

STANDARD CLAIMS AND APPEALS FORM RULE JOB AID
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OVERVIEW

Components of “Standard Claims and Appeals Form” rule

The four major components include:

- Requiring all claimants to submit claims on a standard VA-prescribed form
- Eliminating 38 CFR 3.157
- Creating an intent to file (ITF) process, and
- Using a Standard Notice of Disagreement form.

These components only apply to claims received on and after March 24, 2015.

Requiring all claimants to submit claims on a standard VA-prescribed form

If a claim is not received on the appropriate application form on or after March 24th, 2015, consider the correspondence a request for application.

For compensation claims:

VA encourages the use of VA Form 21-526EZ; however, the following forms are acceptable:

- VA Form 21-526
- VA Form 21-526b
- VA Form 21-526c
- VA Form 21- 8940 (for Individual Unemployability and claims for increase)
- VA Form 21-4502 (for automobile and adaptive equipment claims)
- VA Form 26-4555 (for SAH/SHA benefits)

Examples:

**If a claimant submits a complete 526 form and attaches a letter that mention numerous symptoms and disabilities that are not listed on the form, these contentions should still be addressed as they were received in conjunction with the complete claim.

**If a Veteran submits a complete 526 in May 2015 but then submits a letter with new contentions in June of 2015, this letter would be interpreted as a request for an application since a complete claim was not attached.

For pension claims:

VA encourages the use of the VA Form 21-527EZ; however, the VA Form 21-526 and VA Form 21-527 are also acceptable for pension claims.

For DIC and survivor benefits:

VA encourages the use of the VA Form 21-534 EZ; however, VA Form 21-534 and VA Form 21-535 are also acceptable for DIC and survivor benefits claims.

Per 38 CFR 3.160(a), a complete claim must:

- Provide the name of the claimant;
- Provide the relationship to the veteran, if applicable;
- Provide sufficient service information for VA to verify the claimed service, if applicable;
- Be signed by the claimant or a person legally authorized to sign for the claimant
- Identify the benefit sought.
- Include a description of any symptom(s) or medical condition(s) on which the benefit is based to the extent the form prescribed by the Secretary so requires; and
- Include a statement of income.

For appeals:

The new rule mandates that appellants must use a standard notice of disagreement (SNOD) form when VA provides the form with the decision notice. For compensation claims, VA Form 21-0958, *Notice of Disagreement*, is used to initiate the appeal process, when it has been provided to the claimant.

Changing regulatory guidance regarding 38 CFR 3.157
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Eliminates the provision that allows VA to consider medical treatment records as claims

Effective March 24, 2015, these final regulations also eliminate the provisions of 38 CFR 3.157 which allowed various documents other than claims forms to constitute claims, specifically, non-VA reports of hospitalization or examination and other medical records which could be regarded as informal claims for increase or to reopen a previously denied claim. Nonetheless, this rule retains the current retroactive effective date assigned for awards for claims for increased evaluation as long as they are filed on a standard form within 1 year of such hospitalization, examination, or treatment.

****Note:** If during the processing of a claim, you notice a VA treatment record dated prior to March 24, 2015 that would constitute a claim under historic 3.157 rules, this claim would still need to be addressed and would need to be considered for effective date purposes.

Potential one-year retroactive effective date.

If you were reviewing a claim and found treatment records (VA or non-VA) dated on or after March 24, 2015 that indicate an increase in the severity of a service-connected disability, VA will only consider the receipt of the medical evidence (both private and federal records) for effective date purposes, if either one of the following are received within one year of the date of treatment:

- a claim on a prescribed form, or
- an intent to file that is followed by a complete claim within a year of the ITF.

To the extent the intent to file process and these special statutory effective dates intersect, the amount of retroactive benefits is always limited by the facts found—a claimant can never receive disability benefits for a period in which he or she was not, as a factual matter, disabled, or at a degree of disability higher than supported by the contemporaneous facts. This caveat is current, established law, unaltered by this rule

****Note:** You are required to review all available medical evidence from a VA or uniformed services hospital dated up to one year prior to a complete claim or intent to file (whichever is earlier) for a claim for increase whether or not the Veteran identified those records to us.

