(VSR VIP Pre-D)

Subsequent Development

Trainee Handout

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Objectives

* Determine if development on a claim is complete
* Identify incomplete development and complete the required action(s)
* Recognize when a final notification letter is required
* Determine if an exam is warranted, once all development has been completed
* Determine when a claim is Ready for Decision (RFD)

References

All M21-1 references are found in the [Compensation](https://vaww.compensation.pension.km.va.gov/system/templates/selfservice/va_ka/portal.html?encodedHash=%23!agent%2Fportal%2F554400000001034%3FLANGUAGE%3Den%26COUNTRY%3DUS) Pension Knowledge Management portal

* [M21-1, Part III, Subpart ii,2. C](https://vaww.compensation.pension.km.va.gov/system/templates/selfservice/va_ka/portal.html?encodedHash=%23!agent%2Fportal%2F554400000001034%2Farticle%2F554400000014115%2FM21-1-Part-III-Subpart-ii-Chapter-2-Section-C-Informal-Claims-Received-Prior-to-March-24-2015-Communication-of-an-Intent-to-File-ITF-and-Requests-for-an-Application), Informal Claims Received Prior to March 24, 2015, Communication of an Intent to File (ITF), and Requests for Application
* [M21-1, Part III, Subpart iii,1, C](https://vaww.compensation.pension.km.va.gov/system/templates/selfservice/va_ka/portal.html?encodedHash=%23!agent%2Fportal%2F554400000001034%2Farticle%2F554400000014156%2FM21-1-Part-III-Subpart-iii-Chapter-1-Section-C-Requesting-Evidence-From-Sources-Other-Than-the-Claimant), Requesting Evidence From Federal Record Custodians
* [M21-1, Part III, Subpart iii,2. B](https://vaww.compensation.pension.km.va.gov/system/templates/selfservice/va_ka/portal.html?encodedHash=%23!agent%2Fportal%2F554400000001034%2Farticle%2F554400000014155%2FM21-1-Part-III-Subpart-iii-Chapter-2-Section-B-Migration-of-Service-Records-and-the-Procedures-for-Obtaining-Them), Migration of Service Records and the Procedures for Obtaining Them
* [M21-1, Part III, Subpart iii,2. I](https://vaww.compensation.pension.km.va.gov/system/templates/selfservice/va_ka/portal.html?encodedHash=%23!agent%2Fportal%2F554400000001034%2Farticle%2F554400000014163%2FM21-1-Part-III-Subpart-iii-Chapter-2-Section-I-Control-and-Follow-Up-of-Requests-for-Service-Records), Control and Follow Up of Requests for Service Records
* [M21-1, Part IV, Subpart ii, 1.A](https://vaww.compensation.pension.km.va.gov/system/templates/selfservice/va_ka/portal.html?encodedHash=%23!agent%2Fportal%2F554400000001034%2Farticle%2F554400000014321%2FM21-1-Part-IV-Subpart-ii-Chapter-1-Section-A-Developing-Compensation-Claims-to-Include-Claims-Filed-Under-38-USC-1151), Developing Compensation Claims, to Include Claims Filed under 38 U.S.C. 1151

Topic 1: Initial Review of Claim

Subsequent Development Purpose

It is the purpose of subsequent development to ensure any evidence required to substantiate a claim is collected or attempts to reasonably attempt to retrieve the evidence has been made. Failure to collect the evidence and reasons why the evidence is not available must be documented, prior to making a claim Ready For Decision (RFD).

* Duty to assist does not end with initial development.
* Complete development is the primary objective of the VSR.
* Failure to completely develop the claim leads to deferrals and significantly extends the life of the claim.

The Pre-Development phase of a claim is designed to gather and forward all evidence needed from the claimant to the rating activity for a decision. Without proper development, the case can be unnecessarily delayed.

Responsibility for Correct Development

When employees handle a claim, they are expected to take the most full and complete action possible on a claim every time – including development, rating, and promulgation actions – to move a claim forward to accurate completion in the claims process.  Every effort should be made to move the claim to the next processing cycle each time it is handled.

Subsequent Development

See M21-1 Part III, Subpart iii, 1.A.1.g for more information about completing all necessary development at once.

