

For Training Purposes Only

**Training Coordinator's Module Guide for
Certify a Case to the Board of Veteran's Appeals
(BVA)**



May 6, 2013

For Training Purposes Only

Table of Contents

Section 1 – Introduction.....	1-1
Introduction	1-1
Module Overview	1-1
Who Will Take This Course?	1-2
Module Map	1-2
Test Design	1-4
TPSS Materials	1-4
TPSS Equipment.....	1-5
Publications.....	1-5
Point of Contact.....	1-6
Reporting problems accessing Appeals TPSS courseware	1-6
Section 2 – Module Master Planning Chart	2-1
Section 3 – Lesson/Topic Summaries	3-1

Section 1 - Introduction
Training Coordinator's Module Guide for
Certify a Case to the Board of Veterans' Appeals (BVA)

Section 1 – Introduction

Introduction

Welcome to the *Certify a Case to the Board of Veterans' Appeals (BVA) Training and Performance Support System*. Please read this guide in its entirety. Feel free to highlight portions or write down notes as you read through this document. Within these pages, you will find the information you need to successfully set up and implement this course.

Section 1 includes an introduction to this module, including Module Overview and Module Map; student evaluation; and a list of the specific resources required to support this training module. A detailed outline of instruction and module events is also provided at the end of this section.

Section 2 contains the Module Master Planning Chart, which is designed to provide you with the information you need to effectively plan the scheduling for the module. Notes and tips are also provided to let you know key instructional events and activities.

Section 3 of this guide contains summaries for each of the lessons and topics in the *Certify a Case to the Board of Veterans' Appeals (BVA)* Module. You, as the Training Coordinator, may use this section to gain an overview of the content presented in each lesson and topic.

Module Overview

Certify a Case to the Board of Veterans' Appeals (BVA) is a stand-alone course consisting of one module.

Certifying a Case to the Board of Veterans' Appeals is an advanced appeals course. The focus is on specialized training for those reviewing and preparing cases for certification to the BVA.

This is not an introductory level course on appeals. Rather, it presupposes experience or knowledge of the appellate process and the handling and preparation of NODs, SOC's, and SSOC's. Students taking the course who have little or no background in appeals may require greater Training Coordinator intervention or content remediation for successful completion.

All students should take each lesson and topic in sequence to ensure that he/she has (or gains) a comprehensive understanding of the content from start to finish.

Section 1 - Introduction
Training Coordinator's Module Guide for
Certify a Case to the Board of Veterans' Appeals (BVA)

Remember:

To evaluate student performance and answer any student questions, you must either:


- (1) Be thoroughly familiar with the task – Certify a case to the Board of Veterans' Appeals (BVA), or
- (2) Identify the Subject Matter Expert (SME) to whom you may refer any specific technical or task-related questions. Ensure this person is available to provide any one-on-one training and/or feedback as necessary. (This person can also assist you in scoring the tests.)

Who Will Take This Course?

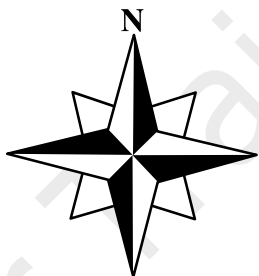
This course is designed for VBA employees who are:

- Decision Review Officers (DROs)
- Journeyman RVSRs with some experience working appellate cases, and
- Other Veterans Service Center (VSC) employees who need to gain proficiency in the appellate process, such as Appeals Team Coaches.

Students who take this course should have either failed or opted not to take the module's pretest.

-  **Note:** The pretest is optional. Students who want to take this course may choose to take the pretest or may choose to go directly to the course.