Example:

A Veteran submits an intent to file for compensation in April 2016. Then, she submits the complete claim for increase for a service-connected disability in September 2016. All available private or federal treatment records should be reviewed dated from as early as April 2015, which is one year prior to the intent to file, in determining the effective date of the increase in disability. This includes reviewing any federal treatment records not identified by the Veteran but available to VA such as medical evidence from a VA hospital.

38 CFR 3.400(o)(2)

Though 38 CFR 3.157 is being eliminated, the information about effective dates regarding claims for increase has been incorporated into 38 CFR 3.400(o)(2).

Creating an intent to file (ITF) process

Before the new rule, any communication or action which showed an intent to apply for VA benefits was taken as an informal claim. This remains unchanged for correspondence received before March 24, 2015.

The implementation of the new rule applies to claims received on and after March 24, 2015.

Advantage of intent to file

By submitting a complete VA Form 21-0966, *Intent to File Claim for Compensation and/or Pension, or Survivors Pension and/or DIC*, the claimant or his/her representative can establish an effective date placeholder for benefits provided that the complete claim is received within **one year** of the date that the intent to file is received for the same general benefit indicated on the intent to file.

How to submit an intent to file

An intent to file may be received from the claimant or his/her representative:

- Electronically via eBenefits or the Stakeholder Enterprise Portal,
- Over the phone with a VA National Call Center or other public contact representative or
- On the paper VA Form 21-0966, which may be mailed, faxed or delivered in person.

**** Note:** An oral intent to file is allowed when given to appropriate VA personnel and recorded. Extraneous information provided in that oral communication is of no effect and generally will not be recorded in the record of the claimant's intent to file.

****Note:** An intent to file date can be established electronically. When an online application is initiated and saved but not submitted, it establishes the intent to file date in the corporate record.

Example:

****A Veteran** contacts the NCC and states "I want to file a compensation claim for my right knee. It hurts when I bend and walk. I hear popping noise every time I step." If this phone call is received after March 24, 2015, it will be considered an intent to file (not a complete claim). The contact representative will annotate that an intent to file for compensation benefits has been received, but will generally not annotate the rest of the information.

****If the VA Form 21-0966 is received and the Veteran uses the white space to suggest or describe a particular disability, this will not be considered a claim. An intent to file is not a claim as a claim must be submitted on one of the aforementioned prescribed forms. However, if the**

Veteran identifies the same description of symptoms or complaints with the complete claim within one year of the intent to file, VA may consider the white space information as evidence to substantiate the claim.

Benefit types:

There are three general benefit types:

- Compensation,
- Pension, and
- DIC/survivor benefits

Rules regarding intent to file

- Only one active intent to file per general benefit at a time is considered valid. (ex. A)
- A Veteran may have multiple active intents to file of record at one time as long as they are for different general benefits.
- A claimant may submit numerous valid intent to files over the course of a lifetime (ex. B)
- A claimant can only have one established claim per intent to file. (ex. C)

Example A:

A claimant submits VA Form 21-0966 on April 1, 2015 for compensation benefits. Then, he calls the National Call Center on May 3, 2015 stating that he wants to file a claim for a knee condition. The phone call to the NCC will be considered a duplicate intent to file. The Veteran has one year from the April 1, 2015 date to complete his claim for compensation benefits.

Example B:

A Veteran submits an intent to file for compensation benefits on April 1, 2015, completes the claim on June 1, 2015, and submits another intent to file for a compensation benefit on January 2, 2016. The latter intent to file is valid because there is no other active intent to file for a compensation benefit of record at the time the second intent to file is received. However, the January 2, 2016 intent to file will only apply to a complete compensation claim that is received within one year from the date of the ITF. Upon receipt of the June 1, 2015 complete claim, the April 2015 intent to file was considered “completed” or no longer “active.”

