

Office of Administrative Review (OAR)

Quality Call Bulletin

July 2020

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AMO'S TRANSITION TO OAR

Target Audience: DROC QRTs and Management

Presenter: James Fogg, Program Analyst, OAR

AMO transitioned to OAR effective July 4, 2020. VBA Leadership determined this was necessary to reflect the transition from legacy appeals to AMA and OAR's continued commitment to the mission of serving Veterans faster and more accurately.

This transition does not change what OAR does, it simply reflects the renewed focus on the higher-level review workload, while also finalizing the remaining legacy remands coming from the Board.

OAR will continue to operate with three separate divisions: Program Administration, Internal Controls and Compliance, and Operations. For more information, please see the [OAR intranet site](https://vbaw.vba.va.gov/oar/), located at: <https://vbaw.vba.va.gov/oar/>

EFFECTUATING BOARD DECISIONS AND DOWNSTREAM ISSUES

Target Audience: DROC QRTs and Management

Presenter: Thomas Fryzel, Senior Management and Program Analyst, OAR

On April 30, 2020, OAR updated M21-5 5.1.c, *Restrictions of HLRs*, to clarify handling higher-level reviews of a Board decision. VA cannot accept a higher-level review of a Board decision involving the same issue without an intervening supplemental claim.

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Effectuating Board grants may result in granting downstream issues. Downstream issue(s) arise as a direct result of a favorable decision on an appealed issue that the decision maker must address.

Example: A Veteran files a disagreement for service connection (SC) of depression. The Board grants SC for depression. When effectuating the Board's decision, the DRO must address the following downstream issues: disability evaluation, effective date, and entitlement to any ancillary benefits that arise, based upon the evidence, such as individual unemployability, Dependents' Educational Assistance, and/or special monthly compensation.

The resultant downstream issues are eligible for review under any of AMA's three review options when new review rights are assigned consistent with M21-5 7.D.2, *Partial Grants, Full Grants, SOCs and SSOCs*.

ERROR TRENDS: OCTOBER 2019 – MAY 2020

Target Audience: DROC QRTs and Management

Presenter: James Fogg, Program Analyst, OAR

Claims-Based Accuracy

Authorization			
DROC	Claim (BE) Accuracy	Total Count	In Error
St. Petersburg:	89.0%	163	18
Seattle:	90.4%	146	14
Total	89.6%	309	32

Rating			
DROC	Claim (BE) Accuracy	Total Count	In Error
St. Petersburg:	86.0%	57	8
Seattle:	96.8%	63	2
DC DROC:	86.9%	61	8
Total	90.1%	181	18

Please note that the data presented is raw and does not correlate to the Director's Dashboard for each DROC. The DROC may view the Director's Dashboard on the OAR Quality Metrics webpage at: https://vbaw.vba.va.gov/OAR/Quality_Metrics.asp. For more information, please see the [OAR intranet site](https://vbaw.vba.va.gov/oar/), located at: <https://vbaw.vba.va.gov/oar/>

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Issue-Based Accuracy

Rating			
DROC	Issue (BE) Accuracy	Total Issues	Issue Errors
St. Petersburg:	93.6%	157	10
Seattle:	98.9%	189	2
DC DROC:	93.6%	187	12
Total	95.5%	533	24

Please note that the data presented is raw and does not correlate to the Director's Dashboard for each DROC. The DROC may view the Director's Dashboard on the OAR Quality Metrics webpage at: https://vbaw.vba.va.gov/OAR/Quality_Metrics.asp. For more information, please see the [OAR intranet site](https://vbaw.vba.va.gov/oar/), located at: <https://vbaw.vba.va.gov/oar/>

Top Benefit Entitlement (BE) Error Questions in National OAR Reviews

Authorization:

The top authorization BE error questions were Question 8, *Were all dependency adjustments and/or decisions correct*, and Question 9, *Were all required withholdings/reductions correctly implemented?* There were 13 errors for each of these questions. The main descriptors in error were:

- Dependency adjustment effective date not correct, and
- Dependent minor biological child/children established, denied, or removed incorrectly
- Drill pay not withheld or withheld incorrectly, and
- CRDP or CRSC adjustment incorrect

Please note that Questions 8 and 9 remain the top authorization BE Error Questions.

