



**DEPARTMENT OF VETERANS AFFAIRS**  
**Veterans Benefits Administration**  
**Washington, D.C. 20420**

August 27, 2020

Executive Director (00/21C)  
All VBA Regional Offices and Centers

In Reply Refer To:  
Policy Letter 20-02  
Updated August 27, 2020

**Subject:** Novel Coronavirus (COVID-19) Claims and Appeals Processing Guidance

### **Purpose**

This updated letter informs all regional offices and centers that the COVID-19 global pandemic is considered a good-cause basis for VA to grant extensions of time limits to submit certain documents/responses or if a claimant fails to report for a hearing or scheduled Compensation and Pension (C&P) examination and requests to reschedule. In addition, for the purpose of determining the date of entitlement, VA will accept the postmark date on any correspondence received from any claimant containing claims, information, or evidence as the date of receipt by VA.

**This guidance updates and supersedes previously issued PL 20-02 dated April 6, 2020. The updated guidance contained in this letter applies from August 27, 2020 and will expire 60 calendar days following the date the President ends the national state of emergency.**

### **Background**

On March 11, 2020, the World Health Organization upgraded the status of the COVID-19 outbreak from epidemic to pandemic. On March 13, 2020, the President declared that the COVID-19 outbreak constituted a national emergency, beginning March 1, 2020. While United States Postal Service (USPS) operations have continued, in some cases, local travel restrictions or other COVID-19-mandated health precautions may impact the ability of claimants to timely file forms, and other documents, or to perform travel that may be required as part of the VA claims/appeals process. In addition, COVID-19 is impacting VA's ability to receive mail.

Under 38 C.F.R. §§ 3.109(b) and 19.53, VA has the authority to grant time limit extension requests, provided good cause is shown for the delay. VA may also postpone final action on a claim if good cause can be shown for a claimant's failure to take a required action, such as not reporting for a C&P examination or a prescheduled hearing. See 38 C.F.R. §§ 3.105(i)(2) and 3.655. Finally, under 38 C.F.R. § 3.1(r), VA may grant

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exceptions to the general date of receipt rules for claims when a natural or man-made disaster interferes with the normal channels through which VA ordinarily receives correspondence and this would adversely affect claimants through no fault of their own.

## **Guidance**

The policy guidance in this letter applies to all regional office claims and appeals processing personnel within the Veterans Service Centers, Pension Management Centers, and Decision Review Operations Centers.

Effective March 1, 2020, if a claimant or a claimant's authorized representative requests an extension of a time limit associated with a required action based on the COVID-19 pandemic, including,

- the filing of a claim that would perfect a previous expired communication of intent to file
- the filing of a response to a proposed adverse action
- the submission of requested evidence, or
- attendance at a hearing or C&P examination,

VBA will grant these requests under the good cause provisions, provided the time limit would have expired or situation occurred on or after March 1, 2020.

To request an extension for filing due to COVID-19, claimants should note the request on their filing submission or attach the request as a separate document. Where an extension is requested after expiration of a time limit, the action required of the claimant must be taken concurrent with or prior to the filing of a request for extension of the time limit. To ensure full consideration of a time limit extension, claimants should note in their request that they are requesting an extension of the time allowed to take the specified action on a claim because of COVID-19, (or any related reference to COVID-19, the coronavirus, national pandemic, or similar language). If the request is submitted after initial submission of a pending claim or appeal, the claimant should specify the time limit for which they are seeking an extension to ensure accurate processing.

## **Requests for Time Limit Extensions**

Claimant requests for extensions of time limits under section 3.109 only apply to submission of a claim or claim-related information or when contesting a VA decision. For example, VBA can extend the time limit when a claimant previously submitted an intent to file and was later unable to perfect a complete claim within the one-year period, but would not be able to use good cause to otherwise grant an earlier effective date if no intent to file was ever communicated. Extensions for legacy appeal time limits under section 19.53 must be received in writing. As there is no specific form requirement for

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requesting good cause extensions of time limits, VBA will accept COVID-19 pandemic- related extension requests on any form or written documentation.

### **Evidence Submission**

Claimants who have already filed a claim may continue to submit requests in writing or over the telephone for extensions related to evidence submissions. Telephone communication must be properly documented on a report of contact, VA Form 27-0820, Report of General Information. Claims processors must also update any suspense dates for tracking purposes. A note should be placed in the record stating no final action should be taken until the evidence is submitted or the extension period concludes.

### **Requests to Reschedule Hearings or C&P Exams**

Claimants who have already filed a claim and who request to reschedule hearings or C&P examinations based on section 3.655 may continue to submit requests in writing or over the telephone. Telephone communication must be properly documented on VA Form 27-0820. The examination or hearing should be rescheduled or, if rescheduling is not a possibility, a note should be placed in the record stating no final action should be taken until a hearing or exam is completed.

