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# APRIL 2022 OAR AUTHORIZATION QUALITY REVIEW SPECIALIST (AQRS) QUALITY ASSURANCE PRACTICUM (QAP) RESULTS

**Target Audience:** DROC Management and Quality Review Teams (QRT),

**Presenter:** James Fogg, Program Analyst, OAR Program Administration (PA)

**Background:**

OAR instituted the QAP Project for AQRSs in March 2021. Quality Review Specialist (QRS) practicums consist of a facsimile Veteran’s electronic claims folder (eCase) with an associated quality review checklist. The QRS conducts a quality review of the selected transaction, and then records their findings on the Veterans Service Representative (VSR) Task Based Quality Review Checklist. OAR designed the practicums to help OAR achieve accuracy and consistency in the quality review process by creating a standardized assessment environment that corresponds to Individual Quality Reviews (IQRs) conducted by OAR QRSs. These practicums evaluate the employee’s knowledge of sound quality review techniques and help OAR ensure consistent completion of the quality review checklists.

**Findings:**

Between April 5, 2022 and April 8, 2022, OAR administered an AQRS QAP to assess AQRSs’ ability to properly utilize the VSR Task Based Quality Review Checklist. The findings from this QAP include:

**Compliance:**

* OAR assigned this QAP to 33 AQRS.
* 29 completed this QAP.
* Compliance rate was 88%
* Compliance across the DROCs ranged from 82% to 100%
	+ DROC DC: 9 out of 11 (82%)
	+ St. Petersburg DROC: 13 out of 15 (87%)
	+ Seattle DROC: 7 out of 7 (100%)
* The 88% overall compliance rate was higher than the FY 2021 OAR AQRS practicum compliance rate of 72%

**Overall Percentage of Perfect Scores:**

* 7 of the 29 AQRS that completed the QAP made no errors in conducting a quality review of the simulated case file.
* Perfect score rate was 24%
* This is similar to the overall average of perfect scores for FT 2021 OAR AQRS practicum, which was 28%
* This demonstrates the topic is still challenging for a majority of AQRSs

**DROC Percentage of Perfect Scores:**

* Seattle DROC: 14%
* DROC DC: 22%
* St. Petersburg DROC: 31%

OAR identified the following as the main causes of errors among the 16 AQRS who did not achieve a perfect score:

* Whether all dependency adjustments and/or decisions were correct?
	+ 15 AQRS provided an incorrect response
	+ Rate of this error: 52%
* Were all required withholding/reductions correctly implemented?
	+ 10 AQRS provided an incorrect response
	+ Rate of this error: 34%
* Whether all necessary examinations/medical opinions were requested, and correct?
	+ 8 AQRS provided an incorrect response
	+ Rate of this error: 28%

As these QAPs assist in training and assessment of DROC personnel, OAR will continue requiring completion of the QAPs for the foreseeable future. OAR will release the results of the April 2022 AQRS QAP for DROC review on an upcoming date.

# INFORMAL CONFERENCE RESOURCES

**Target Audience:** DROC Management, QRTs, Decision Review Officers (DRO), Rating Veterans Service Representatives (RVSR), and Veterans Service Representatives (VSR)

**Presenter:** Autumn Paschke, Management and Program Analyst, OAR Operations

**Background:**

OAR’s Customer Relationship Management (CRM) Team recently developed two new informal conference resources that help:

* Increase understanding of the informal conference component of the higher-level review (HLR)
* Provide expectations for Veterans, claimants and stakeholders
* Assist Veterans, claimants and stakeholders to make informed decisions about participating in an informal conference

**What**: OAR developed resources to increase understanding of informal conferences and the expectations for Veterans, claimants, and stakeholders if they participate in this component of the higher-level review (HLR)

**Why**: Continued feedback from Veterans during the VSignals surveys reflected there is confusion and disappointment with the informal conference. The goal is to provide resources that explain in more detail what to expect during the conference, how to sign up for it and how to decide if it is the right option for them.

**How**:

* Informal Conference Fact Sheet:
	+ A resource Veterans, Claimants or Stakeholders can utilize when deciding whether to request an informal conference.
* VAntage Point
	+ A blog article developed to reach a broader Veteran population and provide them information about the informal conference.

