

ORIENTATION TO APPEALS TEAM STUDENT HANDOUT

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OBJECTIVES

- Given references and the student handout packet, identify the purpose, terminology, and positions of the Appeals Team, with 85% accuracy.
- Given references and the student handout packet, identify the stages of the Appeals Team process, with 85% accuracy.

REFERENCES

M21-1MR 1.5.A, General Information on Appeals

M21-1MR 1.5.B, Notice of Disagreement

M21-1MR 1.5.C, Decision Review Officer

M21-1MR 1.5.D, SOC and SSOC

M21-1MR 1.5.E, Filing a Substantive Appeal

38 CFR §19.23, Applicability of provisions concerning Notice of Disagreement

38 CFR §19.24, Action by agency of original jurisdiction on Notice of Disagreement required to be filed on a standardized form.

Publication of Final Rule, RIN 2900-AO81 – Standard Claims and Appeals Forms

TOPIC 1: OVERVIEW OF THE APPEALS TEAM

Appeals Team Purpose:

The Appeals Team is a specialized team with the primary purpose of adjudicating appeals in a timely manner. The Appeals Team is the only team within the Veterans Service Center that closely monitors appeals.

Appeals Terminology:

Term	Definition
NOD	<p>Notice of disagreement (NOD) is correspondence from the Veteran/Claimant disagreeing with our decision that was received within ___ year from the notification of the decision (____ days for a contested claim appeal).</p> <p>For NODs received on compensation decisions dated on or after _____, the NOD must be submitted on VAF 21-0958, if the form was provided with the notification letter.</p>
SOC	Statement of the Case (SOC) is a detailed document released to the appellant that explains the _____, _____, and _____ used by the RVSR/DRO to confirm the decision on the appeal.
SSOC	Supplemental Statement of the Case (SSOC) is a document released to the appellant when _____ - _____ is revived and considered.
Substantive Appeal	<p>A substantive appeal is a response to an _____ from the claimant which includes:</p> <ul style="list-style-type: none"> • <i>VA Form 9, Appeal to Board of Veterans' Appeals,</i> • written correspondence containing the elements listed below*, or • a statement at a formal hearing or informal conference reduced to writing. <p>* A substantive appeal must indicate:</p> <ul style="list-style-type: none"> • The _____ for which the appeal is being perfected if more than one issue is discussed in the SOC/SSOC • _____ relating to errors of fact or law made by the agency of original jurisdiction in reaching the decision(s) being appealed.
BVA	Board of Veterans' Appeals (BVA) is an organization

	that receives a _____ appeal from the regional office.
VACOLS	Veterans Appeals Control and Locator System (VACOLS) is a computer application that tracks appeals.
Remand	Remand is an appeal claim returned by the ____ for additional development action.

Appeals Team Positions:

The Appeals Team is usually staffed with:

- Decision Review Officer (DRO)
- Rating Veterans Service Representative (RVSR)
- Veterans Service Representative (VSR)
- Claims Assistant (CA)

The regional office may have a policy explaining the responsibilities of each position on the Appeals Team. However, M21-MR I.5.A.1 describes the responsibility of each position assigned to the Appeals Team.

Appeals Defined:

General Definition

A notice of disagreement is _____ communication from a claimant or his/her representative expressing:

- 1) dissatisfaction or disagreement with a decision, and
- 2) a desire to contest the result.

Do *not* accept an NOD in response to a notice of _____ adverse action as a valid NOD.

Standard Form:

If a _____ decision is rendered on or after *March 24, 2015*, the notification letter should provide the Veteran/claimant with a standard notice of disagreement (SNOD) form - VA Form 21-0958, *Notice of Disagreement*. When this form is provided to the Veteran and the decision being appealed is a compensation decision rendered after March 24, 2015, the Veteran/claimant must submit the _____ to initiate the appeal process for the compensation contention. If a _____ form was provided and the appeal is for a compensation decision rendered after March 24, 2015, the appeal cannot be initiated by the submission of any other form or media. If something other than a SNOD form is received, the veteran must be informed that the appeal is not valid and requires the submission of the VA Form 21-0958. The appeal period is not extended.

If a VA Form 21-0958 is received timely but not complete, VA will inform the claimant (or representative) that he/she must timely file a complete standard form. The claimant is not required to correct/cure an incomplete form by filing a completed version of the standard form unless VA informs the claimant or his/her representative that the form is incomplete and requests clarification.

When a claimant is notified that an incomplete form was received, the claimant has to provide a completed form within:

- _____ days from the date of the request or
- The remainder of the ____ year from the mailing of the notice of decision of the agency of original jurisdiction, whichever is later.

If a completed form is received within the appropriate time, then the NOD will be considered timely and complete. Otherwise, the decision made by the AOJ will become final.

At this time, other business lines do not have a standardized form for appeals. Therefore, current rules (which will remain in place in the regulations) will apply. However, the other business lines may create their own SNODs at a future time, at which time we may need to update training.