Rating:

The top rating BE error question was Question 7, *Are all effective dates affecting payment correct?* There were 8 errors for this question. The main descriptors in error were:

- D1j: Incorrect effective date for all other situations (general), and
- D1e: IU criteria met or not met from an earlier date

Please note that Question 7 remains the top rating BE Error Question.

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Top AMA Error Questions in National AMO Reviews

Authorization:

The top authorization AMA error question was Question 10, *Was the claimant properly notified?* There were 19 errors for this question. The main descriptors in error were:

- A summary of the applicable laws and regulations, and
- Non-rating decision failed to explain met and/or not met

Please note that Question 10 continues to be the top authorization AMA Error Question.

Rating:

The top rating AMA error question was Question 9, *Was Decision Documentation correct?* There were 8 errors for this question. The main descriptors in error were:

- E4b: An explanation of the laws and regulations applicable to the claim was not provided (AMA), and
- E4c: A summary of favorable findings made by the decision maker was not provided (AMA)

Please note that Question 9 continues to be the top rating AMA Error Question.

INCORPORATING DRO QUALITY REVIEWS INTO QMS

Target Audience: DROC QRTs and Management

Presenter: Chelsey Kondrak, Senior Management and Program Analyst, OAR

OAR made updates to the Quality Management System (QMS) that will allow for a smooth transition for all DRO quality reviews from Automated Standardized Performance Elements Nationwide (ASPEN) to QMS.

Incorporating DROs into QMS allows for improvement to the quality review process and analysis of quality-related data.

- All quality review information available in one database for analysis
- Enhanced and consistent data tracking and reporting
- Automated notification and tracking of errors

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The next steps for incorporating DRO quality reviews into QMS are:

- OAR provided training on July 14th for DROs and management on the QMS error notification process
- OAR released training materials on July 22nd, to include the recording, job aid(s), QMS User Guide, and PowerPoint to the stations and employees.
- The targeted go-live date for incorporating DRO quality reviews into QMS is August 2020.

INCLUSION OF LAWS AND REGULATIONS IN CONFIRMED AND CONTINUED EVALUATION DECISIONS

Target Audience: DROC QRTs and Management

Presenter: Chelsey Kondrak, Senior Management and Program Analyst, OAR

Per 38 CFR 3.103(f), notification of decisions must include a summary of the laws and regulations applicable to the claim. Failure to include applicable laws and regulations is one of the top critical individual quality review errors.

OAR established a workgroup to identify remediation efforts for ensuring employees are consistently citing applicable laws and regulations. As part of the efforts of the Laws & Regulations Workgroup, Compensation Service conducted a review of a sample of Rating Individual Quality Reviews (IQRs) with task #9 errors in the subcategory “The laws and regulations applicable to the claim were not provided.” Of the errors reviewed, 50% were confirmed and continued (C&C) evaluation decisions that were missing 38 CFR Part 4 references for the disability evaluation assigned. Use of the VBMS-R Evaluation Builder (EB) is mandatory. (M21-1, III.iv.6.C.5.c).

If the EB is not used in a C&C evaluation decision, the proper 38 CFR Part 4 reference will not be included in the narrative. Employees must proofread decisions to ensure the applicable law or regulation reference(s) are included for each component of the decision. (M21-1, III.iv.6.C.5.a)

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VBA FEEDBACK LOOP SHAREPOINT SITE SUBMISSIONS

Target Audience: DROC QRTs and Management

Presenter: ReEdna Bankhead, Program Analyst, OAR

OAR is awaiting guidance from the Board regarding submissions to the VBA Feedback Loop SharePoint site. Any cases submitted to the VBA Feedback Loop SharePoint site should be put on hold, and no further action should be taken until a response is provided by OAR.

