

Office of Administrative Review (OAR)

Quality Call Bulletin

October 2021

TABLE OF CONTENTS

Quality Redesign – Proper Selection of Yes vs. N/A	1
Favorable Findings (FF) and Presumption	3
Favorable Findings in Obesity Related Claims.....	4
VBMS-R Updates	5
Thoroughness of Higher-Level Review (HLR) Returns	7
Follow-up Questions.....	7

QUALITY REDESIGN – PROPER SELECTION OF YES VS. N/A

Target Audience: DROC Management, Quality Review Teams (QRT), Decision Review Officers (DRO), Rating Veterans Service Representatives (RVSR) and Veterans Service Representatives (VSR)

Presenter: JaVon Lázaro, Senior Management and Program Analyst, OAR Program Administration (PA)

References:

M21-4 6.6.c, *Standard of Review for QRT IQRs*
M21-5 3.A.6.c, *Standard of Review for QRT IQRs*
[QMS User Guide 2.0](#)

As of October 1, 2020, the quality element for VSRs and RVSRs changed to task based applicable. Effective January 1, 2021, the quality element for DROs changed to task based applicable. Only the tasks that apply to the transaction(s) under review count towards an employee’s quality. Before this change, a “Yes” or “N/A” answer was essentially worth the same weight. Under the new standards, a “Yes” counts towards the total tasks reviewed, and the “N/A” does not. As such, only the applicable tasks are evaluated for quality as it specifically relates to the transaction under review. N/A tasks are excluded from quality calculation.

The following procedures must be followed:

1. Each review checklist consists of questions related to that specific review. The majority of checklists consists of a format for answering questions that includes selecting the circle next to “Yes, No or N/A.” Other checklists may have you select the answer from an available list.
2. Yes, No, and N/A responses to the task questions are important for accurately measuring quality and the QRS must correctly choose Yes, No, or N/A for each task question in every quality review.
3. The minimum standard for review is to ensure all "N/A" responses on the checklists

Office of Administrative Review (OAR)

Quality Call Bulletin

October 2021

do not apply to the transaction(s) under review. Selecting the proper checklist responses to reflect the appropriate answer for each task is important to ensure the DRO, RVSR, or VSR receives credit for work completed correctly or ensuring the employee does not receive undue credit for work not applicable to the transaction under review.

Calculating Accuracy

The answer to each task question is what determines if there is an error for that task. The descriptor is then chosen to help with error trend analysis and better identify that error. Multiple descriptors can be selected.

QRSs should always properly identify “Yes” vs. “N/A” when completing IQRs. There is additional emphasis placed on this distinction since it affects the employee’s quality.

Consider the following response scenario for a VSR IQR:

- 5 “Yes” answers
- 5 “N/A” answers
- 1 “No” answer

Under the prior VSR performance standards, the above scenario would equal 10/11 tasks completed correctly or 90.91% accuracy on the transaction.

Under the current VSR standards, the above scenario would equal 5/6 tasks completed correctly or 83.33% accuracy since only 6 of the tasks were applicable to the transaction under review.

Therefore, it is crucial QRSs properly complete IQR checklists and correctly identify applicable tasks as “Yes” vs. “N/A.” The answer to the checklist question determines whether there is an error. Multiple error descriptors can be selected when answering “No” to a checklist task question.

Applying Task Based Applicable

Example:

A Veteran notified us that his spouse had passed away. The VSR sent a notice of proposed adverse action; however, the VSR should have removed the spouse from the award immediately. The initial QRS reviewer recorded Task 10 (Was the claimant properly notified?) as N/A.

For this scenario, an error would be cited under Task 8 (Were all dependency adjustments and/or decisions correct?) for failure to remove the spouse. Since the spouse wasn’t removed, any other error regarding notification would be considered cascading.

Office of Administrative Review (OAR)

Quality Call Bulletin

October 2021

FAVORABLE FINDINGS (FF) AND PRESUMPTION

Target Audience: DROC Management, QRT, DROs, RVSRs, and VSRs

Presenter: James Fogg, Program Analyst, OAR PA

References:

38 C.F.R. §3.103(f)(4), *Procedural due process and other rights: Notification of decisions*

38 C.F.R. §3.104(c), *Binding nature of decisions: Favorable findings*

M21-1 II.iii.1.A.2.e, *Considering Unclaimed Theories of SC*

M21-1 V.iv.1.A.5.a, *Purpose of the Reasons for the Decision*

M21-1 V.iv.1.A.5.e, *Using VBMS-R to Produce Text for the Rating Narrative*

Compensation Service Email, *For RQRs: Favorable Findings & Supplemental Claims*, dated July 23, 2021

Presumption:

Theories of entitlement:

- A claim for service connection (SC) encompasses all potential theories of SC, whether claimed or unclaimed.
- All claims must be liberally read to consider other potential theories of SC raised by the evidence of record, to include based upon presumption.
- The claimant need not specifically claim SC based upon presumption, but it is the duty of the decision maker to recognize and consider SC based upon presumption where the evidence supports it.
- Although VA is obligated to determine all potential claims raised by the evidence, theories of SC which have no support in the record need not be specifically addressed in a rating decision.

