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## Visitor Engagement and Reporting Application (VERA)

**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 (VSRs), and Claims Assistants (CAs)

**Presenter:** Monica Willis, Management and Program Analyst, OAR

**References:**

* M21-5, Chapter 5.3.a., *Definition: Informal Conferences*
* M21-5, Chapter 5.3.b., *Overview of Informal Conferences*
* M21-5, Chapter 5.3.c., *Initial Actions*
* M21-5, Chapter 5.3.d., *Contacting Requesters of Informal Conferences*
* M21-5, Chapter 5.3.e., *Unsuccessful Initial Attempts to Contact the Requesters*
* M21-5, Chapter 5.3.f., *Unsuccessful Second Attempts to Contact the Requesters*
* M21-5, Chapter 5.3.g., *Actions to Take After Successful Contact*

What is VERA?

* VERA is a web-based scheduling application currently available and used by Veterans and claimants to schedule an appointment with the Public Contact Team at the local VA regional offices.
* OAR is leveraging VERA to organize, manage, and track scheduled informal conferences requested under a higher-level review.
* VERA automatically sends confirmation email notifications for scheduled and rescheduled informal conferences, and reminder notifications.
* VERA is integrated with MS Teams to provide a secure platform for virtual conferencing.

Why VERA?

* VERA is a step toward standardizing the informal conference scheduling process and improving data reporting as well as efficiency in customer engagement.
* It is a tool with the capacity to build upon for future enhancements; some of which are already in development.
* OAR is leveraging this available technology to assist with the informal conference scheduling process. VERA is used in other VBA business lines to assist with in-person appointments at regional offices, such as the Public Contact Teams and Veteran Readiness & Employment Service (VR&E).
* In a future iteration, VERA will have a self-scheduling component available for informal conferences.
  + This will allow Veterans, claimants, and accredited representatives to self-schedule, manage their informal conferences, and reduce back-and-forth contact attempts.

Training aids are available on the OAR intranet [Training Resource page](https://vbaw.vba.va.gov/OAR/oar-training.asp) to guide DROC staff in accessing the tool and navigating through the features. The items listed below are located for training credit in the Talent Management System (TMS).

|  |  |
| --- | --- |
| **TMS** | **Title** |
| **4657680** | VERA for DROCs: User Fundamentals (User Role)  VERA and Teams Job Aid |
| **4657684** | VERA for DROCs: Management Fundamentals (Manager Role) |
| **4657676** | VERA for DROCs: Scheduling a New Appointment (User Role)  Accessing the VERA Application Job Aid |
| **4657678** | VERA for DROCs: Managing Appointments (User Role) |
| **4657685** | VERA for DROCs: Reporting and Dashboards (Manager Role) |
| **4657677** | VERA for DROCs: Navigating Scheduled Appointments (User Role)  Accessing Appointment Details Job Aid |

## Board Effectuations: Effective Dates as Downstream Issues

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

**Presenter:** Lisa Tomaselli, Management and Program Analyst, OAR

**References:**

* M21-5, Chapter 5.3.a., *Definition: Informal Conferences*
* M21-5, 4.5.a., Types of Board Actions
* M21-5, 4.5.c., Authority to Implement Board Decisions
* M21-5, 4.5.d., Review of Board Actions
* M21-5, 7.G.1.d., Determining When an Examination is Needed for Board Grants
* M21-5, 7.G.1.e., Reviewing the Claims Folder and/or Implementing the Board Decision
* M21-5, 7.G.1.g., Determining the Effective Date for a Grant of Benefits by the Board
* [March 2024 OAR Quality Call Bulletin](https://vbaw.vba.va.gov/OAR/docs/march2024-quality-call-bulletin.pdf)

When the Board of Veterans’ Appeals (Board) decides an issue under legacy appeal, the Board returns the claim to the DROC or the RO for review of the claims folder and implementation of the decision, if necessary. If the Board’s decision awards benefit(s), then claims processor(s) must review the decision and take the following actions:

* determine the effective date, if not provided in the Board decision,
* obtain an exam, if necessary, to determine the appropriate current evaluation,
* issue a rating decision addressing the Board grant of benefit(s), and
* route the claim to the authorization activity.

Under the Appeals Modernization Act (AMA), the Board forwards two types of actions to VBA for completion: grants and remands. For Board grants, VBA takes the following actions:

* implements the Board decision,
* decides any associated downstream issues, such as effective date and evaluation,
* inputs the award data,
* notifies the appellant, and
* releases any payment.