Example C:

A Veteran submits an intent to file on June 5, 2015 for a compensation claim. The Veteran submits a 526EZ on October 12, 2015 for a knee condition. Then, she provides another 526EZ on December 10, 2015 for a hip condition. The earliest possible effective date for the hip condition is December 10, 2015 because the intent to file submitted on June 5, 2015 was already completed on October 12, 2015 with the receipt of the 526EZ for the knee condition.

Incomplete standard form

When a claimant submits an incomplete standard application form, VA will notify the claimant that he/she has one year to submit a complete form to retain the incomplete form's effective date. If the claimant submitted an intent to file prior to the incomplete standard application form, VA will apply the effective date that is most advantageous to the Veteran, but in no event will the complete claim be considered filed more than one year prior to the date of receipt of the complete claim.

Status of an intent to file

There are five possible statuses of an intent to file.

- **Active** – describes an intent to file that provides the necessary information but that has not yet been completed by a claim on the prescribed form of the same general benefit.
- **Incomplete** –happens when there is no active intent to file for the general benefit being sought and the claimant either failed:
 - to identify the general benefit being sought
 - to provide sufficient identifiable or biographical information to identify the Veteran and/or claimant
 - to provide a signature
- **Expired** –occurs when a standard claim application is not received for the same general benefit of the intent to file within one year of VA receiving the intent to file. Expired intents to file have no future effect on any subsequently submitted claims.
- **Claim Received** –means a complete claim on a standard form is received that is associated with the general benefit indicated on the intent to file.

Example: An intent to file for pension is received July 2015 and the 21-527EZ is received in October 2015, the intent to file status will change from “active” to “claim received.”

- **Duplicate**-means the claimant submitted an intent to file for the same general benefit as an already active intent to file. All ITFs for the same general benefit as an active ITF will be considered duplicate.

Example: A claimant submits an intent to file for DIC in June 2015 in writing, but then submits another intent to file for DIC via the National Call Center in October 2015, prior to receipt of a complete compensation claim. In this case, the intent to file received in October will be considered a duplicate and will have no effect on the claim.

Standard Notice of Disagreement (SNOD) form

Effective March 24, 2015, claimants will be required to use a standard NOD form in cases where VA provides the form with the decision notice. Initially, VA will only provide the form (VA Form 21-0958, *Notice of Disagreement*) for compensation claims decisions.

Required use

An appellant is required to submit a VA form 21-0958 to initiate the appeal when:

- The decision notification letter is dated on and after March 24, 2015,
- This form is provided to the Veteran, and
- The appeal is for compensation benefits.

****Note:** If the compensation decision letter is mailed prior to March 24, 2015, the appellant is not required to use the VA Form 21-0958.

Complete appeal forms

In general, a form will be considered complete if the following information is provided:

- Information to identify the claimant;
- The claim to which the form pertains;
- Any information necessary to identify the specific nature of the disagreement if the form so requires. For compensation claims, this criterion will be met if the form enumerates the issues or conditions for which appellate review is sought, or if it provides other information required on the form to identify the claimant and the nature of the disagreement (such as disagreement with disability rating, effective date, or denial of service connection); and
- The claimant's signature.

Timely but incomplete

Upon the receipt of a timely but incomplete VA Form 21-0958, VA will inform the claimant (or representative) that he/she must timely file a complete NOD form. The claimant is not required to correct/cure an incomplete form by filing a completed version of the form unless VA informs the claimant or his/her representative that the form is incomplete and requests clarification.

When a claimant is notified that an incomplete form was received, the claimant has to provide a completed form within:

- 60 days from the date of the request, or
- The remainder of the 1 year period from the mailing of the notice of decision of the agency of original jurisdiction, whichever is later.

If a completed form is received within the appropriate time, then the NOD will be considered timely and complete. Otherwise, the decision made by the agency of original jurisdiction will become final.