Favorable Findings in a Rating Decision Denial:

If denying the claim, then the Reasons for Decision must address:

- theory of SC being addressed in the decision (for example, direct SC or presumption) if applicable and
- findings favorable to the claimant, if any.

If the rating decision addresses multiple bases of SC and/or multiple denial reasons, then the decision maker must add relevant text to the Rating Narrative in order to discuss the favorable findings relative to each claimed and reasonably raised theory of SC.

When denying entitlement to the sought benefit, the Rating Decision is only required to address the claimed theory of SC and those reasonably raised, along with any favorable findings applicable only to the claimed theory and those reasonably raised.

Office of Administrative Review (OAR)

Quality Call Bulletin

October 2021

Prior Favorable Findings in a Rating Decision:

Addressing prior favorable findings:

- Prior favorable findings from old theories of SC will populate in VBMS-R, which is acceptable.
- The RVSR/DRO may edit the rating decision narrative verbiage and remove those prior favorable findings if they aren't relevant to the current theory(ies) of entitlement.
 - The only favorable findings required to be in the narrative are those consistent with the current theory(ies) being addressed in the narrative.
- If the RVSR/DRO is only discussing direct SC, which was the only claimed theory, then the only item that must be discussed in the rating are applicable and direct favorable findings.
 - The historic favorable findings remain in VBMS-R.
 - The prior accurate favorable findings that don't apply to the claimed theory do not have to be readdressed in this rating.
 - The RVSR/DRO may leave those prior accurate favorable findings in the rating decision.

Favorable Findings and RQRS Identified Errors:

- It is not an error if the rating narrative includes accurate favorable findings for theories of entitlement that aren't being addressed in the rating narrative.
- Having too many accurate favorable findings is acceptable, similar to there not being an error for including too many laws, but we should not encourage including favorable findings that aren't relevant to the addressed theories of entitlement.
- For unclaimed theories of entitlement, including presumption, where the rating narrative does not address those theories, the RQRS will not cite an error for including or not including favorable findings for those theories.

FAVORABLE FINDINGS IN OBESITY RELATED CLAIMS

Target Audience: DROC Management, QRTs, DROs, RVSRs and VSRs

Presenter: Christina Ngom, Management and Program Analyst, OAR PA

References:

38 C.F.R. §3.104(c), *Binding nature of decisions: Favorable findings*

M21-1 V.iv.1.A.4.c, *Guidelines for the Evidence Section of a Rating Decision*

M21-1 V.iv.1.A.5.a, *Purpose of the Reasons for the Decision*

M21-1 V.iv.1.A.5.g, *Requirement to Notify Claimant of Favorable Findings*

38 CFR 3.104(c) directs that FFs are binding on future decision makers, but it does not discuss how each rating decision on different theories must be organized. So, FFs are binding on future decision makers, but if the decision maker is just discussing direct service connection because that is the only theory the Veteran claimed, then the only item that must be discussed in that rating decision are the applicable, direct FFs and laws/regs. This does not mean that the historic FFs go away - they remain in VBMS-R. It

Office of Administrative Review (OAR)

Quality Call Bulletin

October 2021

just means that for IQR purposes, the prior accurate FFs that don't apply to the theory claimed don't have to be readdressed in that particular rating. The RVSR or DRO can always leave those prior accurate FFs in the decision.

Compensation Service Quality Assurance (QA) previously provided guidance that including accurate FFs for theories of SC that aren't being addressed in the rating narrative is okay and is not an IQR error (if the FFs are accurate).

For unclaimed theories of SC, when the theory of SC is not addressed in the narrative, including favorable findings for that unclaimed theory will not be cited as an error. Example: Direct SC is claimed and denied only on a direct basis for right knee arthritis. No error will be cited if the rating decision includes accurate presumptive favorable findings.