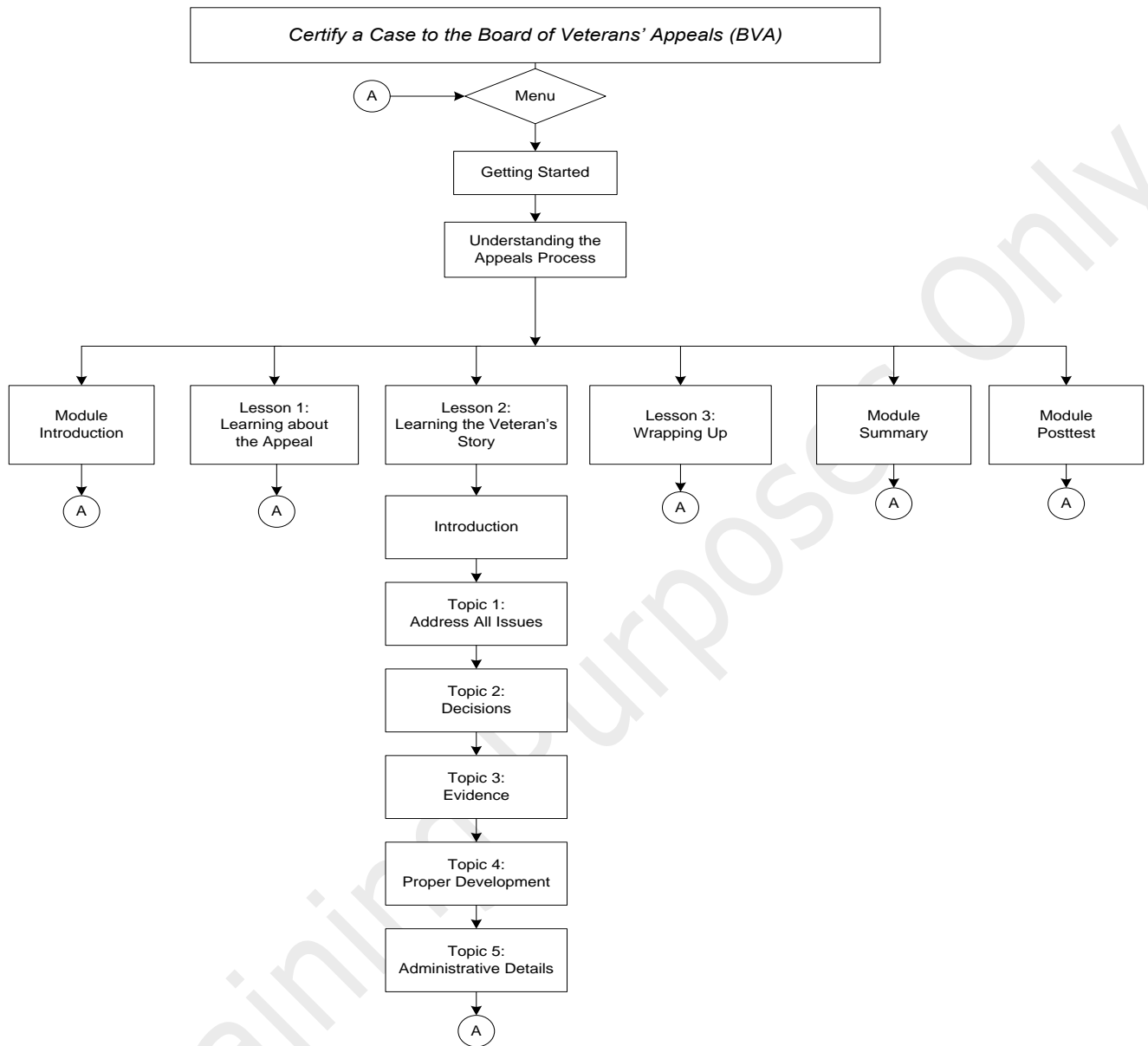
Module Map



To get an overview of how the *Certify a Case to the Board of Veterans' Appeals* course is laid out, take a look at the map on the following page.

As you can see, the module is comprised of three lessons. Lesson 2 has five topics. Again, the students must take the lessons and topics in the order that they are presented.

Section 1 - Introduction
Training Coordinator's Module Guide for
Certify a Case to the Board of Veterans' Appeals (BVA)



Section 1 - Introduction

Training Coordinator's Module Guide for *Certify a Case to the Board of Veterans' Appeals (BVA)*

Test Design

Tests are designed to evaluate the students in an authentic or “real life” setting using cases. The module pretest consists of two cases: one with deficiencies and one is ready to be certified to the BVA. The module posttests consist of three cases: two of which contain deficiencies and one is ready to be certified to the BVA.