**When**: OAR published the Fact Sheet on March 28, 2022 and the blog article on May 4, 2022.

**Resources:**

Informal Conference Fact Sheet

* [Informal Conference Fact Sheet (va.gov)](https://benefits.va.gov/BENEFITS/factsheets/general/InformalConference.pdf)
* Provides information about what an informal conference is, who is eligible to participate, and how to participate

VAntage Point blog article

* [Appeals: Informal conference offers clarity, feedback in higher-level decision reviews - VAntage Point](https://blogs.va.gov/VAntage/103053/appeals-informal-conference-offer-clarity-feedback-in-higher-level-decision-reviews/)
* Published May 4, 2022, on VAntage Point
* Provides information about what an informal conference is, how it works and how to sign up

# MEDICAL OPINION REQUESTS

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

**Presenter:** James Fogg, Program Analyst, OAR PA

**References:**

* M21-1 IV.i.2.A.2.e (historical), *ERB Tool*
* M21-1 IV.i.2.A.7.c (historical), *Completing Medical Opinion Requests Using the ERB Tool*
* M21-1 IV.i.2.A.7.c, *Completing Medical Opinion Requests Using the VBMS EMS With Capri*
* M21-1 IV.i.2.A.7.f, *Medical Opinion Required for Remands*
* M21-1 IV.i.2.A.10.a, *Entering an Examination Scheduling Request*
* M21-1 IV.i.2.A.10.b, *Types of Requests Requiring Supplemental Language*
* M21-1 V.ii.3.B.1.f, *Deciding Some Issues While Deferring Others*
* M21-1 IV.i.3.C.1.a, *Insufficient Examination Reports*
* M21-4 6.8.e, *VBMS Deferrals*
* M21-5 5.5.d, *Returning DTA Errors for Correction*
* M21-5 5.5.e, *Handling DTA Errors*
* FAQ – *Errors in the Duty to Assist*, posted April 3, 2020

**VBMS Deferrals:**

When deferring an issue:

* VBMS deferral functionality allows a claims processor to return a claim to an earlier place within the claims cycle to correct erroneous actions. Using VBMS deferral functionality is required for any situation in which a claim returns to a previous step in the process, and all relevant details must be provided to include:
	+ most appropriate reason(s) for deferral.

See M21-4 6.8.e, *VBMS Deferrals* for additional information.

**HLR Returns:**

Returning DTA Errors for Correction:

* A higher-level reviewer who finds a DTA error will complete a [VA Form 20-0999, Higher-Level Review Return](https://vbaw.vba.va.gov/bl/20/cio/20s5/forms/VBA-20-0999-ARE.pdf), for the affected issue(s).

Handling DTA Errors:

* The DRO will complete [VA Form 20-0999](https://vbaw.vba.va.gov/bl/20/cio/20s5/forms/VBA-20-0999-ARE.pdf) for any issues for which maximum benefit could not be granted but was affected by the DTA error.
* The DRO will detail the development actions needed.
* Note: Free text should be used to fully explain the reason for the DTA error.

See M21-5 5.5.d, *Returning DTA Errors for Correction* and M21-5 5.5.e, *Handling DTA Errors* for additional information.

**HLR Returns and Medical Opinions**

Frequently Asked Question: If the DTA error is a complicated medical opinion (aggravation, etc.), are DROs required to write up the complete opinion request?

Answer: The DRO is responsible for providing specific instructions for required development for DTA errors, to include writing the complete opinion request if it involves one of the medical opinion requests listed in M21-1 III.iv.3.A.7.a, *Who May Request a Medical Opinion* (now M21-1 IV.i.2.A.7.a).

See FAQ – *Errors in the Duty to Assist*, posted April 3, 2020, for additional information.

**ERB Tool and Medical Opinion Requests**

Purpose:

* The primary purpose of the Exam Request Builder ([ERB](http://vbacodmoint1.vba.va.gov/bl/21/sitevisit/docs/ExamRequestBuilder.docm)) tool was to standardize the format for examination requests.

Importance:

* Use of the [ERB](http://vbacodmoint1.vba.va.gov/bl/21/sitevisit/docs/ExamRequestBuilder.docm) tool was mandatory when creating a medical opinion request in CAPRI.
* As with all automated tools, user should have ensured the suggested language and examinations were adequate before inputting the examination requests. This included ensuring that the ADDITIONAL EXAM REMARKS field of the [ERB](http://vbacodmoint1.vba.va.gov/bl/21/sitevisit/docs/ExamRequestBuilder.docm) tool was completed to include information needed by the examiner but not automatically generated by the tool.