To address the feedback questions from the DROCs:

1. Is it now a favorable finding that the service-connected disability(ies) caused the Veteran to become obese?
 - a) Yes. If the examiner provides the information that the disability was caused by primary service-connected disability, the medical opinion would be a favorable finding. 38 CFR 3.104(c) directs that FFs are binding on future decision makers.
2. If the Veteran claims another condition as being caused by obesity, are we required to get another opinion asking if the service-connected disabilities caused the Veteran to become obese along with the rest of what is required?
 - a) If the medical opinion has not been requested and is necessary to establish a link to the primary service-connected disability, the decision maker will need to obtain the additional opinion. You would not request the medical opinion to establish the nexus unless this has been expressly claimed by the Veteran.

The Favorable Findings VBMS-R Job Aid is located on the VBMS Resources page, under the Job Aids section.

VBMS-R UPDATES

Target Audience: DROC Management, QRTs, DROs, and RVSRs

Presenter: Christina Ngom, Management and Program Analyst, OAR PA

References:

VBMS Resources – Release of Information and User Guides
VBMS Job Aids – VBMS Release Information

Office of Administrative Review (OAR)

Quality Call Bulletin

October 2021

VBMS-R Resources Release Information:

The most recent VBMS-R release updates include:

- Saving and Using Evidence in Update Evidence Field: Evidence associated to a claim now retains when the rating contains a deferred issue. This gives users the ability to view the list of evidence cited in the previous decision without having to conduct additional research or duplicate the same evidence from the partial rating decision, resulting in time savings when deciding deferred issues.
- Update to Decision Point Redesigned Automated Decision Letter (RADL): There has been a law change that now grants Commissary Privileges to all Veterans who are service connected at 0% or higher and/or in receipt of Individual Unemployability (IU) benefits. There needs to be a change to Decision Point RADL to ensure the paragraph relative to Commissary Privileges populates whenever a Veteran is 0% or higher, so they are aware they now have Commissary Privileges.
- Scheduling Routine Future Exam (RFE) Without Using Override Functionality: This allows users to schedule an RFE without having to override the existing age exemption of 55 and older.

VBMS Resources

VBMS Releases are scheduled every other Sunday from 3PM to 7PM EST, after which OFO communication regarding updates and system workarounds are shared with the field. Individual users can locate VBMS updates by navigating to the VBMS Intranet home page.

Upon navigating to the Intranet page, the user:

1. Will select Resources from the Menu pane
2. Then Release Information and User Guides

VBMS-R users can find updated Release Notes for all VBMS-R updates during FY21, along with existing workarounds. When users login to VBMS-R, updated welcome banners provide the link to release notes for review.

VBMS Release Information notes, along with VBMS-R Glossary text, is also found by navigating from the Compensation Service Intranet page to the VBMS Job Aids pages.

In addition to VBMS-R release updates, workarounds needed to complete input claim decisions in VBMS-R are located on the VBMS-R Resources page.

Office of Administrative Review (OAR)

Quality Call Bulletin

October 2021

THOROUGHNESS OF HIGHER-LEVEL REVIEW (HLR) RETURNS

Target Audience: DROC Management, QRTs, DROs, RVSRs and VSRs

Presenter: Brian Yost, Program Analyst, OAR PA

Regarding the question: How thorough does an HLR Return need to be (that is; how specific does the directed development need to be)?

OAR received DROC feedback noting that: Writing a thorough 20-0999 is a best practice and should be encouraged, however, the lack thereof is not a quality error if the 20-0999 is otherwise complete and covers all the reasons an issue or issues need to be returned. RVSRs and VSRs should be encouraged to reach out to the DRO if they have questions about the 20-0999 instructions.

OAR agrees. Regarding the question, there is no real explanation of how detailed or thorough the directed development on the VA Form 20-0999 needs to be. Step 2 of M21-5, Chapter 5. Topic 5.e in the procedures for handling DTA errors notes to:

- Complete VA Form 20-0999 for any remaining issues; documenting any relevant evidence, if applicable,
- And detailing the development actions needed.

Thorough documenting of VA Form 20-0999 is a best practice and highly encouraged, however, the level of detail provided is a judgement call and not subject to error citation.

FOLLOW-UP QUESTIONS AND ANSWERS

Target Audience: DROC Management, QRTs, DROs, RVSRs and VSRs

Questions were posed during and following the October 2021 Quality Call, which are addressed below.

Quality Redesign – Proper Selection of Yes vs. N/A

Question: When a deferral is reviewed for IQR, should the QRS check N/A for tasks such as Task 1 which asks whether all claimed issues were addressed and decided, or is this task captured by Task 10?