The cases used in the tests are derived from actual appeal claims that have been submitted to the VBA. For testing purposes, the cases have been sanitized and modified. These modifications include replacing actual names and other identifying information with fictitious names and information to protect privacy, and adding or removing elements and issues of the case to ensure appropriate criteria are tested. The cases and answer keys have been reviewed and adjusted by subject matter experts in the VBA and approved by C&P in an effort to remove unintentional errors or issues not relevant to the criteria being tested.

Refer to the test scoring instructions/answer keys for more information on the passing criteria for each module posttest. You can access the test scoring instructions and answer keys from the VBA Learning Catalog. Search for TMS Item #1380399.

While you do need to administer the module test, you do not need to enter the test scores. After you score the test answer sheets and provide feedback to the students, you will email the test scores to the TPSS Help Desk (CDSHelpDesk@va.gov). You can email the scores for multiple students at the same time. The email must include the following information for each student: student's TMS student identifier/TMS user name, module name, test score and P or F, date, amount of time

TPSS Materials

Everything that your students need to complete the Appeals Module is available to them within the module online. Once you provide them with a proper briefing, your role, other than monitoring their progress throughout and conducting test briefings, will be to score the test answer sheets that they print from the system and give them feedback.

You can access the test scoring instructions and answer keys from the VBA Learning Catalog, where you found this Module Guide. Search for TMS Item #1380399.

Section 1 - Introduction
Training Coordinator's Module Guide for
Certify a Case to the Board of Veterans' Appeals (BVA)

**TPSS
Equipment**



Dual Monitors

The computers should be set up with dual monitors so that the students can open the online cases and look at other reference material during the training and testing.

In Getting Started, the students are provided with the following information about opening instructional cases with or without dual monitors:

“If you have dual monitors, when you select a case using the button, it will open in a new window. You may move it to the other monitor and expand it to fit the entire screen.

If you do not have dual monitors, when you select a case using the button, it will open in a new window, and you must navigate between the case and the courseware by holding down the Alt key and the Tab key at the same time. Using the Alt-Tab feature allows you to toggle back and forth.

Note: The cases have bookmarks for each form, letter, etc., within the case. You may select a bookmark to advance to that document within the case. Or you may scroll up and down throughout the case by using the scrollbar on the right-hand side of the window.

Throughout this module, you will be prompted when to open a given case and when to close it.”

You may want to reinforce this information during your briefing and make sure when they come to their first online case, they understand what to do with it.

Publications



Ensure that students have access to reference materials, such as:

- M21-1MR, Part I, Chapter 5
- 38 CFR
- Court of Appeals for Veterans Claims (CAVC) decisions/decision assessment documentation
- VBA Circulars, "Fast Letters," Training Letters, and Policy Letters
- Merck Manual
- Dorland's or comparable Illustrated Medical Dictionary
- Diagnostic and Statistical Manual of Mental Disorders (DSM) - latest edition

Section 1 - Introduction
Training Coordinator's Module Guide for
Certify a Case to the Board of Veterans' Appeals (BVA)

Point of Contact

Feedback, reactions, comments (recommendations, additions, deletions) and any pertinent data which may be of use in improving this courseware should be addressed on the Compensation Service Home Page by accessing the comments database web form at:

<http://cptraining.vba.va.gov>

Select the **Comments Web Form** link located at the bottom of the page.

Reporting problems accessing Appeals TPSS courseware



To report problems with the computer courseware:

Contact your local IRM support. If your local IRM support is not available or is not able to solve the problem, then send an e-mail to the **TPSS Help Desk** at

CDSHelpDesk.@vba.va.gov.

When you send the e-mail, place the course name in the subject line of the message. Include the following information in your e-mail:

Name
E-mail address
Telephone number
VARO name and number
Description of the problem

You should provide the Help Desk with as much specific information as possible about the location of the problem.

If you are having trouble on a particular screen, include the screen number which appears at the bottom center of each screen.

If an error message appears in the courseware, be sure to capture the contents in the message.

Section 2 – Module Master Planning Chart
Training Coordinator’s Module Guide for
Certify a Case to the Board of Veterans’ Appeals (BVA)

Section 2 – Module Master Planning Chart

Certify a Case to the Board of Veterans’ Appeals (BVA)

Note: During the validation of this course, the amount of time students required to complete the online content, including cooperative exercises, ranged from 16 hours to 27 hours, 18 minutes. The Module Posttest times ranged from 3 hours, 50 minutes to 8 hours, 27 minutes. The total student course time ranged from 19 hours, 50 minutes to 35 hours, 45 minutes.