Subsequent development focuses on reviewing the development that has already been completed to determine what was done, was it done correctly, and if additional development needed. Sending a claim to rating activity as RFD when the evidence is incomplete, prolongs the processing of a claim, may result in a deferred rating of a claim, and could result in a quality error. Some questions and steps to follow are listed below to assist in getting the claim RFD timely and correctly.

Subsequent development refers to any development action completed after the *initial* review and development of a claim. Examples may include:

* Reviewing attempts to retrieve evidence
* Reviewing recently received evidence
* Checking for records/evidence requested and if applicable, follow-up
* Documenting reasonable attempts to retrieve records/evidence if records/evidence is not available
* Confirming final notification letter was sent, if applicable
* Verifying if examination requests have been requested and/or completed or require follow-up
* Determining if additional development for recently added contentions is required

**Note:** Appropriate subsequent development ensures that procedures outlined in M21-1 IV.ii.1.A.1.a, have been completed or the inability to complete said actions are documented. It is essential to review the file in its entirety.

incomplete Development

Incomplete development prolongs the case and prevents the VBA from fulfilling its obligation to make a timely decision. Sending a claim to the rating activity as “Ready for Decision” when the evidence is incomplete:

* Results in an avoidable deferral and creates the need for redundant actions
* Prolongs the processing of a claim preventing timely notification and potential awarding of benefits of Veteran
* Could result in an incorrect entitlement decision which may have to be overturned in future claims

INITIAL Development REVIEW OF CLAIM

Review the following information when determining if development is complete:

1. Ensure claims folder was properly established or requested
   1. Is there a claims folder established in BIRLS?
   2. Has the claims file been scanned into VBMS Core?
2. Review the claim and associated documents:
   1. Was the claim submitted on the prescribed form?
   2. Is/are the application/s substantially complete?
   3. Are the End Product (EP) and Date of Claim (DOC) correct in VBMS Core?
3. Ensure all claimed contentions are listed in VBMS Core including dependents if applicable:
   1. Is/are medical classification/s populated and accurate?
   2. Is the claim type correct?
   3. If required, are special issue indicators populated and accurate?
   4. If applicable, are all previously rated issues associated to contention?
4. Verify the Veteran’s information has been updated in VBMS Core and Share:
   1. Is the payee addresses (mailing and direct deposit, if applicable) correct?
   2. Is service information accurate?
   3. Is the Power of Attorney (POA) information properly updated?
   4. Are corporate flashes accurate?
5. Verify Intent to File (ITF)
   1. Was an ITF submitted? Check the file for VA Form 21-0966, *Intent to File a Claim for Compensation and/or Pension, or Survivors Pension and/or DIC* and. If no VA Form 21-0966, verify if an ITF exist in the Veteran’s profile in VBMS Core. Did we send an acknowledgement letter confirming receipt of the ITF? If not, see M21-1 III.ii.2.C.2.m. for additional detail on acknowledging receipt of an ITF.
6. Verify whether the §5103 notification requirement has been met
   1. Was the claim submitted on VAF 21-526EZ or was a separate notice sent?
   2. Review all evidence submitted by the claimant, if any
   3. Note the evidence requested and whether or not it has been received
   4. Annotate and/or bookmark records/evidence when reviewed
   5. Determine if further evidence is needed to substantiate the claim
   6. Determine whether the evidence justify an examination, is RFD or requires further development
   7. Ensure tracked items have been updated accordingly and if needed, include **Secondary Action Required** tracked item for exam status to prevent premature RFD

The importance of using the tracked items appropriately cannot be understated. Without appropriate utilization, the system cannot work effectively, claims will not be accurately be reviewed prior to RFD status or may not be identified correctly for processing.

**Note**: It should be noted that the VSR working the claim as the responsibility of accuracy for that claim. Subsequent development is simply a quality control of the actions that were done prior and ensuring that those actions are accurately completed.

Topic 2: Status of Federal Records

It is essential to determine if Federal records have been received or requested as required by duty to assist.

* Were service treatment records (STRs) requested from the correct source? National Personnel Records Center (NPRC) /Healthcare Artifacts and Images Management Solution (HAIMS)/Joint Longitudinal Viewer (JLV)
* Were the STRs received?
* Are STRs complete?
* Are STRs for all periods and branches of service in the file?
* If STRS are not available, was notification sent to Veteran?