The AOJ may provide the claimant with the standard form:

- In paper format: attach the standard form to the decision letter
- In electronic format:
 - E-mail:
 - A copy of the form can be attached to the email
 - The email can contain the hyperlink as long as it states “the hyperlink is to the required VA appeal form”
 - Online benefits account: if the claimant has an online benefits account such as eBenefits, notifications within the system that provide the link to a standard appeal form are sufficient.

Complete Form:

In general, the form is considered complete if the following information is provided:

- Information to identify the claimant
- The claim to which the form pertains
- Any information to identify the nature of the disagreement (such as disagreement with disability rating, effective date, or denial of service connection)
- The claimant’s signature
- Enumerates the issues or conditions for which the appellate review is sought (for compensation claims). For example, “I disagree with all denied decisions” or “I disagree with shoulder condition.”

**Unnamed issues would become final ___ year after the date of the mailing of the notice of the decision unless the claimant files a separate form addressing those issues or conditions within the timeframe set.

TOPIC 1: EXERCISE

Using the information provided in the Handout, answer the following questions:

1. What are the positions that make up an Appeals Team?
2. True/False: A notice of disagreement may be accepted over the telephone.
3. What is the purpose of the Appeals Team?

TOPIC 2: APPEALS TEAM PROCESS

Stages of the Appeals Team Process

The appeal process has several stages that require the monitoring by the Appeals Team to ensure the Veteran/claimant's appeal is processed in a timely manner.

Stage	Who Is Responsible	Action	Reference
1	Appellant	Submit an NOD in response to a Department of Veterans Affairs (VA) decision regarding his/her benefit claim.	M21-1MR I.5.B
2	<ul style="list-style-type: none"> • CA, or • VSR 	<ul style="list-style-type: none"> • Accept the NOD if it does not need further clarification • Establish a VACOLS record within seven days of receipt of the NOD, and • Give the appellant 60 days to elect (if the election is not received with the NOD) the <ul style="list-style-type: none"> – Decision Review Officer Process, or – Appellate review process without DRO review. 	M21-1MR I.5.B.5
3	Appellant	Elect either the <ul style="list-style-type: none"> • DRO review process, or • Traditional review process. 	M21-1MR I.5.B.5
4	<ul style="list-style-type: none"> • RVSR, or • DRO 	Review the appeal. - DRO review process: A DRO conducts a complete review of the same evidence used in making the original decision and sometimes conducts a hearing if requested. - Traditional review process: A RVSR reviews the file.	M21-1-MR I.5.C

5	<ul style="list-style-type: none"> • VSR, • RVSR, or • DRO 	<p>Decide if the review warrants a change to the decision on appeal:</p> <table border="1" data-bbox="521 302 1135 1308"> <thead> <tr> <th data-bbox="521 302 695 401">Decision</th> <th data-bbox="695 302 1135 401">Action</th> </tr> </thead> <tbody> <tr> <td data-bbox="521 401 695 621">“Yes” on all issues</td> <td data-bbox="695 401 1135 621">Include a complete statement of facts in the new decision with any discussion needed to clearly show the basis for the allowance.</td> </tr> <tr> <td data-bbox="521 621 695 982">“Yes” on only some issues</td> <td data-bbox="695 621 1135 982"> <ul style="list-style-type: none"> - Issue a STATEMENT OF THE CASE (SOC) confirming the decision on appeal and explaining the reasons for the VA decision. - Send VA Form 9, Appeal to Board of Veterans' Appeals, to the appellant. </td> </tr> <tr> <td data-bbox="521 982 695 1308">“No”</td> <td data-bbox="695 982 1135 1308"> <ul style="list-style-type: none"> - Issue an SOC confirming the decision on appeal and explaining the reasons for the VA decision. - Send VA Form 9, Appeal to Board of Veterans' Appeals, to the appellant. </td> </tr> </tbody> </table>	Decision	Action	“Yes” on all issues	Include a complete statement of facts in the new decision with any discussion needed to clearly show the basis for the allowance.	“Yes” on only some issues	<ul style="list-style-type: none"> - Issue a STATEMENT OF THE CASE (SOC) confirming the decision on appeal and explaining the reasons for the VA decision. - Send VA Form 9, Appeal to Board of Veterans' Appeals, to the appellant. 	“No”	<ul style="list-style-type: none"> - Issue an SOC confirming the decision on appeal and explaining the reasons for the VA decision. - Send VA Form 9, Appeal to Board of Veterans' Appeals, to the appellant. 	<p>M21-1MR I.5.C.15</p> <p>M21-1MR I.5.D</p>
Decision	Action										
“Yes” on all issues	Include a complete statement of facts in the new decision with any discussion needed to clearly show the basis for the allowance.										
“Yes” on only some issues	<ul style="list-style-type: none"> - Issue a STATEMENT OF THE CASE (SOC) confirming the decision on appeal and explaining the reasons for the VA decision. - Send VA Form 9, Appeal to Board of Veterans' Appeals, to the appellant. 										
“No”	<ul style="list-style-type: none"> - Issue an SOC confirming the decision on appeal and explaining the reasons for the VA decision. - Send VA Form 9, Appeal to Board of Veterans' Appeals, to the appellant. 										
6	Appellant	<ul style="list-style-type: none"> • return <i>VA Form 9</i> or a substantive appeal in lieu of <i>VA Form 9</i> within applicable time frames, and • may elect one of the following types of BVA hearings: <ul style="list-style-type: none"> ○ Travel board ○ videoconference, or ○ in person in Washington, DC, or • may elect a local hearing before regional office (RO) personnel. <p>NOTE: The VA Form 9/substantive appeal must be received:</p> <ul style="list-style-type: none"> • <i>For a contested claim-</i>___ days from 	M21-1MR I.5.E								