This Module Master Planning Chart is based on the average time that students required during the validation of this module. Be aware that the actual times for students may be more or less than the time listed here.

- Estimated total Student time for online course and a single version of the Module Posttest: **25 hours, 15 minutes**
- Estimated total Student time for Module (aka, total “seat” time): **26 hours, 45 minutes**
(**Note:** All estimated total “seat” times for modules include module orientation, the online courseware and cooperative exercises, if applicable, along with, when given, a single variant of the Lesson Posttest(s), feedback, and a single version of the Module Posttest and feedback.)
- Estimated total Training Coordinator Time for administrative duties: **4 hours**
(**Note:** This total includes the additional time required by the TC to perform briefings, feedback, and any administrative duties such as grading tests and emailing the TPSS Help Desk, i.e., those shaded line items that are specifically TC times only. Total time accounts for administration of a single variant of the Lesson Posttest(s), when given, and a single version of the Module Posttest. Module Pretest preparation and grading is not included in the total. Although the TC is listed as personnel for all of the online lessons and all tests, the TC does not have to be present for the entire time the students are working in a lesson or taking a test. The TC may be working with other students or even performing other duties while students are working TPSS. The TC needs to be available to answer questions as needed. That time will vary depending on how familiar with TPSS the students are.)

Section 2 – Module Master Planning Chart
 Training Coordinator’s Module Guide for
Certify a Case to the Board of Veterans’ Appeals (BVA)

Duration		Activity	Notes/Tips
hrs	min		
	10	Module Pretest Preparation	Includes giving student access to Appeals in TMS.
4	00	Module Pretest: Certify a Case to the Board of Veterans’ Appeals (BVA)	Conducted prior to Day 1 of the training.
	20	Module Pretest Grading	Scoring instructions and answer keys are in the VBA Learning Catalog.
	30	Administrative Functions	Includes emailing the TPSS Help Desk with Module Pretest results, if applicable, assigning student privileges, notifying students of course schedule, and preparing a briefing.
	30	Orientation / Briefing	Includes setting up students' workstation area and required materials. Ensure students can log into the courseware, navigate through the course using the buttons and prompts, and understand what on-line “Tools” are available to help.
	15	Getting Started	Provides students with all the necessary information to effectively progress through this module. This tutorial will be useful, especially for first-time users.
	30	Understanding the Appeals Process	Gives an overview of the appeals process based on information taken directly from the BVA Pamphlet.
	30	Module Introduction	Students read the module objective. Students are introduced to the lessons contained in the module. Students are also introduced to the TPSS ACE Checklist. They will print it and discuss its layout and function in this training.

Section 2 – Module Master Planning Chart
 Training Coordinator’s Module Guide for
Certify a Case to the Board of Veterans’ Appeals (BVA)

Duration		Activity	Notes/Tips
hrs	min		
1	15	Lesson 1: Learning about the Appeal	Students begin filling out the TPSS ACE Checklist using the instructional case for Charles Ansel Osburn.
10	15	Lesson 2: Learning the Veteran’s Story (Total time, including all topics)	
	15	Lesson 2: Lesson Introduction	
2	15	Lesson 2: Topic 1, Address All Issues	First Cooperative Exercise of the module (Cooperative Exercise 2-1). Students will review the claims folder for Charles A. Osburn and answer questions on the TPSS ACE Checklist about whether all issues have been addressed or not. If students answer “no” to a question on the checklist, they will list the deficiency (ies) in the space provided.
2	45	Lesson 2: Topic 2, Decisions	Cooperative Exercise 2-2 – Students will review the claims folder for Charles A. Osburn, answering questions on the TPSS ACE Checklist about decisions. If students answer “no” to a question on the checklist, they will list the deficiency (ies).
2	30	Lesson 2: Topic 3, Evidence	Students will review the claims folder for Charles A. Osburn, answering questions on the TPSS ACE Checklist that relate to identifying whether evidence was cited and addressed properly and to considering the adequacy (sufficiency) of evidence for rating decision. If students answer “no” to a question on the checklist, they will list the deficiency (ies).
1	00	Lesson 2: Topic 4, Proper Development	There is no cooperative exercise for this topic. Students will have the opportunity to practice what they learned in this topic in the next topic.