**Note:** A STR completion certificate should be with the STRs, effective August 1, 2013, per M21-1 Part III, Subpart iii.2.B.2.b.

A second type of Federal records are **Personnel Records**.

**Note:** Not every claim will require development for the personnel records. However, Veterans who have already had claims processed but an O50 was not requested, may have the need for personnel records to be requested.

A VSR should consider the following things when reviewing personnel records development:

* Were personnel records requested, if needed?
* Were personnel records requested from the correct source (NPRC or DPRIS)?
* Were personnel records received?
* Was appropriate notification sent to Veteran, if personnel records are not available?

PIES: After 45 days with an incomplete or submitted status or 15 days with a completed status but no records in VBMS Core, send an email to VAVBASTL/RMC/PIESFDC, or if claim is over 1 year old, send an email to VAVBASTL/RMC/PIES. See M21-1 III.iii.2. I.1 for follow-up on other branches of service including National Guard and Reserves.

DPRIS usually responds to requests within one day, follow-up requests are normally not necessary. Send a follow-up message through DPRIS, only if service department does not contain the requested records.

**Note:** Follow-up requests to an Army action officer or the JSRRC cannot be processed in DPRIS. For more information, please see M21-1 Part III, Subpart iii.2.I.4.e-f.

Another important Federal record that must be considered for each claim is **VA medical centers (VAMCs) and military treatment facilities (MTF).** VSRs should perform an Enterprise Search in CAPRI and upload any relevant records found. See M21- III.iii.1.C.2.g, Conducting an Enterprise Search in CAPRI for more information.

VAMC records for Veterans can assist in the claims development process by providing current medical evidence, including diagnoses. The records are easily accessible for VBA and should be obtained prior to sending a claim for rating activity.

**Key points to consider:**

* Did the Veteran indicate that he/she was treated at a VAMC or military hospital?
* If a military hospital after service has been indicated, ensure JLV search has been conducted
* If military hospital after service has been indicated and records are not in JLV ensure that a VA Form 21-8359, Information RE Veteran in Uniform Service Hospital (Request by Department of Veterans Affairs) is completed and submitted
* Were the records requested properly?
* Were requested records received and uploaded?

**Note:** For additional detail on requesting military hospital/treatment facility records see M21-1 III.iii.1.C.3., **Receiving Notice of a Veteran’s Admission to an MTF and Requesting Treatment Records**.

A Veteran may specify **mental health treatment was received during service**. However, STRs do not contain in-service mental health treatment records.

* Development to a Military Treatment Facility (MTF) may be necessary

**Note:** Any mental health treatment records not contained in the STRs are usually destroyed after five years after the end of the year in which the case was closed. VA must still develop for the records until we have confirmation, they were destroyed

If it is indicated that there was **treatment at a civilian facility while in service for mental health**, follow procedures for requesting non-Federal records to obtain:

* A completed VA Form 21-4142, *Authorization and Consent for Release of Information to the Department of Veterans Affairs* and 21-4142a, *General Release for Medical Provider Information to the Department of Veterans Affairs*

In certain circumstances **Social Security** records may be needed. The Social Security Administration (SSA) may provide vital information necessary to process the claim. Social Security provides the VA with records associated with SSA disability determinations, as needed.

Evidence of a Social Security Administration decision may be found:

* + the Veteran’s claims folder, or
  + VA systems including, but not limited to, VBMS Core and Share (using the SSA INQUIRY command).

**Note:** Designated employees will have access to the SSA-GSO website to request SSA records.

On occasion a VSR must obtain and evaluate any already-existing records of **Veteran Readiness & Employment Service (VR&E)** serviceconsultation when the evidence indicates that the Veteran underwent VR&E consultation sometime in the past related to a prior VR&E claim, such as (but not limited to):

* Veteran’s report of participation in VR&E
* VR&E folder type shown in the Beneficiary Identification and Records Locator System (BIRLS)
* Chapter 31 payments shown in Share

Topic 3: Inability to Obtain Federal Records

The VA has a responsibility to obtain any and all Federal records, but there are situations where the records cannot be found or are unavailable. VSRs must still notify the Veteran of VA’s attempts to acquire the records.