Additionally, the DROC Quality Review Team Coach and/or Assistant Coach must review and concur on the “Reasons for Requesting Clarification of the Board Decision Instructions” prior to submitting the case to the VBA Feedback Loop SharePoint Site. This ensures the submissions are accurate and include all pertinent information prior to submission to OAR.

Additional information is located in the *VBA Feedback Loop SharePoint Site Standard Operating Procedure (SOP)*.

QUESTIONS

1. How should the DROC complete an EP for Board grants for new and relevant/reopen/readjudication only? For example, the Board grants that new and relevant evidence was received for ISSUE X, so EP 030 is established. The Board remanded service connection for ISSUE X, so EP 040 is established. A rating decision is not really needed to implement the grant. Should the EP 030 be cancelled?

Response: The end product 030 should not be cancelled.

In the scenario listed above, the Board will send their decision to the Veteran/claimant. Caseflow will establish an EP 030 and send the case to National Work Queue as ready for decision. If the Board decision requires development, VBA will return those issues on the EP 030 for the required development. Any issues that do not require development, VBA will address in a partial grant. Continue the EP 030 at Authorization.

Reference: M21-4 Manual, Appendix B; M21-5, Chapter 4 – Appeals Modernization Act (AMA) Control and Other Activities

2. We know that notification letters require applicable laws/regulations for military pay withholding (retired pay, separation pay, etc.). Do these notification letters also VBA to include evidence used for the withholding?

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Response: As a general rule, notification letters require the inclusion of evidence used for military pay withholding decisions. Specifically, 38 CFR 3.103(f), *Procedural due process and other rights – Notification of decisions*, states that “written notification must include in the notice letter, or enclosures (or a combination thereof), a summary of the evidence considered” in making the decision, such as in military pay withholdings. For instance, if the authorization activity’s decision *does not* require an administrative decision, the authorization activity must provide in the decision notice sufficient detail regarding the rationale used in reaching the decision to ensure the claimant will understand its basis. Therefore, written notifications must include all evidence used for such withholding, as applicable.

An exception is if a notice of proposed adverse action preceded a decision notice, as described in [M21-1, Part III, Subpart v, 2.B.1.a](#), *Notifying a Claimant or Beneficiary of a Potentially Adverse Decision*, there is no need to re-summarize in that decision notice any evidence referenced in the notice of proposed adverse action.

Reference: For more information on decision notice requirements, see [M21-1, Part III, Subpart v, 2.B.1.b](#), *Decision Notice Requirements*.

3. When we have a missing law during a DRO denial it falls under A11 under the AMA DRO check list. This is not a benefit entitlement error so it is up in the air if it is critical for DROs. How should we enter this in QMS as a comment non-critical error?

Response: For quality reviews of RAMP or AMA higher-level reviews, DROC RQRS employees should use the RAMP/AMA DRO Checklist to align error calls with the appropriate DRO checklist questions in ASPEN, and effective August 1, 2020, with the appropriate DRO checklist questions in QMS. RAMP/AMA descriptors are identified on the RAMP/AMA DRO Checklist under the critical versus non-critical questions for which they should be cited.

In accordance with M21-5, 3.A.11.b., procedural deficiencies are not recorded as benefit entitlement errors but rather as decision documentation/notification or administrative comments. On the RAMP/AMA DRO Checklist, questions E1 and E2 are considered decision documentation comments and not critical errors. Errors classified under all other questions, to include corresponding descriptors, on the RAMP/AMA DRO Checklist are considered critical errors. The descriptor, “Missing laws and regulations,” is classified under benefit entitlement question A1 on the RAMP/AMA DRO Checklist, and therefore, it is considered a critical error.