Section 2 – Module Master Planning Chart
 Training Coordinator’s Module Guide for
Certify a Case to the Board of Veterans’ Appeals (BVA)

Duration		Activity	Notes/Tips
hrs	min		
1	30	Lesson 2: Topic 5, Administrative Details	Cooperative Exercise 2-5 – Students will review the claims folder for Charles A. Osburn, answering questions on the TPSS ACE Checklist about whether or not development was proper and complete and administrative details have been addressed. If students answer no to a question on the checklist, they will list the deficiency (ies).
6	15	Lesson 3: Wrapping Up	Cooperative Exercise 3-1 – Students will review the case for Dwight A. DuBois and complete a TPSS ACE Checklist. Cooperative Exercise 3-2 – Students will review the case for Wayne A. Campbell and complete a TPSS ACE Checklist.
	15	Module Summary	Read or distribute copies of the Lesson and Topic Summaries to the students as a detailed review of the entire course.
	40	Module Posttest Variant 1 Briefing	Includes time to review module terminal learning objective, and explain test instructions to the students before they begin. Also includes reviewing results of any cooperative exercises and ensuring that students are ready to take the test.
6	00	Module Posttest Variant 1	Students access the test online and turn in any printed documents to TC for scoring.
1	30	Module Posttest Variant 1 Grading	Scoring instructions and answer keys are in the VBA Learning Catalog.
	30	Module Posttest Variant 1 Feedback	Note: Feedback times will vary depending on the number of items a student missed. If a student fails the Module Posttest, you must provide remediation until the student feels confident enough to take a variant of

Section 2 – Module Master Planning Chart
 Training Coordinator’s Module Guide for
Certify a Case to the Board of Veterans’ Appeals (BVA)

Duration		Activity	Notes/Tips
hrs	min		
			the Module Posttest. At that time, you will administer the variant in the same way you administered the Module Posttest and provide feedback based on the student’s results of the variant.
	15	Module Posttest Variant 2 Briefing	Includes ensuring students have had enough feedback and remediation to feel prepared for the variant.
7	30	Module Posttest Variant 2	Students access the test online and turn in any printed documents to TC for scoring.
1	30	Module Posttest Variant 2 Grading	Scoring instructions and answer keys are in the VBA Learning Catalog.
	30	Module Posttest Variant 2 Feedback	Note: If a student fails the variant of the Module Posttest, you must provide remediation until the student can demonstrate proficiency in the task.
	20	Email TPSS Help Desk Based on Module Posttest Results	

Section 3 – Lesson/Topic Summaries

Training Coordinator Notes:

After students have completed the online Module Summary, review the entire module by reading the summaries on the following pages (or your own personalized version). You may also make photocopies of the summaries and distribute them to the students on completion of the module.

Section 3 – Lesson/Topic Summaries
Training Coordinator's Module Guide for
Certify a Case to the Board of Veterans' Appeals (BVA)

Lesson 1 – Learning About the Appeal

In Lesson 1, you learned how to look at the top documents in the case to determine:

- Whether there is a substantive appeal
- Who the appellant is
- What he or she is appealing
- Why he or she is appealing

You also learned how to identify important information related to the appeal and VA's actions with regard to that appeal.

What constitutes an appeal? Remember, a valid appeal consists of a timely filed NOD, an SOC, and a substantive appeal. You must ensure the NOD was timely filed. An NOD must be received within 1 year from the date of the letter notifying the claimant of a decision. An NOD postmarked prior to the expiration of the one-year time limit will be accepted as timely filed.

A substantive appeal is normally filed on a VA Form 9. However, it is important to know that it can also be submitted by letter, a statement made during a hearing, or some other correspondence. If a substantive appeal is not received on a VA Form 9, the document must be annotated to show it has been accepted in lieu of the VA Form 9.

Was the substantive appeal timely filed? The substantive appeal must be received by the VA within 60 days of the mailing of the SOC/SSOC or within the remainder of the one-year period from the date of the notification letter, whichever is later.

