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# Responsible Party for Corrective Action on Errors Cited

**Target Audience:** Decision Review Operations Center (DROC) Management and Quality Review Teams (QRTs), Decision Review Officers (DROs), Rating Veterans Service Representatives (RVSRs), Veterans Service Representatives (VSRs), and Claims Assistants (CAs)

**Presenter:** Alexandria Katinos, Senior Management and Program Analyst, OAR

**References:**

* M21-5 3.B.5.d., *Action to Take Following Notification of a National Error*
* M21-5 3.B.5.e., *EP 930 Establishment Requirements*
* M21-5 3.B.5.f., *Corrective Actions and Reporting*
* M21-5 3.B.5.g., *Time Limit for Corrective Action*
* M21-5 3.B.5.h., *Indicating When Re-Adjudication Is Not Appropriate*
* M21-5 3.B.5.i., *Clearing DROC’s QRT Coach’s Responsibility for Corrective Action*
* M21-5 3.B.5.j., *Correcting DROC’s QRT Coach’s Responsibility for Corrective Action*
* M21-5 3.B.5.k., *Responsible Employee’s Responsibility for Corrective Action*
* M21-5 3.B.5.l., *Responsible Employee’s Coach’s Responsibility for Corrective Action*
* M21-5 3.B.5.m., *Correction of Local Quality Reviews*
* M21-4 6.A.c., *VSR Review Elements*
* M21-4 6.B.c., *Rating Review Elements*
* M21-5 3.A.12.c., *DRO Review Elements*

OAR received a question regarding who is responsible for correcting errors cited on quality reviews that are outside the scope of the employee under review. For example, a DRO or post VSR receives an error for missed development that was not the responsibility of the employee under review but does require correction. While the error was not committed by the employee under review, we have a responsibility to ensure the correctness and/or completeness of the claim in general.

Quality Review Specialists (QRSs) are required to appropriately identify all errors on the checklist during a quality review to ensure correction, even if it is not the responsibility of the employee under review. IPR errors, like national review errors, are non-punitive to the employee under review. Errors of this nature identified during Individual Quality Reviews (IQRs) are cited under task 12 as correctable comments.

When an error is received by an employee that they are unable to correct, the employee will work with management to ensure the claim is assigned to an employee with the appropriate skill set to initiate corrective action. An error is considered corrected once corrective action is initiated.

# Jurisdiction of Complex Medical Opinion Review

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

**Presenter:** Beth Huck, Management and Program Analyst, OAR

**References:**

* M21-1 IV.i.2.A.7.a, *Who May Request a Medical Opinion*
* M21-1 IV.i.2.A.7.b, *Referring Claims for Complex Medical Review*
* M21-1 IV.i.1.B.1.d, *Secondary Service Connection and Aggravation Claims*
* M21-1 IV.i.1.B.1.e, *Preservice Aggravation Claims*
* 38 C.F.R. §3.306, *Aggravation of Preservice Disability*
* 38 C.F.R. §3.310(b), *Disabilities that are Proximately due to, or Aggravated by, Service Connected Disease or Injury*
* NWQ Playbook

This topic of who has jurisdiction of complex medical opinion review was raised because of the OAR mandated training titled: Determining Examination and Medical Opinion Sufficiency for Board Remands with training hand out scenarios. It should be noted that these specific trainings target audience was VSRs, RVSRs and DROs, and were not VSR target specific, which caused some confusion as to who would order the aggravation opinions presented in the case scenarios.

Aggravation (to included Allen aggravation) medical opinions are deemed complex in nature and are to be ordered by the rating activity.

If aggravation language is provided on a VA Form 20-0999, *Higher Level Review Return* or Board of Veterans’ Appeals (Board) remand, jurisdiction responsibility remains with the rating activity and does not shift to development activity.

# Missing End Product (EP) 040s

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

**Presenter:** Suzi Ribish, Position, Management and Program Analyst, OAR

On January 25, 2023, OAR provided guidance via email for when an EP 030 Higher-Level Review is returned for either a Duty-to-Assist (DTA) Error or Difference of Opinion (DoO) and the EP 040 DTA or DoO fails to establish. Additional information regarding EP 040 control establishment for DTA errors was also presented on the December 2022 OAR Quality Call.

As a reminder, when an EP 030 Higher-Level Review is returned for either a Duty-to -Assist (DTA) Error or Difference of Opinion (DoO) and the EP 040 DTA or DoO fails to establish the following actions must be taken:

1. Open a YourIT ticket to report the missing/failure of the EP 040 to establish and provide the Claim ID for the EP 030.

* Once the YourIT ticket is opened, please send the ticket number to [OAR Operations](mailto:OAROPS.VBAWAS@va.gov).
* The purpose of the ticket documents and informs the Caseflow team of the EP establishment issue.

1. Do not establish an EP 930.  In this specific instance, please allow for the Caseflow team to resolve the issue by establishing the EP 040.

# PACT ACT In-Process Reviews (IPRs)

**Target Audience:** DROC Management and QRTs

**Presenter:** Suzi Ribish, Position, Management and Program Analyst, OAR

During a recent site visit, OAR identified that errors cited on PACT ACT IPRs were not being supported adequately in a way that provides guidance to the employee to improve quality on PACT related work.

Going forward, please ensure when citing the PACT Standard Operating Procedure (SOP) as a reference, also add the PACT SOP version and a page number for reference, so that the employee may easily identify the appropriate guidance.

# Questions and Answers

Several questions arose during the quality call. We have detailed those questions below.