Completing Medical Opinion Requests Using the ERB Tool:

* The user should have edited the generated medical opinion language to ensure it was case-specific and would have resulted in an adequate opinion.

See M21-1 IV.i.2.A.2.e (historical), *ERB Tool* and M21-1 IV.i.2.A.7.c (historical), *Completing Medical Opinion Requests Using the ERB Tool* for additional information.

**Change:**

* Effective May 31, 2022, VBA no longer requires those inputting exam requests to use the ERB tool.
* Use of the VBMS Examination Management System (EMS) is mandatory in all CAPRI medical opinion requests. (M21-1 IV.i.2.A.7.c)
* Edit the generated medical opinion language to ensure it is case-specific and will result in an adequate opinion.
* Paste the EMS examination request language into the REMARKS field.

See M21-1 IV.i.2.A.7.c, *Completing Medical Opinion Requests Using the VBMS EMS with Capri* for additional information.

**Medical Opinion Requests in VBMS**

Entering an Examination Scheduling Request:

* As discussed in [M21-1 IV.i.2.A.2.f](https://vaww.vrm.km.va.gov/system/templates/selfservice/va_kanew/help/agent/locale/en-US/portal/554400000001034/content/554400000180498/M21-1-Part-IV-Subpart-i-Chapter-2-Section-A-Examination-Requests-Overview) and subject to the Examination Request Routing Assistant ([ERRA](http://vbacodmoint1.vba.va.gov/bl/21/DEMO/ZIP/default.asp)) tool’s recommendations, requests for contract examinations must be prepared and submitted via VBMS.

Important:

* Requests for VHA examinations must still be entered in CAPRI.
* As is required with all automated tools, users must ensure that all VBMS system-generated language is legally and procedurally adequate before finalizing an examination scheduling request. This includes ensuring that the SPECIAL INSTRUCTIONS field is completed so as to include information needed by an examiner, but not automatically generated.

See M21-1 IV.i.2.A.10.a, *Entering an Examination Scheduling Request* for additional information.

**Medical Opinions Request Supplemental Language**

Use the [Supplemental Language Matrix](https://vaww.vrm.km.va.gov/system/templates/selfservice/va_kanew/help/agent/locale/en-US/portal/554400000001034/content/554400000105052/Supplemental-Language-Matrix) to identify the:

* Claim components or attributes for which VBMS examination scheduling requests must be supplemented, and
* Language needed to ensure request adequacy and consistency.

Personnel inputting the medical opinion request should be familiar with the Supplemental Language Matrix and when they are required to use it.

See M21-1 IV.i.2.A.10.b, *Types of Requests Requiring Supplemental Language* for additional information.

**Medical Opinions Required for Remands**

Remand Medical Opinion Requests:

* When requesting an opinion in compliance with Board remand instructions, specifically explain what information is needed.
* Quoting the instructions from the Board on the medical opinion request may be helpful but try to avoid legal jargon.
* Important: Do not simply refer the examiner to the claims folder containing the remand instructions.

See M21-1 IV.i.2.A.7.f, *Medical Opinion Required for Remands* for additional information.

**Example of Insufficient Medical Opinion Request**

Summary:

* August 3, 2021 – Private nexus opinion links sleep apnea to SC depression, with obesity as an intermediate step. Opinion doesn’t meet the requirements of M21-1 V.ii.3.C.3.b
* August 4, 2021 – VSC VSR requests a secondary opinion but doesn’t include obesity as an intermediate step
* September 7, 2021 – Contract examiner provides negative opinion with rationale detailing relationship between obesity and sleep apnea.
* September 22, 2021 – VA denies SC for sleep apnea
* December 14, 2021 – VA receives VA Form 20-0996
* January 6, 2022 – HLR Return requests medical opinion regarding obesity with language from M21-1 V.ii.3.C.3.b
* January 21, 2022 – DROC VSR requests secondary and aggravation opinions noting obesity and cites M21-1 V.ii.3.C.3.b but doesn’t provide the language from the DRO
* February 2, 2022 – Contract examiner provides negative opinions but doesn’t address the language from M21-1 V.ii.3.C.3.b
* April 21, 2022 – DROC RVSR requested secondary and aggravation opinions, including obesity as an intermediate step language of M21-1 V.ii.3.C.3.b in both requests.
* May 10, 2022 – Contract examiner provides negative opinions but doesn’t address obesity as an intermediate step as requested.