		<p>the date the Department of Veterans Affairs (VA) mailed the SOC/SSOC, or</p> <ul style="list-style-type: none"> • <i>For non-contested claims</i>-___ days from the date the VA mailed the SOC/SSOC, or the last day of the one-year period from the date VA mailed the notification of the decision being appealed. 	
7	<ul style="list-style-type: none"> • VSR, • RVSR, or • DRO 	<ul style="list-style-type: none"> • Send an SSOC to the appellant if <ul style="list-style-type: none"> – VA receives additional evidence, and – the appellant does not receive a complete grant of benefits on appeal, and • Give the appellant 30 days to reply before the appeal is sent to BVA. <p>Note: If a substantive appeal has not been received at the time the SSOC is issued, the claimant must be provided 60 days to file a substantive appeal.</p>	M21-1MR I.5.D.21.e
8	Veterans Service Organization	Provide a <i>VA Form 646, Statement of Accredited Representative in Appealed Case</i> , to summarize the claimant's position prior to forwarding the appeal to the Board of Veterans' Appeals (BVA), and/or after receiving new evidence requiring additional action.	M21-1MR I.5.F.25
9	<ul style="list-style-type: none"> • DRO, • RVSR, or • Veterans Service Center Manager (VSCM) designee 	Complete the <i>VA Form 8, Certification to BVA</i> , prior to forwarding the appeal to BVA.	M21-1-MR I.5.F.26
10	CA	Transfer the claims folder to BVA.	M21-1MR I.5.F
11	BVA	<p>Either</p> <ul style="list-style-type: none"> • issue a decision granting or denying the benefit, or • remand the case to the RO for additional action. 	M21-1MR I.5.G

12	<ul style="list-style-type: none"> • VSR, • RVSR, or • DRO 	<p>If BVA</p> <ul style="list-style-type: none"> • issue a decision, then the <ul style="list-style-type: none"> – RVSR issues a rating decision implementing BVA’s decision – VSR processes the RVSR decision, and – VSR closes out any pending VACOLS records. If all issues are decided, go to Step #13. • remand the case to the RO, then the VSR, RVSR or DRO <ul style="list-style-type: none"> – performs additional development, and – issues a new decision. <p>If the new decision does not fully grant the benefit on appeal, the DRO, VSR, or RVSR</p> <ul style="list-style-type: none"> • prepare an SSOC, and • return the case to BVA. 	M21-1MR I.5.G
13	BVA	Issue a final decision in a remanded case. Case is returned to the RO for review and processing.	M21-1MR I.5.G
14	Appellant	May appeal the final BVA decision to the U.S. Court of Appeals for Veterans Claims (CAVC) within 120 days of the date of the decision.	M21-1MR I.5.I

TOPIC 2: EXERCISE

1. In what order would the following events occur?

	Stages of the Appeal Team Process
	Decision Review Officer (DRO) review conducted
	<i>VA Form 9</i> or substantive appeal received
	Notice of disagreement (NOD) received
	Statement of the Case (SOC) released
	<i>VA Form 646, Statement of Accredited Representative in Appealed Case</i> , provided by Veterans Service Organization
	Give the appellant 60 days to elect DRO process
	Supplemental Statement of the Case prepared
	<i>VA Form 8, Certification to BVA</i> , completed

2. If the appellant fails to elect a DRO or traditional review, how is the appeal processed?
3. TRUE/FALSE: Like an NOD, election of a DRO review must be received in written communication.

LESSON PRACTICAL EXERCISE

1. A notice of disagreement (NOD) with claims (other than compensation decisions rendered after March 24, 2015) is written correspondence received within ___ days from the notification of the decision (___ days for a contested claim).
 - A. 60/365
 - B. 365/30
 - C. 180/30
 - D. 365/60

2. What is the time limit for submission of a *VA Form 9, Appeal to Board of Veterans' Appeals*?
 - A. Within forty-five (45) days from the mailing of the SOC
 - B. Within sixty (60) days from the mailing of the SOC or the remainder of the one-year period from the date of the original notification letter
 - C. Within forty-five (45) days from the mailing of the SSOC or the remainder of the one-year period from the date of the original notification letter
 - D. Within ninety (90) days from the date of the original notification letter

3. If claimant does not respond to the DRO process/traditional process election letter, who is responsible for the next step of the process?
 - A. VSR
 - B. RVSR
 - C. SVSR
 - D. DRO

4. When is an SSOC developed?
 - A. If the NOD is received, but a DRO process is not elected
 - B. Before an SOC is developed
 - C. If new and material evidence is submitted after the SOC has been issued
 - D. If new and material evidence is submitted before the SOC has been issued