Once you confirm you have a valid appeal, read through the Statement of the Case (SOC) and any Supplemental Statements of the Case (SSOCs) to gain a sense of what the appeal is all about. Doing so gives you a good feel for the issue(s), timeliness of processing, reasons and bases for the denials, and the laws and regulations cited in support of the denial. (Note: This reading is NOT meant to be a check for the quality of the statements (that will come later); it is solely intended to give you familiarity with the story behind the appeal.)

Section 3 – Lesson/Topic Summaries
Training Coordinator's Module Guide for
Certify a Case to the Board of Veterans' Appeals (BVA)

When learning about the appeal, remember you must determine the following with regard to hearings:

- Has the claimant requested a hearing?
- What type of hearing has been requested (local hearing before a Decision Review Officer (DRO) or via video conference, BVA Travel Board hearing, or BVA hearing in Washington, D.C. or via video conference)?
- If a local hearing before a DRO has been requested,
 - was the hearing scheduled and held? If not, why?
 - is the local hearing transcript in the file?
- Is a DRO Decision and/or SSOC in the file?
- Was an additional hearing requested?

Once you've completed learning about the appeal (that is, reading the SOC's and other relevant documents at the top of the case), you're going to go back to the date of receipt of the claim under appeal.

Start your review--compare your findings with the synopsis you made when reading the SOC's. Always be alert for discrepancies between what you've found in the SOC's and what you see in the file.

Section 3 – Lesson/Topic Summaries
Training Coordinator's Module Guide for
Certify a Case to the Board of Veterans' Appeals (BVA)

Lesson 2 – Learning the Veteran's Story

Topic 1
Address All Issues

All issues and contentions must be addressed before a case can be certified to the BVA. It is necessary to review the entire file to learn the appeal history, and identify issues and/or contentions.

What issue(s) did the claimant disagree with? Do they match the issues on the decision document (usually a rating decision)? Do they match the issues on the SOC, SSOC, and the VA Form 9 (or its equivalent)? If the issues do not match you need to know why. Did the claimant withdraw any issues? Were any issues on appeal granted? Was an issue erroneously stated?

Were any contentions raised by claimant? For instance, did the claimant ask for copies of service treatment records (or any other records) located in his/her file? If so, were the records sent to the claimant? Is evidence identified by the claimant absent from the file? If so, did we try to obtain those records?

Are there any inferred issues? Inferred issues may be identified in the decision on appeal, the NOD, substantive appeal (usually VA Form 9), hearing transcript, VA Form 646 or any other document in the file. It is your responsibility to ensure all inferred issues have been considered.

Are there any ancillary issues? Ancillary issues include special monthly compensation (SMC), automobile entitlement, aid and attendance, housing assistance and educational assistance (Chapter 35 benefits).

Identify inextricably intertwined issues. Often, issues are so closely bound to one another that when one is considered, the other must naturally be considered as well. For instance, the claimant is appealing the evaluation assigned for his left knee disorder and a new claim is received for service connection for a right hip disorder. Those issues are inextricably intertwined and must be resolved before the file can be certified to the BVA.

Section 3 – Lesson/Topic Summaries
Training Coordinator's Module Guide for
Certify a Case to the Board of Veterans' Appeals (BVA)

Topic 2
Decisions

It is critical that you review the entire file to determine whether prior decisions are correct and complete. It is important to remember that a thorough analysis of the evidence is necessary to understand the appeal issues.

Is each decision understandable and clearly stated? Did the decision(s) consider all the evidence and applicable laws? Is there a discussion of the facts, including how the evidence was evaluated and weighed for each decision? Finally, does the discussion support the conclusion?

If the decision is a grant it must discuss the evidence that supports the decision. You must also decide whether it was a complete grant of benefits. If it is a complete grant the issue is removed from appeal status and a rating is prepared. Issues involving partial grants remain on appeal and require an SSOC.

If service connection was granted for a disability, you need to ensure that the correct evaluation was assigned and the correct effective date was established.

If the decision is a denial, an SSOC must be prepared, and both the favorable and unfavorable evidence discussed.

Was a hearing requested and held? If a hearing was held, there needs to be a rating decision if any issues are granted and an SSOC if issues remain denied. The hearing transcript should be in the file, and the claimant should have been sent a copy of that decision.

Was the claimant properly notified of the decision(s)? Notification letters must inform the claimant of the decision made, effective date, evidence considered, the right to a hearing, the right to representation and the right to appeal.

