the great suggestions.

 Our tip is a reminder that effective June 30, 2020, the results from the examination request routing assistant for the ERRA tool do not need to be uploaded into the VBMS. The need was rendered obsolete when the tool was updated to include the horse to will search information. This trend has also been noted during site visit so this is just a reminder to save time and streamline the claims processing. It is mandatory to use the ERRA tool that you have to save and upload a copy of the resulting VBMS. Thank you so much. That is it for the Q-tip. Next up is Isabel.

 Hello. I am a consultant with the authorization and not rating review team here in Nashville. Today I will talk about apportionment claims under 38 CFR 3.450 and 38 if our 3.451. It is not just about financial need. 3.450 states all or any part of a veterans benefit may be apportioned if the veteran is not residing with his or her spouse or if the veterans children are not residing with a veteran and a veteran is not reasonably discharged in his or her responsibility for the spouses of the children's support.

 A portion must be reviewed with this in mind. The veteran supporting the dependence. If not, and apportionment be granted to the client even if the evidence does not reveal need on the part of the claimant. 38 CFR 3.451 is only considered if and apportionment cannot be granted under three point 450. Under 38 CFR 3.451, the evidence of record must show the following to justify the apportionment of a veterans benefits to his or her child who is in the custody of a former spouse. If a child does not reside with the veteran, the child and former spouse are experiencing financial hardship, and apportioning the veterans benefits will not cause undue hardship on the veteran, and his or her other dependents.

 The amount apportioned should generally be consistent with the total number of dependents involved in is ordinarily between 20% and 50% of the veterans benefits. I will discuss a couple of cases that have come through for review. We did find errors. A veteran did not respond to the request for proof of support. It was denied based on 3.451 because need could not be established. We cited this error. When processing and apportionment claim, claims processors must first determine whether or not apportionment is payable under the provisions of 3.450. The veteran failed to respond to our request for information or provide proof of support for his minor child. And apportionment may be granted in this circumstance under 38 CFR 3.450. The Aro should determine if and apportionment can be paid under three point 450 before proceeding to 3.451. The second case was a case where the claimant stated the veteran was providing support so the claim was denied on the basis that the veteran was providing reasonable support for the child. While and apportionment may not be granted of the provisions of 3.450 when it is shown the veteran is providing support for his dependence, the apportionment must still be considered under the provisions of 3.451. This regulation does not preclude the granting of an apportionment when support is being paid by the veteran. To grant an apportionment under 3.451, the evidence of record must only show that the child does not reside with the veteran, the claimant is experiencing financial hardship, and granting the apportionment would not cause undue hardship on the veteran. All income and expenses for the veteran are unknown. Based on information provided, no hardship is shown on the part of the veteran. The claimant does have financial hardship which would support the granting of the apportionment under 3.451. In the final case, it was regarding a grandmother's claim for an apportionment of the veterans benefits. The veteran did not respond to her request. But the grandmothers reflected that she was not experiencing financial hardship. She had asset, it means to provide for the granddaughter, but the veteran was not providing it for the child. In that case, and apportionment under 3.450 could be granted because the veteran was not reasonably discharging his responsibility in supporting the child. Even though grandmother had means to support the child, that does not mean that the veteran does not have responsibility. In this case, and apportionment should have been granted.

 I am going to continue discussing the non-rating quality calls. I do have the pleasure of introducing the kickoff of the non-rating quality call. Quality assurance will begin presenting non-rating quality calls starting next month, December 2021. This change came about in response to formation of the eight pesticides. And it provides relevant in time quality related information specifically geared towards not writing topics we would like to point out that these calls are not just for the best sites. Traditional regional offices still process non-rating claims and the information presented during these calls me be beneficial to non-best sites. The new non-rating quality call will be presented on a quarterly basis. We wholeheartedly invite the field to send suggestions for not writing topics to the email address shown here.

 That is all I have. With that, I will return it to Bonnie.

 Thank you. Thank you to all of the presenters pick this is the end of the presentations today. Let talk about how to suggest topics or be a presenter on future calls as well as when the next one will be recorded which is the non-rating one that Isabel was referring to. If you have a topic you would like to present on a future quality call, run it by your coach and send us an email at the internal QRS box. We love having guest presenters. We can help you prepare. If you have a suggestion for a topic, please send an email to the same email box with the information shown and cc your coach. Almost every call includes suggestions received from the field just like today. If you notice a trend or have an idea, please tell us. You can find it in from past calls on the Internet and audio recordings in the PowerPoint are available in both TMS and the learning catalog. Thank you for joining us today. Next call will be recorded the second week of December. Have a very happy Thanksgiving. We will see you next month.