

# Office of Administrative Review

## Legacy Appeals: Effectuation of Board Grants Tip Sheet



### Purpose

This Tip Sheet provides helpful information, references, and high-level instructions for the effectuation of Board of Veterans' Appeals (Board) grants of legacy appeals.



### Audience

Rating Veterans Service Representatives (RVSR), and any other personnel responsible for effectuating Board grants.



### References

- [38 C.F.R §3.104 -- Binding nature of decisions.](#)
- [M21-5, 4.5.A](#), *Types of Board Actions*
- [M21-5, 7.A.1.f](#), *Definition: Downstream Issue*
- [M21-5, 7.A.1.h](#), *Definition: Full Grant*
- [M21-5, 7.D.2.g](#), *Jurisdiction Over Downstream Appeal Issues*
- [M21-5, 7.G.1](#), *Reviewing and Processing Board Decisions*
- [M21-1, X.ii.1.A.2.a](#), *Binding Nature of Favorable Findings*
- [M21-1, V.iv.1](#), *Generating the Rating Document*
- [M21-1, VI.i.1.B](#), *Decision Notices*

### Tips

#### Evaluation



- Review the Board decision and assess whether it has provided the effective date and the evaluation, if needed
- If the Board has not provided the evaluation, request an examination, if necessary, to determine the appropriate evaluation for the period of entitlement covered by the decision, then
  - issue a partial rating decision if possible, and
  - defer the evaluation pending the exam
- Issue a rating decision effectuating the Board's grant of benefits and any inferred ancillary decisions

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- Follow local procedures to route the rating decision for award promulgation

### Effective Dates

To determine the appropriate effective date:

- determine the period of entitlement covered by the Board decision
- review available medical and lay evidence, and
- stage the rating, if necessary, based on the facts.

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### Important Reminders

If individual unemployability is granted:

- review the file to determine if VA Form 21-8940, *Veteran's Application for Increased Compensation Based on Unemployability*, is of record, and if not, develop for 21-8940, and
- if the Veteran fails to complete and return the form, implement the grant based on the available evidence of record.



Any finding favorable to the claimant made by either a VA adjudicator, or by the Board, is binding on all subsequent VA and Board adjudicators.

Appeals Modernization Act (AMA) notification requirements are applicable to effectuated Board grants for legacy appeals and modernized decision review requests.



### Questions

Discuss any questions on this Tip Sheet locally with peers, experts, quality staff, and/or management. Management may route any questions requiring OAR assistance to [VBAWASOARQUALITYTRN@va.gov](mailto:VBAWASOARQUALITYTRN@va.gov)