Section 3 – Lesson/Topic Summaries
Training Coordinator's Module Guide for
Certify a Case to the Board of Veterans' Appeals (BVA)

Topic 3
Evidence

Evidence must be properly evaluated and reviewed in order to recognize problem areas. Two major reasons for remands are inadequate or old VA examinations and absence of other evidence (VA medical records, private medical records, social security records, etc.)

Obtain a VA exam when current evidence indicates a worsening of symptoms but it is insufficient for rating purposes. A VA exam should also be obtained if an opinion is needed to decide the claim or the prior VA exam is old.

A complete VA exam includes the following:

- A brief medical history from the date of discharge (or last examination) to the current date
- A record of subjective complaints
- A complete description of objective findings
- A diagnosis of all described conditions
- Clinical findings required by the rating schedule to evaluate the specific disability (e.g., range of motion in degrees when a joint is being examined, and the examiner must discuss additional functional impairment due to pain and fatigability on increased use (*Deluca v. Brown*))
- All necessary tests were performed and those findings are attached to the VAE.
- When necessary, specialty examinations are completed.
- Examiners reviewed results of all tests and studies before making final assessment (diagnosis).
- The medical opinion rendered by the examiner(s) provided complete supporting rationale.
- If requested by RO, the examiner(s) provides definite unambiguous opinion(s) as to etiology of the disorder at issue.
- When there is a conflict in diagnosis or differential diagnosis noted, the examiner must explain the basis for the current diagnosis.

Section 3 – Lesson/Topic Summaries
Training Coordinator's Module Guide for
Certify a Case to the Board of Veterans' Appeals (BVA)

- Mental disorders must include a global of assessment (GAF) score and conform to the DSM-IV.

The following deficiencies would result in an insufficient VA exam:

- Exam did not address all claimed or noted disabilities.
- Examiner did not provide requested opinion.
- Diagnosis is not supported by the findings.
- Diagnosis is unclear.
- Symptoms and/or functional impairment is not adequately described.
- Necessary tests or specialty exams were not performed.
- X-rays were taken but are not attached to the VAE report.
- As indicated, when the claims folder did not accompany the exam or when there is no indication that it was reviewed by the examiner

Make sure all evidence has been requested and cited in the evidence portion of the decision. Medical and lay evidence must be weighed and addressed for credibility and probative value. Summarize pertinent evidence and fully explain whether or why the evidence is persuasive or unpersuasive.

If a claim is reopened a determination must be made as to whether new and material evidence has been received. Does the new evidence meet the criteria for being considered new? Is it material to the issues at hand? In other words, does the new evidence provide a more complete picture of the circumstances surrounding the origin of a Veteran's injury or disability?

Section 3 – Lesson/Topic Summaries
Training Coordinator's Module Guide for
Certify a Case to the Board of Veterans' Appeals (BVA)

Topic 4
Proper Development

Duty to Assist (DTA) provisions require the VA to obtain (or attempt to obtain) all evidence indicated at any time by the claimant or the representative. DTA applies when an essentially complete claim is received.

Before a case can be certified to the BVA, the entire file and all the evidence must be reviewed to determine whether any additional development is required in order to satisfy DTA requirements. It is critical that deficiencies be identified and corrected before the case is certified to the BVA.

Is there a notification (VCAA) letter in the file informing the claimant and representative of the evidence necessary to substantiate the claim, the information or evidence the claimant must submit, and the information or evidence the VA will attempt to obtain on the claimant's behalf? If not, that letter must be sent.

You need to identify all the evidence indicated by the claimant and/or representative. Is that evidence in the file? If not, ensure that every attempt has been made to obtain the evidence, and those attempts are documented in the file. This includes notifying the claimant and representative of those attempts.

Records in the custody of a federal agency must be obtained unless it is reasonably certain the records do not exist. A follow-up request is sent 60 days after the initial request. Thereafter, follow-ups are sent every 30 days. Naturally, the claimant and representative are notified of our attempts to obtain the records. If it is determined that further efforts to obtain the records would be unsuccessful, a formal finding of non availability must be documented in the file. Lastly, another letter is sent to the claimant identifying the records that could not be obtained, an explanation of the efforts to obtain them, and a description of any further action to be taken with respect to the claim. The claimant is given 10 additional days to furnish information about possible alternate sources of evidence.