**Question from the March 2024 OAR Quality Call Bulletin:** Should the VSR provide review rights in the notification letter for the below scenarios when the Board issues a grant? Do the below scenarios mean the Board assigned the effective date or is the

effective date still a reviewable downstream issue, since the Board did not specify an actual date (e.g., 50% is warranted from January 1, 2024)?

Entitlement to a 20% evaluation for the left leg is granted.

Entitlement to an initial 50% evaluation is granted for the entire period on appeal.

**Answer:** Pursuant to M21-5, Chapter 7, Section G.1.e., Reviewing the Claims Folder and/or Implementing the Board Decision, if the Board’s decision awards benefit(s), then the claims processor must review the decision and determine the effective date in accordance with M21-5, Chapter 7, Section G.1.g., if not provided in the Board decision.

M21-5, Chapter 7, Section G.1.g., Determining the Effective Date for a Grant of Benefits by the Board states, “When a Board grant does not prescribe a specific disability evaluation and/or effective date, the RO or DROC must review the appeal record and take jurisdiction of these downstream issues.” Therefore, in accordance with this guidance, the VSR must provide review rights in the notification letter for these scenarios.

Additionally, because the RO or DROC has jurisdiction of the downstream issues, decisions must be made in the first instance.

* This includes determining the period of entitlement covered by the Board decision.
* Although the Board may order that the evaluation is warranted “for the entire appeal period,” determining the period of entitlement is not intuitive in every case.
* While these circumstances will typically result in an effective date assigned based on the general rule, decisionmakers must determine whether any other effective date rules apply to the facts of the case.

**Example:** Rating decision dated 05/01/18 increased the evaluation of the Veteran’s service-connected (SC) posttraumatic stress disorder (PTSD), from 30% to 70% disabling, effective 01/01/17. VBA notified the Veteran of the decision on 05/01/18. Subsequently, the Veteran submitted a VA Form 21-8940, on 10/01/18, within one year of notification of the decision. The Veteran has not worked since 10/15/16. Rating decision dated 12/01/18 denied entitlement to total disability based on individual unemployability (TDIU). The Veteran submitted a legacy appeal, which was subsequently perfected to the Board. Board decision, dated 06/01/24, granted the

Veteran entitlement to TDIU, due to the SC PTSD, throughout the entire appeal period. The Board’s decision does not reference a specific date of entitlement.

In this case, although the appeal originates from the 12/01/18 decision denying TDIU, based on the claim received 10/01/18, entitlement to TDIU is warranted from 01/01/17, the date the Veteran’s SC PTSD met the schedular requirements for individual unemployability, under 38 C.F.R. § 4.16(a). The Veteran met all requirements for TDIU within the one-year period prior to the date of receipt of the claim for TDIU (38 C.F.R. § 3.400(o)(2), Rice v. Shinseki, 22 Vet. App. 447 (2009)).

When the Board issues a decision granting entitlement to a specific evaluation for a disability for the entire period on appeal but does not specifically state or clearly indicate the effective date, the decisionmaker must review the file to determine the correct effective date.

* In this case, assignment of the correct effective date falls under the VBA decisionmaker’s jurisdiction.
* VBA should provide the claimant with appeal rights for the effective date in the event the Veteran disagrees with the decision.

In summary:

* VBA decisionmakers should review both the decision section and the order section of the Board decision to identify if the Board provided a specific effective date.
* If the Board decision does not provide a specific effective date, then the effective date is considered a downstream issue.
* Agent and attorney fees should be calculated through the date of the rating decision implementing the Board decision.

## Requesting Examinations for Remands When a Specialist is Not Available

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

**Presenter:** Katrina Ice, Management and Program Analyst, OAR

**References:**

* M21-5, 7.G.4.c., *Requesting Examinations for Remands*
* 38 CFR 3.159(c)(4), *Providing medical examinations or obtaining medical opinions*
* 38 CFR 3.326, *Examinations*
* 38 CFR 3.2502, *Return by higher-level adjudicator or remand by the Board of Veterans' Appeals.*
* M21-1, IV.i.2.A., *Examination Requests Overview*
* [Examination Specialist Unavailable Memorandum template](https://vbaw.vba.va.gov/OAR/docs/examination-specialist-unavailable-memorandum.docx)

On July 15, 2024, the M21-5 Chapter 7, Section G, Topic 4, Block c was updated to address the procedures for requesting examinations based on remands, specifically when the Board remand directs an exam or opinion from a medical specialist (for example, an oncologist or cardiologist), and such a specialist cannot be obtained, such as may be the case for Veterans living in very rural areas or foreign countries. Additionally, OAR published a memorandum template for use in this situation. The memorandum outlines efforts made to comply with the remand instruction.

