Is This Claim Ready to Promulgate?

Trainee Handout

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Objectives

The purpose of this lesson is to teach the VSR how to review the evidence received and of record in a C file and or VBMS E File to confirm and verify the claim (rating/non) is ready for award input and authorization.

This will be accomplished by:

* Identifying the requirements needed to be considered a substantially complete claim
* Analyzing and confirming receipt of a substantially complete claim
* Confirming and verifying all aspects of the Section 5103 notice have been properly completed
* Understanding the different types of claim and end products

With rating End Products (EP) 110s, 130s and 020s; what stage or phase of the claim establishes (CEST) the proper EP control? Who initiates the review and development of the submitted claim? Who decides service connection and severity of claimed disability?

References

All M21-1 references are found in the [Live Manual Website](https://vaww.compensation.pension.km.va.gov/system/templates/selfservice/va_ka/portal.html?encodedHash=%23!agent%2Fportal%2F554400000001034)

* [38 CFR 3.1, Definitions](https://vaww.compensation.pension.km.va.gov/system/templates/selfservice/va_ka/portal.html?encodedHash=%23!agent%2Fportal%2F554400000001034%2Farticle%2F554400000018469%2F01-31-Definitions%3FfromQuery%3Ddefinitions)
* [38 CFR 3.6, Duty periods](https://vaww.compensation.pension.km.va.gov/system/templates/selfservice/va_ka/portal.html?encodedHash=%23!agent%2Fportal%2F554400000001034%2Farticle%2F554400000018474%2F06-36-Duty-periods%3FfromQuery%3D3.6)
* [38 CFR 3.7, Individuals and groups considered to have performed active military, naval, or air service](https://vaww.compensation.pension.km.va.gov/system/templates/selfservice/va_ka/portal.html?encodedHash=%23!agent%2Fportal%2F554400000001034%2Ftopicsearch%2F3.7%2F554400000003488)
* [38 CFR 3.150,  Forms to be furnished](https://vaww.compensation.pension.km.va.gov/system/templates/selfservice/va_ka/portal.html?encodedHash=%23!agent%2Fportal%2F554400000001034%2Ftopicsearch%2F3.150%2F554400000003488)
* [38 CFR 3.151, Claims for disability benefits](https://vaww.compensation.pension.km.va.gov/system/templates/selfservice/va_ka/portal.html?encodedHash=%23!agent%2Fportal%2F554400000001034%2Ftopicsearch%2F3.151%2F554400000003488)
* [38 CFR 3.155,  How to File a Claim](https://vaww.compensation.pension.km.va.gov/system/templates/selfservice/va_ka/portal.html?encodedHash=%23!agent%2Fportal%2F554400000001034%2Ftopicsearch%2F3.155%2F554400000003487)
* [38 CFR 3.158,  Abandoned claims](https://vaww.compensation.pension.km.va.gov/system/templates/selfservice/va_ka/portal.html?encodedHash=%23!agent%2Fportal%2F554400000001034%2Ftopicsearch%2F3.155%2F554400000003487)
* [38 CFR 3.159,  Department of Veterans Affairs assistance in developing claims](https://vaww.compensation.pension.km.va.gov/system/templates/selfservice/va_ka/portal.html?encodedHash=%23!agent%2Fportal%2F554400000001034%2Farticle%2F554400000018534%2F10-3159-Department-of-Veterans-Affairs-assistance-in-developing-claims%3FfromQuery%3D3.159)
* [38 CFR 3.160, Status of claims](https://vaww.compensation.pension.km.va.gov/system/templates/selfservice/va_ka/portal.html?encodedHash=%23!agent%2Fportal%2F554400000001034%2Farticle%2F554400000018535%2F11-3160-Status-of-claims%3FfromQuery%3D3.160)
* [38 CFR 3.2130,  Will VA accept a signature by mark or thumbprint?](https://vaww.compensation.pension.km.va.gov/system/templates/selfservice/va_ka/portal.html?encodedHash=%23!agent%2Fportal%2F554400000001034%2Farticle%2F554400000019038%2F02-32130-Will-VA-accept-a-signature-by-mark-or-thumbprint%3FfromQuery%3D3.2130)
* [M21-4, Appendix B, End Product Codes and Work-Rate Standards for Quantitative Measurement](https://vaww.compensation.pension.km.va.gov/system/templates/selfservice/va_ka/portal.html?encodedHash=%23!agent%2Fportal%2F554400000001034%2Farticle%2F554400000011474%2FAppendix-B-End-Product-Codes-and-Work-Rate-Standards-for-Quantitative-Measurements)
* [M21-1.Part I, Chapter 1.B, Duty](https://vaww.compensation.pension.km.va.gov/system/templates/selfservice/va_ka/portal.html?encodedHash=%23!agent%2Fportal%2F554400000001034%2Farticle%2F554400000014065%2FM21-1-Part-I-Chapter-1-Section-B-Duty-to-Notify-Under-38-USC-5102-and-5103) to Notify Under 38 U.S.C. 5102 and 5103
* [M21-1,Part III, Subpart ii, 1, A, Process Overview](https://vaww.compensation.pension.km.va.gov/system/templates/selfservice/va_ka/portal.html?encodedHash=%23!agent%2Fportal%2F554400000001034%2Farticle%2F554400000014108%2FM21-1-Part-III-Subpart-ii-Chapter-1-Section-A-Process-Overview)
* [M21-1, Part III, Subpart ii, 2, Benefit Programs and Types of Claims](https://vaww.compensation.pension.km.va.gov/system/templates/selfservice/va_ka/portal.html?encodedHash=%23!agent%2Fportal%2F554400000001034%2Ftopic%2F554400000003077%2FChapter-02-Benefit-Programs-and-Types-of-Claims)
* [M21-1, Part III, Subpart ii, 6, Determining Veteran Status and Eligibility for Benefits](https://vaww.compensation.pension.km.va.gov/system/templates/selfservice/va_ka/portal.html?encodedHash=%23!agent%2Fportal%2F554400000001034%2Farticle%2F554400000014143%2FM21-1-Part-III-Subpart-ii-Chapter-6-Determining-Veteran-Status-and-Eligibility-for-Benefits)
* [M21-1, Part III, Subpart v, 2, A, Decision Authorization](https://vaww.compensation.pension.km.va.gov/system/templates/selfservice/va_ka/portal.html?encodedHash=%23!agent%2Fportal%2F554400000001034%2Farticle%2F554400000014229%2FM21-1-Part-III-Subpart-v-Chapter-2-Section-A-Decision-Authorization)
* [M21-1, Part III, Subpart v, 2, B, Decision Notices](https://vaww.compensation.pension.km.va.gov/system/templates/selfservice/va_ka/portal.html?encodedHash=%23!agent%2Fportal%2F554400000001034%2Farticle%2F554400000014231%2FM21-1-Part-III-Subpart-v-Chapter-2-Section-B-Decision-Notices)