Answer: Generally, Task 10 is the main task applicable when reviewing a complete deferral. However, there are instances in which another task may be relevant, such as Task 1 when an interim rating decision was not completed for an issue that could be granted. While references should be included in any deferral, no error should be cited under Task 9 for failure to include references in a complete deferral. Whether or not Task

Office of Administrative Review (OAR)

Quality Call Bulletin

October 2021

12 is applicable in an IQR on a deferral only would depend on the specifics of the case. If the QRS conducting such a review notices an error on a previous action that was unrelated to the deferral transaction under review, then Task 12 would be marked No. If no error under Task 12 is found, then the specifics of the case determine whether Task 12 is answered Yes or N/A. Remember Task 12 is not factored into the quality calculation for RVSRs and DROs; therefore, a QRT Performance Error will not be cited on a QRS in a QRTIQR based on the selection of Yes vs. N/A on Task 12.

Favorable Findings and Presumption

Question: Why would decision makers remove previously decided favorable findings?

Answer: Decision makers would remove previously decided favorable findings only from the current decision, not from VBMS-R. It is at the discretion of the decision maker if they want to remove those favorable findings because they do not apply to the current theories of entitlement that are being addressed in this specific decision. If the decision maker wishes to leave them in this decision, then that is not an error. If they choose to remove them because the favorable findings do not apply to the current theories of entitlement and are not required in this rating decision, then that is not an error.

Question: The guidance has been these favorable findings must be continued. Can you further elaborate what went into deciding that these should not be brought forward each time that issue is addressed?

Answer: If those favorable findings are required, the decision maker must address them. If they are not required, but the decision maker brings them forward into this rating decision, that is also acceptable and not an error. If they are not applicable to the current theory of entitlement, so they are not required to be in the rating decision, then the decision maker can remove them from this rating decision. That is not removing them from VBMS-R, so they are still available in the future if they are applicable. This is in accordance with the guidance Compensation Service Quality Assurance has issued.

Favorable Findings in Obesity Related Claims

Question: If we have a medical opinion that says obesity was caused by service-connected disability(ies) but we do not have the other required prong (linking obesity caused by the SC disability to the NSC condition that the Veteran is claiming), should we still list the medical opinion as a FF?

Answer: Yes. Since the claimed condition will be denied, it is appropriate to address each finding that was favorable to the claimant. The medical opinion confirms that obesity was the intermediate step between the SC disability and should be listed as a FF. M21-1 V.iv.1.A.5.h, *Addressing Favorable Findings in the rating Narrative*,

Office of Administrative Review (OAR)

Quality Call Bulletin

October 2021

addresses this topic specifically.

Question: Is obesity itself a diagnosis?

Answer: M21-1 V.ii.3.C.3.a, *Considering Direct SC for Obesity*, should be reviewed by decision makers when reviewing claims for obesity. Obesity is not a disease or injury for which direct SC can be established. Obesity can be considered as an intermediate step between a SC disability and a current claimed disability.

M21-1 V.ii.3.C.3.b, *Considering Secondary SC for Obesity*, provides the following example: A Veteran claims SC for hypertension on the basis that his SC back disability caused obesity due to lack of exercise, which led to hypertension. To grant SC, an adjudicator would have to resolve the following issues: (1) whether the SC back disability caused the Veteran to become obese; (2) if so, whether the obesity as a result of the SC disability was a substantial factor in causing hypertension; and (3) whether the hypertension would not have occurred but for obesity cause by the SC back disability. If these questions are answered in the affirmative, the hypertension may be SC on a secondary basis.

Question: Would this obesity nexus guidance be the same for other lab findings like high cholesterol?

Answer: Decision makers should refer to M21-1 V.ii.3.C.1.d, *Abnormal Laboratory Findings*, which states “abnormal laboratory findings, even if diagnosed, are *not* themselves disabilities subject to compensation for VA purposes.” The notes of this reference indicate that clarification may be necessary when there is a claim for a benefit based upon laboratory findings.

Example: A claim for SC “blood sugar” or “high blood sugar” may have been intended as a claim for diabetes. Development could substantiate that elevated blood sugar readings in service represented the onset of diabetes first diagnosed after service or that diabetes may have been diagnosed in a presumptive period.

Question: Would we list the nexus of a SC condition causing the lab findings as well?

Answer: The laboratory findings will not be service connected, so there is no need for a medical opinion linking the finding to service. Per M21-1 V.ii.3.C.3.b, when obesity is considered as an intermediate step between a service-connected disability and a current claimed disability then it should be listed in support of the nexus.