* Remand instructions often mandate examination or input from either the VHA or contract examiner(s) dictating a specific type of medical professional (e.g., endocrinologist, orthopedist) perform the examination.
* The Board recognizes that such specialists are not always available to fulfill this request, and therefore will accept a medical examination from an appropriate examiner as long as VBA has made reasonable efforts to obtain that exam/opinion as requested in the remand and
* The examiner indicates that they have the appropriate knowledge base and/or skill set to complete the exam or render the requested opinion.

**Step 1**: Request the examination in the normal manner, identifying the case as a Board remand.

* The Board requires the examiner to review the claims folder in conjunction with an examination.

Note: The examination request should be stated in neutral, objective terms, without implying the expected result of the examination.

**Step 2**: Request the examiner to review:

* a copy of the remand special examination instructions and all documents in VBMS.

Note: Relevant evidence in the claims folder must be tabbed or annotated for the examiner’s attention in accordance with M21-1, Part IV, Subpart i, 2.A.8.d.

When the specified type of medical professional is not available as directed by the Board:

* Prepare an [Examination Specialist Unavailable Memorandum](https://vbaw.vba.va.gov/OAR/docs/examination-specialist-unavailable-memorandum.docx) for the Veteran's file documenting all efforts taken to obtain an examination specialist and explain why the specialist could not be obtained.

The memorandum should include:

* date(s) of request(s) for the examination specialist,
* response from VHA or a contract examiner confirming an examination specialist is not available to conduct the C&P examination for VA purposes, and
* justification from VHA or a contract examiner for why an examination specialist is not available to conduct the C&P examination for VA purposes (for example, rural areas or claimants with a foreign address).

## AQ95: Character of Discharge

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

**Presenter:** Suzanne Ribish, Management and Program Analyst, OAR

On July 22, 2024, Compensation Service released Policy Letter 24-01 for the final rule for AQ95, “Update and Clarify Regulatory Bars to Benefits Based on Character of Discharge.” The field began processing these claims on August 5, 2024.

Quality: To be consistent with M21-4, Chapter 3.3.c. a 30-calendar-day grace period for transactions occurring from August 5, 2024, through September 4, 2024, will be applied for errors related to the policies and procedures in Policy Letter 24-01. When a new policy or procedure is released, claims processors receive 30 calendar days of relief from punitive errors related to that policy change as they acclimate to the updated procedures Quality errors will still be identified during this grace period, and feedback will still be provided to the claim processors, for which corrections will be required.

Significant Changes:

* Removes the bar for aggravated homosexual acts,
* Refines the definition of willful and persistent misconduct to add more objective criteria,
* Adds a compelling circumstances exception and outlines factors that can mitigate the regulatory bars of moral turpitude and willful and persistent misconduct, and
* Provides additional compelling circumstances of valid legal defense that can mitigate the statutory bar of Absent Without Leave (AWOL) for 180 days or more and the regulatory bars of moral turpitude and willful and persistent misconduct.

The bar to benefits for prolonged AWOL, as well as offenses involving moral turpitude and willful and persistent misconduct, will not be applied if compelling circumstances mitigate the AWOL or misconduct at issue. The following factors will be considered in a determination on this matter:

* Length and character of service exclusive of the period of prolonged AWOL or misconduct.
* Reasons for prolonged AWOL or misconduct, which may involve the following factors:
  + Mental or cognitive impairment at the time of the prolonged AWOL or misconduct.
  + Physical health, including physical trauma and any side effects of medication.
  + Combat-related or overseas-related hardship.
  + Sexual abuse/assault.
  + Duress, coercion, or desperation.
  + Family obligations or comparable obligations to third parties.
  + Age, education, cultural background, and judgmental maturity.
* Valid Legal Defense would have precluded a conviction for Absent without Leave for more than 180 days, moral turpitude and willful and persistent misconduct.
  + A valid legal defense is simply an argument which, if believed, would lead to a finding of not guilty on the alleged misconduct.

