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# Exam Sufficiency

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

**Presenter:** Lynn Rowzee, Management and Program Analyst, OAR

**References:**

* 38 U.S.C. § 5103A(d), *Medical Examinations for Compensation Claims*
* 38 C.F.R. § 4.2, *Interpretation of examination reports*
* 38 C.F.R. § 4.70, *Inadequate examinations*
* M21-1, IV.i.2.A.7.d., *Procedure for Identifying the Evidence in a Medical Opinion Request*
* M21-1, IV.i.2.A.7.f., *Medical Opinions Required for Remands*
* M21-1, IV.i.2.A.7.j., *Avoiding Asking for Legal Conclusions in Medical Opinion Requests*
* M21-1, IV.i.2.A.8.a., *Importance of Claims Folder Review*
* M21-1, IV.i.3.A.1.l., *Requirements for Examination Reports*
* M21-1, IV.i.3.A.1.r., *Examiner Statements That an Opinion Would Be Speculative*
* M21-1, IV.i.3.C.1.a., *Insufficient Examination Reports*
* M21-5, 7.G.4.c., *Requesting Examinations for Remands*
* M21-1, III.i.2.F.2.c., *Additional Fields for Examination Management*
* M21-1, IV.i.3.C.1.e, *Returning Examination Reports Requested Through CAPRI*
* M21-1, IV.i.3.C.1.f, *Returning Examination Reports Requested Through VBMS*
* M21-1, IV.i.3.C.1.g, *Determining Whether a Rework Request or New ESR in VBMS is Required*

Exam related errors are among the most frequently cited benefit entitlement errors.

Decisions made using insufficient examinations/medical opinions often result in premature denials of benefits, erroneous grants of benefits, and incorrect evaluations.

Many of these errors were cited on cases that had been certified back to the Board of Veterans Appeals (BVA) and resulted in subsequent remands (Stegall remands) for failure to comply with remand orders.

We often receive insufficient exam results because our exam requests did not adequately explain what was needed.

38 C.F.R. 4.2 states, “Different examiners, at different times, will not describe the same disability in the same language. Features of the disability which must have persisted unchanged may be overlooked or a change for the better or worse may not be accurately appreciated or described. It is the responsibility of the rating specialist to interpret reports of examination in the light of the whole recorded history, reconciling the various reports into a consistent picture so that the current rating may accurately reflect the elements of disability present. Each disability must be considered from the point of view of the veteran working or seeking work. If a diagnosis is not supported by the findings on the examination report or if the report does not contain sufficient detail, it is incumbent upon the rating board to return the report as inadequate for evaluation purposes.”

Exam reports submitted to the rating activity must be as complete as possible and any missing, required information makes the report insufficient for rating purposes.

Examples of deficiencies:

* Unsigned
* Doesn’t address all disabilities for which exam requested
* Required questions on DBQ are unanswered
* Claims file not reviewed when required
* Missing disability specific information pertinent to the disability (such as impact of musculoskeletal pain on functional loss of affected joint)
* Medical opinion not supported by a valid rationale or by the evidence of record
* No medical opinion provided when one was requested

In Barr v. Nicholson, the Court of Appeals for Veterans Claims (CAVC) held that if VA provides an examination when developing a claim for service connection (SC), even if not statutorily obligated to do so, the examination must be adequate, or the Veteran must be notified as to why one will not or cannot be provided.

Exam reports needing clarification must be discussed with or returned to the examiner. Examples include, but are not limited to:

* Ambiguous conclusions or findings that are open to more than one interpretation
* A change in diagnosis or etiology for a previously recognized SC disability

Resolve inconsistencies or conflicting findings of various medical examiners by requesting a medical opinion by a different examiner.

Return insufficient or inadequate exam reports using the tables in M21-1, IV.i.3.C.1.e & f.

Use the table in M21-1, IV.i.3.C.1.g, to determine whether a rework request is necessary or whether a new exam scheduling request (ESR) is required.

Claims processors must exercise great attention to detail when entering exam requests to garner the best results from the examiner.

* All pertinent evidence must be identified for the examiner’s review
* Read the exam request before submitting it. Does it make sense?
* Use the alternate contention name field in VBMS when the contention name, as stated by the claimant or required for Caseflow-managed EPs, results in grammatically incorrect or confusing exam request language in the standardized exam request paragraphs

When requesting an opinion in compliance with BVA remand instructions, specifically explain what information is needed. Quoting the instructions from BVA on the medical opinion request may be helpful but try to avoid legal jargon.