Topic 1: Confirm Receipt of a Substantially Complete Claim

Receiving a substantially complete claim can be the difference between a claim and a Request for Application (RFA) or an Intent to File (ITF). As a VSR your job is to review the evidence received and in C-file or VBMS eFolder, and confirm and verify a substantially complete claim has been submitted. After this lesson you will know what makes-up a substantially complete claim and what evidence satisfies these requirements.Refer to references: 38 CFR 3.159 (a)(3) and M21-1, Part I.Chapter 1.B to identify the requirements of a Substantially complete Claim.

**A substantially complete application must include the following:**

Name, Disability, Benefit, Service data and Signature

Note: Income when Pension is claimed.

|  |  |
| --- | --- |
| **Name And Personal Data:**  **Disability/Disabilities:**  **Benefit Sought:**  **Service Data:**  **Signature:** | Review Pending Issue File (PIF) and C-file/eFolder to verify all personal data is current.  Prior to working a claim we must make sure:   1. You have the correct C-file or VBMS e File with the claim. 2. Name and mailing address is current 3. If POA, is it correct and 21-22 (Service Organization) or 21-22a (Private Agent/Attorney) is of record. 4. If entitled to additional dependency benefits, are records current. 5. Update computer records by Pending Issue File Change (PCHG) command.   Did the Veteran provide any evidence of a claimed disability or disabilities? If not, contact the Vet or their Service Organization representative (if applicable), for claimed conditions.  Identify the benefit sought – Compensation, Pension, or Both   * Personnel: Confirm Veteran status, based on service component. * Medical: Do we have all Service Treatment Records (STRs) and/or Clinicals? * Finance: Is Veteran in receipt of retired pay, severance pay, separation pay, drill pay?   May be Original (wet signature), Fax, e-signature (eBenefits submission), Thumbprint (refer to 38 CFR 3.2130 for requirements to sign by thumbprint) |
|  |  |

Topic 2: Claim Types and End Products (EP)

To identify the type of claim, the VSR must have a thorough understanding of each claim type and its End Product (EP). (review 38 CFR 3.160(e))

***THERE ARE TWO SEPARATE RATING RELATED CLAIMS: ORIGINAL AND NON ORIGINAL***

**\*Note:** Duty To Assist (DTA) is the same for both original and non original claims.

**Original**: First time a Veteran has submitted a claim for VBA benefits. This is identified by one of two different EPs. **They are 110/010**.