If efforts to obtain records from a Federal entity (as outlined in M21-1, Part III, Subpart iii.1.C.1.e) are unsuccessful, regional offices (ROs) must:

* prepare a final notification letter using the **Letter Creator** tool
* send the letter to the claimant.

***Exceptions:***

If there are unavailable Federal records, there are three development actions required prior to sending the final notification Letter:

* STRs- the RO must first attempt to locate the records in JLV before sending the final notification letter
* VAMC or VR&E records- the RO must follow the instructions in [M21-1, Part III, Subpart iii, 1.C.2.l](https://vaww.vrm.km.va.gov/system/templates/selfservice/va_kanew/help/agent/locale/en-US/portal/554400000001034/content/554400000014156/M21-1,-Part-III,-Subpart-iii,-Chapter-1,-Section-C---Requesting-Evidence-From-Federal-Record-Custodians#2l), or
* Fire-related records- the Veteran fails to provide enough information to submit a request to reconstruct the records via PIES, follow the procedures in [M21-1, Part III, Subpart iii, 2.E.1.c or f](https://vaww.vrm.km.va.gov/system/templates/selfservice/va_kanew/help/agent/locale/en-US/portal/554400000001034/content/554400000014159/M21-1,-Part-III,-Subpart-iii,-Chapter-2,-Section-E---Unique-Claims-and-Situations-That-Require-Special-Handling), whichever is applicable, instead of sending the final notification letter.

***Important:***

* All claims processors may prepare final notification letters for any type of Federal record.

Topic 4: Alternate Sources for Records

Sometimes service records (both STRs and personnel records) are not available at the locations from which ROs normally obtain them. This is often due to delays in transferring service records from one site to another or destruction of the records. Under these circumstances, ROs should attempt to obtain the records from alternate sources.

VSRs still have a duty to assist and an obligation to attempt to retrieve the records from alternate sources, other than records custodians. This may require asking the Veteran for anything in their possession or developing to a treatment facility or military unit.

Examples of alternate sources:

Service records may:

* remain with the separation center or treatment facility
* be in the veteran's possession, or
* still be at a Reserve/National Guard unit, even though the Veteran’s service obligation has ended.

**Note:** See M21-1, Part III, Subpart iii, 2. B.1 for more information about alternate sources for records.

Topic 5: Determine If an Exam Is Warranted, Once All Development Has Been Completed

Once all development has taken place and all the required elements for ordering an examination have been met, making the decision and ordering examinations or opinions is a key responsibility of the VSR.

The purpose of examinations or medical opinions is to obtain medical evidence relevant to establishing entitlement. This medical evidence could contain a diagnosis, onset information or etiology.

VSRs should consider the following common scenarios when determining if an exam is necessary:

* If the Veteran filed a claim within a year of their discharge, was a DBQ General Medical examination requested?
* If the Veteran is claiming hearing loss, is an exam warranted?
* If the Veteran is claiming posttraumatic stress disorder (PTSD), is an exam warranted?
* Is the Veteran seeking an increase for a service-connected disability? If so, were the appropriate examinations requested?

**Note 1:** The threshold on each of these examinations is very low and in most cases will require an examination or justification as to why one was not given. The Veteran is entitled to a General Medical examination if within one year of discharge.

**Note 2:** When additional development is required in order to complete an examination request it is essential to place the ***Secondary Action Required*** tracked item into system. The failure to accomplish this task may result in the claim being accidently made RFD and deferral.

An examination is not required unless the following **three elements** have been met:

* competent lay or medical evidence of a current diagnosed disability or persistent or recurrent symptoms of disability
* the evidence establishes that the Veteran suffered event, injury or disease in service, or has a disease or symptoms of a disease listed in 38 CFR 3.309, 38 CFR 3.313, 38 CFR 3.316, 38 CFR 3.317, or 38 CFR 3.318 manifesting during an applicable presumptive period,
* and the evidence indicates that the disability or symptoms can be associated with an event in service or another service-connected condition.

**Note:** The requirements needed to justify the request for an examination or opinion are outlined in 38 CFR 3.159.

Topic 6: Non-Federal Records

When a claimant or the claimant’s representative adequately identifies the existence of relevant records, which are not currently in the position of the VA and are non-Federal, the VA has a duty to obtain those records by requesting them or by sending the claimant the appropriate VA forms to allow VA to request the relevant records at any point during the claims process. Examples of non-Federal records include but are not limited to:

* private medical records (PMR)
* lay evidence
* employment records
* state workers compensation records
* buddy statements
* Veteran’s statement

Did the Veteran indicate that there may have been treatment at a non-VA facility? If so, there must be development for the 21-4142 and 21-4142a.