Due to the significant changes resulting from AQ95, do not use the following until further notice:

* The Admin Decision Template in the manual (M21-1 X.iv.1.A.1.k)
* The COD Letters in VBMS Core
* COD Letters from Letters UI
* VSR Assistant Tool (COD Determination), or
* COD Letters in PCGL or Letter Creator.

Follow instructions in the Policy Letter for entering decisions in both in Share/BIRLS and VBMS.

**Example Scenario**: A former Service member (FSM) received another than honorable (OTH) discharge based on AWOL for over 180 days (February 1, 2022, through August 30, 2022).

The facts show that the FSM’s best friend died in a car accident on January 25, 2022. Leave to attend the funeral was denied due to service obligations. The FSM became

very depressed and went AWOL to attend the funeral on February 2, 2022. Despite intending to return the day after the funeral, the FSM developed severe depressive symptoms with inability to function. After receiving a mental health evaluation on May 1, 2022, major depressive disorder was diagnosed. The FSM required further treatment and Zoloft and Ambien were prescribed. The FSM was cleared to return to duty on

August 29, 2022. Aside from the single period of AWOL in the middle of a four-year enlistment, the service records showed exemplary service with several commendations and awards and without any additional infractions or misconduct. Before the current reenlistment period, the FSM had six years of similarly exemplary service.

**Question:** Since the FSM was AWOL for over 180 days, is there a bar to benefit?

**Answer:** No, the bar to benefits for prolonged AWOL will not be applied if compelling circumstances mitigate the AWOL. In this case, the sudden tragic death of the FSM’s best friend was a major life event, that triggered severe incapacitating major depressive disorder. The facts establish the existence of compelling circumstances (family or comparable obligations; mental impairment) mitigating the AWOL. The length and otherwise excellent character of the FSM’s service also support a determination that the AWOL was due to exceptional circumstances and that the bar to benefits should not be applied.

## Special Focused Review (SFR) Analysis: PACT Act Processing

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

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

The Office of Administrative Review (OAR) conducted a special focus review (SFR) on PACT Act claims (rating and development). The purpose of the review was to identify areas of strength and weakness in service delivery related to the PACT Act.

* OAR reviewed a random sample of 140 PACT-related claims between February 1, 2023, and May 14, 2024.
* Reviews were conducted using a modified version of the national rating quality checklist with 6 additional questions relating to PACT-specific processing.

Summary of Findings

* Nine claims with benefit entitlement (BE) errors – none were PACT related
* Nine claims with PACT related development deficiencies (PDD)
  + A total of 14 deficiencies cited (some cases had more than one)
* PACT Act processing accuracy rates:
  + Entire review period – 93.6%
  + Calendar year (CY) 2024 – 96.0%

**PACT Act-related development deficiencies (PPD)**

|  |  |  |
| --- | --- | --- |
| **PACT Related Question** | **Number of PDD Cited** | **Percentage of Total PDD** |
| 17. Were all applicable PACT-related claim attributes used appropriately? (Exception: PACT Exam Exclusion - Sec.1168 special issue captured in Question 18) | 1 | 7.1% |
| 18. If an exception to ordering a Toxic Exposure Risk Activity (TERA) exam/opinion applied, was the exclusion properly documented? | 6 | 42.9% |
| 19. If TERA procedures were required, was concession or non-concession of all TERA(s) properly documented? | 3 | 21.4% |
| 20. Was the use of Individual Longitudinal Exposure Record (ILER) properly documented in VBMS when required (TERA-related claims)? | 4 | 28.6% |
| Total PDDs | 14 | 100% |

Conclusion

* Cumulative accuracy for the entire review period was 93.6%
  + 7 of the 9 cases were completed in CY 2023
    - Accuracy Rate: 92.2%
  + 2 of 9 cases were completed in CY 2024
    - Accuracy Rate: 96.0%
    - Accuracy Rate March – May 2024: 100%
* The improvement in CY 2024 indicates a positive trend for increased proficiency on PACT related claims development at the DROC.

Recommendations

* OAR Quality Assurance will present the findings and analysis of this SFR report in an OAR Quality Call.
* OAR will close this PACT Act SFR as data from CY 2024 shows marked improvement in PACT related service delivery.