Below is a list of documents to research when reviewing the VBMS eFolder or C-file

* Correct and complete application (to include VA Form 21-526, VA Form 21-686c, etc.)
* Veteran status (DD214 ,or PIES S01/O50),
* Service Treatment Records (E-mail to RMC or PIES M01/O50)
* Sep/Sev pay (DFAS or PIES O03/O50) remind students the separate request for financial records means separate PIES sheet
* Private physician/facility treatment (VA Form 21-4142)
* Treatment from the VA Medical Center (CAPRI or VA Form 10-7131)
* VA examination, Disability Benefits Questionnaires (DBQ) or QTC/MES exams
* Section 5103 Notice (formerly VCAA Letter) addresses all issues claimed

(to include all “Special” issues i.e. Agent Orange and PTSD).

**Non Original** is broken into five separate sub claims: New, Increase, Reconsideration, Reopen and Secondary. **They can be represented by the following EPs: 020, 310, 320, 290**

For the purposes of this lesson, we will only address what is needed to review the claim.

The main difference with an Original and Non Original claim is the original claim must be submitted on VA Form 21-526 or VA Form 21-526EZ, for live, Compensation and Pension, VA Form 21-527EZ for pension and VA Form 21-534EZ for Death. The EPs 110/010 = Live Compensation, 180 = Live Pension, 140 = Death Compensation(DIC), and 190 = Death Pension.

**Remember: On all claims you must make sure all personal data is correct, as stated in the earlier part of the lesson.**

Next, are some of the questions to ask yourself, if the action has been taken or is the evidence in the file.

1. Which EP is pending? Since each EP identifies the claim type, knowing the EP will assist us to confirm and verify.
   1. 110/010 or 020 = Compensation, Pension or Both
      1. What are the claimed disabilities?
      2. What records (federal/non) are needed and are they of record or did we request them?
      3. Was a VA examination required? Increase claim = Yes
      4. Was the claim or issue previously denied?
         1. Over 1 year = Reopen and New and Material evidence is required
         2. Less than a year = Reconsideration and new evidence is required.
      5. Reviewing Section 5103 Notice
         1. Were all issues (rating/non) identified and addressed in letter?
         2. Did we inform the Veteran/Claimant of the evidence needed to support their claim?
         3. If we requested records, did we also ask the Veteran/Claimant?
         4. Did we include the “What the Evidence Must Show” attachments?
      6. If rating decision, did the rating address all claimed conditions?
   2. 130 = Dependency issue (This will be addressed during the “Dependency” lesson.) Is the Veteran’s compensation 30% or greater.
      1. Are we adding a dependent or increasing due to school child eligibility?
      2. Was the required evidence/documetation received to establish dependency benefits?
2. Did the claimant submit a VA Form or memo (if prior to March 24, 2015) identifying the claim? If a form, review to determine exactly what is being claimed. If memo, brief through the information to determine what is being claimed.
3. What are the claimed issues? If submitted on a specific form for that benefit, you have a good idea of the issues. If an original claim, you will need to check all parts of the form to make sure there are no “hidden” claims!
   1. For instance, Veterans will use the “Remarks” boxes to include other issues or maybe some essential information to support their claim.

Topic 3: Confirm and Verify Section 5103 Notice

Important: The VSR is the final employee to make sure we have provided proper Duty To Assist (DTA), IAW 38 CFR 3.159 and the most current guidelines found in the Live Manual Website.

**Be advised, notificaton errors are one of the major issues, found by the STAR staff.**

During this section, we will discuss the differenct types of compensation claims and their corresponding EPs. Knowledge of the proper Duty To Assist for each claim is vital in reviewing a claim and determining if the claim is ready to promulgate.

Important: If any part of the development has been missed, neglected or forgotten, and the issue is denied, the claim is not ready and/or can not be promulgated. This regulation obligates the Secretary (VA employees) to assist the Veteran/claimant in support of their claim. This support consists of advising what is needed to support the claim and obtaining evidence (federal and non) for the Veteran/claimant.

**Proper Section 5103 Notice Issued**

* All issues addressed
* Obtain federal/non federal record
* VA Exam completed or DBQ submitted by veteran
* Specific development for “Special” issues i.e. Agent Orange, PTSD
* Ensure all What the Evidence Must Show “WTEMS” are addressed.

**\*\*\*\*Note - Remember WTEMS is included in the 526EZ**

Practical Exercise

1. What are the requirements for a substantially complete claim? What is the regulation that governs these requirements?
2. What is active service? Give the regulation or directive that gives the definition.
3. Which two Titles control active service with the National Guard? Support your answer with the M21-1 reference.
4. What is the acromym used for the command when a record in Share needs to be changed?
5. A Veteran submits a statement that their service connected ankle has become worse and painful. What type of claim is this considered to be?
6. Which type of claim needs New and Material evidence? Explain the difference in these two types of evidence:

New: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Material: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

1. Which EP controls an original claim with less than 7 issues?
2. List at least 5 documents to research when revewing the VBMS eFolder or C-file

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