### **Processing an Extension**

If the time limit extension request does not identify the issue for which extension is requested, and the issue cannot be determined based on a review of the file, employees must make one attempt to contact the claimant and/or representative, if applicable, by telephone to clarify the issue and document the attempt or successful contact on VA Form 27-0820. If the telephonic attempt at clarification is unsuccessful, reject the extension request and send written notification to the claimant.

For extension requests that are granted under this letter, claims processors will include the following statement in the decision notification letter to the claimant.

*VA has granted your time limit extension request due to the Novel Coronavirus (COVID-19) pandemic.*

For any extension requests unrelated to COVID-19, or outside the timelines noted in this letter, claims processors should apply the requirements of section 3.109 or 19.53 to make a fact-based determination on whether the extension can be granted. Denials of extension requests are separately appealable, and claimants should be given standard claims review rights.

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Claims processors should follow existing M21-1 and M21-5 procedures regarding requests for extension of time limits outside the timeframe of this letter. Such requests must be reviewed on a case-by-case basis and determined on their individual merits.

### **Date of Receipt Guidance**

For the purpose of determining the date of entitlement, any correspondence addressed to VA during the designated period of this policy letter's applicability will be considered received on the date of the postmark affixed by USPS (or other mail delivery service).

In the event there is no postmark or date stamp, VA will adhere to the policies expressed in the table below to construe the date of receipt of all correspondence received from domestic zip and foreign mail codes.

<b>If the correspondence has no postmark and bears a VA date stamp or Claims Intake Center COVID-19 watermark dated ...</b>	<b>Then consider the correspondence to have been received as of ...</b>
on or after March 1, 2020, but before August 27, 2020	February 29, 2020
on or after August 27, 2020, but before the 60th day following the end of the national state of emergency	10 calendar days prior to the date of the date stamp or watermark.

This represents a change from the prior version of this Policy Letter, which allowed for use of the date of February 29, 2020, for correspondence with no postmark or date stamp by USPS; this change is effective the date of issuance of this updated Policy Letter. This change is necessary to account for the length of the COVID-19 pandemic and the realities of current mail processing. Mail service during the pandemic has been uninterrupted, and due to length of the COVID-19 pandemic, it is no longer reasonable to assume that mail lacking a postmark was received prior to March 1, 2020. Most mail sent to regional offices is forwarded directly to VBA's Claims Intake Center for scanning and processing; however, some sites are excluded from direct forwarding. At those sites, there are personnel onsite to review the mail and send it for scanning.

While VA is aware of some minor delays in either forwarding the mail or in scanning mail received, in either case, treating mail as received by VA 10 calendar days prior to the date of scanning at the Claims Intake Center is sufficient to cover any current delays in mail processing. In applying this guidance, VA is attempting to give claimants the earliest and most accurate date of claim. In situations where applying this liberal guidance would be clearly erroneous, VA will provide the best estimate for the date of receipt. This approach allows VA to utilize a date of mail receipt that is more closely

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aligned with the actual date of receipt. Examples of possible situations in which applying this liberal guidance would be clearly erroneous include cases such as the following:

- for survivors' claims, applying a date earlier than the date of the Veteran's death, and
- for decision review elections, applying a date earlier than the date upon which VA issued notice of the previous decision.

Notable exceptions to this general guidance are outlined below.

- In cases in which a postmark is
  - illegible, treat the correspondence as having been received without a postmark, or
  - only partially legible, apply the procedures found in M21-1, Part III, Subpart ii, 1.C.1.b, providing the best estimate for date of receipt and identifying it as an estimate on the document or in the claims-processing system.
- Where existing regulations permit an earlier date of receipt, such as in 38 CFR 3.108, 3.153, or 3.201, apply the earliest date of receipt allowed by law or regulation.
- For Veterans Pension, accept the date on which a document was scanned at the Claims Intake Center, in lieu of postmark, as its date of receipt, if such action results in more advantageous entitlement to an income-based benefit.

For tracking purposes, intake personnel should enter a VBMS note stating "COVID-19-postmark accepted" on all impacted cases. This note is for informational purposes for claims processors and does not negate the requirement to consider other effective date policies that may apply.

On April 20, 2020, VA published a Federal Register notice to provide public notice of this claimant-friendly measure. VA has prepared another Federal Register notice, with an August 27, 2020 publication date, to reflect the change in the date of receipt to be used for correspondence received without a postmark or date stamp by USPS.

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### **Questions**

Submit questions on Compensation Service Procedures to [M21-1.VBAVACO@va.gov](mailto:M21-1.VBAVACO@va.gov).

Submit questions on P&F Procedures to [PFPOLPROC.VBACO@va.gov](mailto:PFPOLPROC.VBACO@va.gov).

Submit questions on legacy appeals and higher-level reviews to [OARADMIN.VBAWAS@va.gov](mailto:OARADMIN.VBAWAS@va.gov).

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