If the VA Form 21-4142 and 21-4142 has been received, has it been sent for development at DOMA or have the actions been completed the if rejected by DOMA?

**Note:** For more information on developing for non-Federal records to include the development of VA Form 21-4142 and 21-4142a, while processing see M21-1, Part III, Subpart i.3.B.3.

**Note:** When requesting private treatment records, the Veteran must have completed a VA Form 21-4142 and VA Form 21-4142a that contains the proper “HIPAA” language (September 2003 version).

**Private medical records (PMR)** requests (VA Form 21-4142 and VA Form 21-4142a) that are received through Centralized Mail Portal are sent to the PMR contractor.

* PMR contractor will complete the necessary development to retrieve the records.
* VSRs will need to review the VAF 21-4142 and 4142a to ensure the form has been sent to the contractor. If the forms were not or they were rejected by the contractor, it is the VSR’s responsibility to determine the next necessary action.
* If additional development is required, the VSR must complete the development in VBMS Core and ensure that a tracked item is created.

When development is completed by the Private Medical Record (PMR) program, it is still the VSR’s responsibility to ensure the records were requested and to create any necessary tracked items. If PMR rejected the form, a VSR is required to review the rejected form for the reason and complete any additional development.

**Note:** The Private Medical Records (PMR) Program is discussed in more detail in a separate lesson, TMS #4182199.

**Non-Federal Records Follow-up**

When requesting records from non-Federal sources other than PMRs through contractor, allow the following:

* 15 days for a response to the initial request
* 15 days for a response to a follow-up request, unless a response to the initial request indicates that the records do not exist/follow-up request would be futile.

**Inability to Obtain Non-Federal Records**

VA has a duty under 38 U.S.C. 5103A(b) and 38 CFR 3.159(e) to notify claimants of the inability to obtain any relevant *private records* that are identified by the claimant and necessary to substantiate a claim.

**Note:** The required notification of inability to obtain private records may be sent when making a final notification of the rating decision is completed.

Topic 7: Summary

Subsequent development is the last opportunity to ensure quality control prior to rating and is one of the most important functions of a VSR. Without appropriate and correct subsequent development, the claim will not only be prolonged, but time spent on redundancies result in a chain of events that prevent optimum efficiency as an organization as well as the individual efficiency as a VSR or RVSR. In its lowest form subsequent development is making sure that the claim is done right and that someone else does not have to correct or complete what was required.

Ask yourself the following before forwarding claim to the rating activity:

* Is the application substantially complete?
* Is service verified and all information updated in VBMS Core and if applicable, Share?
* Was section 5103 notice provided?
* Is service treatment, personnel and all other Federal records properly requested?
* Are all the required records received/uploaded to file?
* Has development for any private medical or non-Federal evidence necessary to substantiate the claim been completed?
* Has all evidence been received and reviewed to determine if an exam is necessary?
* Has an exam been requested?
* Has the exam results been received?
* Have tracked items been created and/or updated?
* Has a VBMS Core note been completed?

**Note:** M21-1 IV.ii.1.A.1.a provides a general overview of actions undertaken by the claims processor in the course of compensation development as well as links to specific topics and sections in the manual used for processing claims.

# Practical Exercise

**Instructions:** Answer the below questions and provide a manual reference to support your answer.

1. The \_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_ protects all individually identifiable health information held or transmitted by a covered entity or its business associate in any form or media, whether electronic, paper, or oral.
2. When a claim or issue is under-developed or incomplete, it causes the RVSR to \_\_\_\_\_\_\_\_\_\_.
3. How many days does the VA provide for initial and follow-up requests for non-Federal records?
4. When reviewing the Veteran’s file, what questions should you ask regarding the STRs?
5. How are Social Security Administration (SSA) disability records requested?
6. How long does a military treatment facility or civilian treatment facility house mental health records?
7. If you are unable to locate a Veteran’s records at the place where they should be according the dates of service, name three possible places of locations you can check.
8. What forms are required when requesting a Veteran’s private treatment records?