Section 3 – Lesson/Topic Summaries
Training Coordinator's Module Guide for
Certify a Case to the Board of Veterans' Appeals (BVA)

Records not in the custody of a federal agency must be requested. A follow-up request is sent 30 days after the initial request. Further follow-ups are not required after the 2nd request. However, it is critical that the claimant and representative were notified of the initial and follow-up request.

If no attempt was made to obtain identified records the decision document must explain why. For instance, the claimant indicated the physician has been deceased for 20 years and the records are no longer available.

Remember, if additional evidence is received (at any time) an SSOC and/or rating decision must be prepared.

Topic 5
Administrative Details

Special issue cases (agent orange, gulf war undiagnosed illness, asbestos, etc.) should be developed in accordance with specific rules and procedures.

The representative must be given an opportunity to complete a VA Form 646 prior to certifying the file to the BVA. If a reply is not received within 10 days a follow-up request is sent, and 5 additional days are given. If no response is received after the 2nd request the file should be annotated and certified to BVA.

If a VA Form 646 is received it should be carefully reviewed for the following:

- Was additional evidence identified? If so, it must be obtained and considered, to include preparing an SSOC and/or rating decision.
- Are there any new contentions? If so, they must be addressed, to include preparing an SSOC and/or rating decision.
- Were any new issues identified? If so, are they inextricably intertwined (related) to the issues on appeal? If they are related, they must be resolved before the file can be certified to the BVA, to include preparing an SSOC and/or rating decision. If the new issues are unrelated,

Section 3 – Lesson/Topic Summaries
Training Coordinator's Module Guide for
Certify a Case to the Board of Veterans' Appeals (BVA)

the file should be certified to the BVA after development is implemented for those issues.

- Are any administrative errors alleged? If so, they must be addressed, to include preparing an SSOC and/or rating decision.
- Have any new laws/regulations been implemented or revised? If so, they must be considered and applied, to include preparing an SSOC and/or rating decision.

A remand is a case returned from BVA for additional development, clarification or correction. These cases require special handling and should be worked as quickly as possible.

Before an appeal can be returned to BVA, all development action and instructions must be complete, to include preparing an SSOC and/or rating decision. It is very important that you follow the remand instructions in sequential order.

Section 3 – Lesson/Topic Summaries
Training Coordinator's Module Guide for
Certify a Case to the Board of Veterans' Appeals (BVA)

Lesson 3 – Wrapping Up

In Lesson 3, Wrapping Up, you learned that before you certify any case to BVA, an Appeal Certification Worksheet *must* be completed. The worksheet will help you determine if a case is ready for certification to BVA, and assess and control any required action items before a case is forwarded to BVA. Ultimately, using the worksheet can significantly reduce the likelihood of a BVA remand or overturned decision by the BVA.

As the certifying official, you must ensure all necessary development has been undertaken and considered prior to certifying a case to the BVA. Development includes all necessary follow-up action for records within our constructive custody as well as those not within our constructive custody. Do not overlook our duty to assist. Ensure the appropriate VCAA letter has been sent and addresses the specific VCAA requirements for notification. If documentation of record does not contain sufficient competent medical evidence to decide a claim but contains competent lay or medical evidence of disability or current symptoms, ensure a medical examination or opinion was ordered, is of record, and was considered. Review the laws and regulations contained in the SOC and any SSOC(s) of record for accuracy.

Following your case review with the Appeal Certification Worksheet, if you decide a case is ready to be certified to BVA, you must complete and sign VA Form 8, *Certification of Appeal*. Ensure all blocks are completed accurately. Remember, all other records related to the issue(s) on appeal that are currently in the custody of the originating office must be forwarded to the BVA with the claims folder.

Remove and destroy all personal notes in the file prior to forwarding to BVA. These notes do not contain information required by BVA or by the courts.

Use FL 1-26 to advise the claimant that the appeal has been certified and transferred to BVA, and make copies of FL 1-26 for the appellant's representative, if appointed. Ensure a copy of FL 1-26 is in the claims folder when it is forwarded to the BVA.

Finally, confirm that the VA Form 8 has been signed, FL 1-26 has been released and the Appeals record has been updated in VACOLS. Then, give the claims folder to your Correspondence Clerk/Activity for transfer to BVA.