This is an example of a claim delayed both by an insufficient medical opinion request and an insufficient medical opinion:

* The January 21, 2022 medical opinion request was insufficient because the DROC VSR did not provide the language from the HLR Return. See M21-1 IV.i.2.A.10.a for additional information
* The May 10, 2022 medical opinion was insufficient because it did not provide the opinions requested (see M21-1 IV.i.3.C.1.a for additional information), i.e.
	+ Did the SC disability cause the Veteran to become obese?
	+ Is the obesity caused by the SC disability a substantial factor in causing or aggravating the Veteran’s OSA?
	+ Would the OSA have not occurred if not for the obesity caused or aggravated by the SC disability?

The DROC would have minimized delay if the DROC VSR provided the required language. Additionally, this is an example of an insufficient medical opinion which VBA will need to return for clarification.

**Best Practices**

* Provide clear and complete information when directing development for a medical opinion.
* When inputting a medical opinion request use language that clearly instructs the examiner on what VBA needs.
* If the request is unclear, then contact the RVSR/DRO who directed the development and seek clarification.

# LAWS, REGULATIONS, AND BOARD OF VETERANS’ APPEALS (BOARD) GRANTS

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

**Presenter:** Chelsey Kondrak, Senior Program Analyst, OAR PA

**References:**

* 38 C.F.R. §3.103(f), *Procedural due process and other rights: Notification of decisions*
* M21-1 V.iv.1.A.5.a, *Purpose of the Reasons for Decision*
* M21-1 V.iv.1.A.5.e, *Using VBMS-R to Produce Text for the Rating Narrative*
* Appeals Modernization Act (AMA) Frequently Asked Questions (FAQs)
* November 2021 OAR Quality Call Bulletin

**Laws, Regulations and Board Grants**

Pursuant to 38 C.F.R. §3.103(f), the claimant or beneficiary and his or her representative will be notified in writing of decisions affecting the payment of benefits or granting of relief.  Written notification must include in the notice letter or enclosures or a combination thereof, elements to include a summary of the laws and regulations applicable to the claim.

This is further supported by M21-1 V.iv.1.A.5.a., *Purpose of the Reasons for Decisions* which states if awarding the claim, then the reasons for decision must address the laws and regulations applicable to the claim.

Refer to the AMA FAQs for further clarification on inclusion of laws and regulations within decisions.

* *If [the] decision-making process included consideration of other applicable laws and regulations or the generated regulations are erroneous or inadequate, [the decision maker] should update the reasons for decision to reflect the appropriate regulations.* (AMA FAQ – June 6, 2019)
* *There is nothing in 38 CFR §3.103(f) that limits applicability of providing laws and regulations to specific types of claims. [Decision makers] should cite regulations that informed any decision element [they] include in [their] narrative, including weighing of evidence. If there is regulatory authority for any part of [the] decision, it should be cited.* (AMA FAQ – June 6, 2019)

**Implementing Board Decisions**

Board decisions are neither law nor regulation to be cited but rather a decision to be implemented.

Decision makers must ensure the rating decision contains all required elements, as noted in 38 C.F.R. *§*3.103(f) and M21-1, V.iv.1.A.5.a, and update any erroneous or missing VBMS-R generated information, as necessary.

Board decisions included with a rating decision fulfill the requirement in 38 C.F.R. §3.103(f) to provide a summary of laws and regulations applicable to the claim.

38 C.F.R. §3.103(f) requires “Written notification must include in the notice letter or enclosure or a combination thereof, all of the following elements . . . .”

Thus, the decision maker must include the issued Board decision, with all laws and regulations pertaining to the decision, with the rating decision at that time if the decision maker does not separately list the laws and regulations in the Reasons and Bases of the rating decision effectuating the Board grant.

During the OAR November 2021 Quality Call, OAR issued guidance that if the Board decision accurately cites the applicable law and regulations and is not included within the rating decision/notification, then this would be a non-critical error requiring correction.

To ensure compliance with 38 C.F.R. §3.103(f), OAR revised this guidance to reflect that QRSs must cite a critical error against the employee when a summary of the applicable laws and regulations is not included within the rating decision or within a combination of the Board decision and rating decision that is sent to the Veteran or claimant simultaneously.

As this is a change in prior guidance, a 30-day grace period from the date of the notification of June 14, 2022, is warranted for claims processors prior to citing critical errors.