Read the entire remand to identify the pertinent evidence that should be identified for the examiner’s review as well as to properly explain the medical opinion we are asking the examiner to provide.

Do NOT simply refer the examiner to the claims folder containing the remand instructions.

# Analysis of Higher-Level Review Returns in Caseflow

**Target Audience:** Decision Review Operations Center (DROC) Management and Quality Review Teams (QRT), Decision Review Officers (DRO), Rating Veterans Service Representatives (RVSR), Veterans Service Representatives (VSR), and Claims Assistants (CA)

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

During FY 2023, OAR identified claims of which Caseflow did not appropriately establish the EP 040 DTA or DoO. The failure of the EP 040 establishment is due to one of the following reasons:

* User did not select the correct disposition in VBMS-R,
* Claim was not promulgated through VBMS-A, or
* System failure which requires contractor intervention.

When employees encounter a claim of which the EP 040 fails to establish, they should take the following actions:

* Open a YourIT ticket, and
* Route the ticket to OAR’s Program Administration staff if it is an urgent issue.

OAR works closely with OIT to resolve the issue in establishing impacted EPs 040.

VA created a temporary process to synchronize claims between Caseflow and VBMS.

For those claims unable to be resolved by OIT synchronization efforts, OAR collaborates with OBI to batch establish EP 040 affected claims.

OAR first identified the synchronization issue between Caseflow and VBMS in November 2022. As of December 2022, OAR identified 11,963 instances where there was no EP 040 controlling the DTA error correction or DoO.

Throughout FY 2023, OAR collaborated with OIT and OBI to synchronize claims between Caseflow and VBMS and completed eight batch establishments.

OIT began actions to mitigate the synchronization delays in February 2023.

The number of uncontrolled EP 040 instances will continue to fluctuate until the long-term solution is implemented.

During the week of September 11, 2023, OAR and OIT scheduled an additional batch establishment to resolve a remaining 88 uncontrolled instances.

From December 2022 to September 2023, there is a 99% (11,963 to 88) decrease in the number of uncontrolled instances where there is no EP 040 controlling a DTA error correction or DoO.

OAR seeks to eliminate system dependence on Caseflow to trigger the establishment process for the EP 040 DTA and DoO.

OAR is coordinating with OBI and OIT to transition the establishment of AMA claims from Caseflow into VBMS.

OAR anticipates deployment of the long-term solution in FY 2024.

# Routing a Claim for Regional Office Research Coordinator Review

**Target Audience:** Decision Review Operations Center (DROC) Management and Quality Review Teams (QRT), Decision Review Officers (DRO), Rating Veterans Service Representatives (RVSR), Veterans Service Representatives (VSR), and Claims Assistants (CA)

**Presenter:** Jerri Perry, Management and Program Analyst, OAR

**References:**

* M21-1, VIII.iv.1.A.3.r., *Procedures for Routing a PTSD Claim for RO Research Coordinator Review*
* M21-1, VIII.iv.1.A.4.c., *Procedures for Conducting RO Research Coordinator Review*

OAR was tasked with reviewing HLR Returns to determine if overdevelopment was occurring.

OAR did not find evidence of overdevelopment; however, OAR did identify errors with the required Military Records Research Center (MRRC) Special Issue (SI) not being in place for claims intended to be routed to the Regional Office (RO) Records Research Coordinator (RRC) for review, prompting these claims to be prematurely pulled back into NWQ. It is the placement of the MRRC SI that anchors the claim on station.

Initial action requirements include:

* + - “RO Research Coordinator Review” Tracked Item (TI)
		- “MRRC” Special Issue

If the stressor can be conceded without submitting a research request via MRRC:

* Annotate the claims folder as directed in M21-1, VIII.iv.1.A.1.h, Annotating Documents Used to Concede a Stressor

If the stressor must be submitted for MRRC review:

* Submit a request for corroboration utilizing the RECORDS RESEARCH REQUEST chevron in VBMS.
* Mark the RO RESEARCH COORDINATOR REVIEW tracked item as received and remove the MRRC Special Issue indicator.

# Questions and Answers

A question arose during the quality call. We have detailed that item below, with the applicable response.

**Q1:** The Records Research special issue has been removed, what are the modification needed to the slide presented? How do you validly cite an error for a special issue that isn't in the M21-4?

**A1:** M21-4 E.2.b. was updated on December 29, 2023, to restore the *MRRC Request* special issue in the *Index of Current Special Issues*. Claims processors should continue to add the *MRRC Request* special issue for routing a request to the RO Research Coordinator, as described in M21-1 VIII.iv.1.A.3.r.