**Q1: What rises to the level of an error under PACT Act?**

**A1:** The threshold of an error has not changed. QRSs should be citing errors whenever the work completed does not conform to the policy and procedures that have been published. It is expected that all cases are compliant with *all* relevant governing references

M21-5 3.A.4.a. states: The standard for an error is where the decision made rises to the level of a clear and unmistakable error (CUE) or a clear violation of current regulations or directives.

For quality review purposes, when VBA Central Office issues interim guidance, such as the PACT Act SOP, it supersedes the instructions found in the M21-1 or other VA procedural references. While the interim guidance is in effect, quality errors should be cited in instances where claims processors clearly do not follow the interim procedures correctly.

It is appropriate to utilize the interim procedures as a valid reference for the error citation.

This instruction applies to interim procedures located on the Compensation Service website or other VA-maintained websites.

**Q2: When does the grace period for IQR errors under PACT end?**

**A2:** The grace period for local quality errors pertaining to PACT Act expired on May 31, 2023.

**Additional resources available:**

* Please refer to the [PACT Act Information Page](https://gcc02.safelinks.protection.outlook.com/?url=https%3A%2F%2Fvbaw.vba.va.gov%2Fbl%2F21%2Fpact.htm&data=05%7C01%7C%7C8246064b831f4b92eaef08db4273598a%7Ce95f1b23abaf45ee821db7ab251ab3bf%7C0%7C0%7C638176835408445003%7CUnknown%7CTWFpbGZsb3d8eyJWIjoiMC4wLjAwMDAiLCJQIjoiV2luMzIiLCJBTiI6Ik1haWwiLCJXVCI6Mn0%3D%7C3000%7C%7C%7C&sdata=kWAYxJUqB1%2BueXxY1akCgEPHlghgmDLgB0RjK2voL%2Bo%3D&reserved=0) for many resources that are available to the field which were issued by Compensation service.
* Compensation Service has set up the [PACT Act Inquiry Tool](https://dvagov.sharepoint.com/sites/VBA21CPACTACT/Inquiry/SitePages/PACTActHome.aspx?ovuser=e95f1b23-abaf-45ee-821d-b7ab251ab3bf%2cjames.parhalo%40va.gov&OR=Teams-HL&CT=1685710640245&clickparams=eyJBcHBOYW1lIjoiVGVhbXMtRGVza3RvcCIsIkFwcFZlcnNpb24iOiIyNy8yMzA1MDEwMDQyMiIsIkhhc0ZlZGVyYXRlZFVzZXIiOmZhbHNlfQ%3D%3D) for the field to submit their questions. It should be noted, that many quality related questions have been addressed. DROCs are also encouraged to submit inquires to this tool.
* Pension and Fiduciary Service also published guidance specific to pension and survivor benefits. Those resources may be located at the [PACT Act - Pension and Fiduciary Service](https://vbaw.vba.va.gov/pensionandfiduciary/pact-act.asp) webpage.
* Talent Management System (TMS) Courses have been published and are detailed below.

Each course contains an assessment to evaluate the claims processor’s understanding of the material.

*All Claims Processors (VSC, PMC, DROC)* 20.25 hours

|  |  |  |
| --- | --- | --- |
| **TMS Number** | **Course Title** | **Learning Hours** |
| 4634424 | Overview of the PACT Act | 2.00 |
| 4626459 | Individual Longitudinal Exposure Record | 1.00 |
| 4637094 | PACT Act Implementation Overview | 0.75 |
| 4637093 | PACT Act Implementation: Radiation Exposure Claims | 0.75 |
| 4637040 | PACT Act Herbicide Exposure Claims | 1.50 |
| 4637095 | PACT Act Undiagnosed Illnesses and Medically Unexplained Chronic Multisymptom Illnesses (MUCMIs) | 1.00 |
| 4637096 | PACT Act Implementation: Presumptive SC Based on Exposure to Burn Pits and Other Toxins, Including Fine Particulate Matter | 1.25 |
| 4637064 | PACT Act Implementation Standard Operating Procedure (SOP) | 4.00 |
| 4639866 | PACT Act SOP Updates, FAQ, and ILER Guidance Updates | 2.00 |
| 4637572 | PACT Act SOP Review Live Local Training | 2.00 |
| 4639997 | PACT Act SOP and FAQs Review (Version 2.0) Live Local Training | 2.00 |
| 4640001 | Introduction to the TERA Tool Live Local Training | 2.00 |

*All Claims Processors (VSC, PMC, DROC)* 3.75 hours

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| **TMS Number** | **Course Title** | **Learning Hours** |
| 4637477 | Introduction to Toxic Exposure Risk Activity (TERA) | 0.50 |
| 4637568 | Toxic Exposure Risk Activity (TERA) Procedures for Non-Presumptive Claims and Examinations | 1.50 |
| 4637707 | Toxic Exposure Risk Activity (TERA) Procedures | 0.75 |
| 4637573 | PACT Act Implementation: Rating Claims Based on Participation in TERA | 0.75 |

*Only PMC Claims Processors* 4.5 hours

|  |  |  |
| --- | --- | --- |
| **TMS Number** | **Course Title** | **Learning Hours** |
| 4637103 | PACT Act Effect on Burial and Accrued Claims | 1.5 |
| 4637104 | PACT Act Original and Reevaluation of DIC Claims | 2.0 |
| TBD | Updates to PMCs on PACT Act Claims | 1.0 |
| TBD | PMC TERA Tool Training | TBD |



*Only DROC Claims Processors* 1.5 hours

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| **TMS Number** | **Course Title** | **Learning Hours** |
| 4638082 | PACT Act Job Aid: Processing Higher-Level Reviews (HLR) | 0.5 |
| 4638080 | PACT Act Job Aid: Processing AMA Grants | 0.5 |
| 4638081 | PACT Act Job Aid: Processing Legacy Appeal Grants and Remands | 0.5 |