SCENARIOS

The following scenarios are examples of potential claims you may receive.

Intent to file, date of claim, and effective dates examples
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Please note the following scenarios are provided with the intent of demonstrating how the submission of a VA Form 21-0966 could potentially impact effective dates upon the timely submission of a completed claim. Also be reminded that potential effective dates may additionally be affected by other effective date provisions under 38 CFR 3.400.

Example #1

The Veteran submits a complete VA Form 21-0966 for pension on June 1, 2015. The Veteran later submits his complete claim to us on a VA Form 21-527EZ on January 1, 2016.

What is the intent to file date?
What is the date of claim?
What is the potential effective date?

Response #1

The *intent to file* date is June 1, 2015, the date the Veteran first communicated his/her intent to submit a claim for pension benefits.

The *date of claim* is January 1, 2016, the date the Veteran submitted a complete claim for pension benefits.

The potential *effective date* is June 1, 2015 since the Veteran submitted a complete claim for pension benefits within one year of the submission of the standardized “intent to file” form.

Example #2

The Veteran calls the National Call Center on June 1, 2015. During the conversation, the Veteran reports his/her intent to file a claim for compensation benefits. The VA representative takes down this information and notes the Veteran's request. Later the Veteran begins an online application in eBenefits on November 1, 2015 for compensation benefits. On January 1, 2016, the Veteran submits a paper VA Form 21-526EZ for a knee disability. The Veteran then submits an electronic 526EZ on February 1, 2016 for a back disability.

What is the intent to file date?
What is the date of claim?
What is the potential effective date?

Response #2

The *intent to file* date is June 1, 2015, which is the date the Veteran initially communicated his/her intent to submit a claim for compensation benefits when speaking with the National Call Center representative. Although the Veteran began an online application in eBenefits on November 1st, this is a duplicate as the Veteran already has an active intent to file for compensation benefits that has been established by the call center agent.

The *dates of claim* are January 1, 2016 (for the knee) and February 1, 2016 (for the back). These are the dates the Veteran submitted a complete claim for compensation benefits for the knee and the back disability.

The potential *effective dates* are June 1, 2015 (for the knee) and February 1, 2016 (for the back). Since the Veteran submitted a complete claim for compensation within one year of the submission of the intent to file form, we are able to go back to the intent to file date and assign the effective date for the knee condition as June 1, 2015. The effective date for the back condition will be February 1, 2016, which is the same date as the date of claim. Once a complete claim is received within the one year time frame of the intent to file, the intent to file is consumed and cannot be applied to an additional claim. All complete claims received afterwards are not entitled to the June 1, 2015 intent to file date.

Example #3

The Veteran submits a complete VA Form 21-0966 for pension on June 1, 2015. The Veteran then starts an online application in eBenefits on November 1, 2015 for pension benefits and later submits a completed online application through eBenefits for pension benefits on January 1, 2016.

What is the intent to file date?
What is the date of claim?
What is the potential effective date?

Response #3

The *intent to file* date is June 1, 2015, the date the Veteran first communicated his/her intent to submit a claim for pension benefits. Although the Veteran began an online application through eBenefits on November 1, 2015, this is recognized as a duplicate as a claimant is only allowed to have one active intent to file per benefit category at any given time. **Note: An intent to file date can be established electronically. When an online application is initiated and saved but not submitted, it establishes the intent to file date in the corporate record.

The *date of claim* is January 1, 2016, the date the Veteran submitted a complete claim for pension benefits which was within the one year time frame.

If your response for the potential *effective date* is June 1, 2015, that is correct. Since the Veteran submitted a complete claim for pension within one year of the submission of the standardized intent to file form, we are able to assign the intent to file date as the effective date.

Example #4

A Veteran visits his local RO and submits an informal claim for original pension benefits on March 1, 2015. He later submits an intent to file on May 6, 2015 through e-Benefits. The Veteran submits his complete claim for pension benefits on a *paper* VA Form 526EZ on January 10, 2016.

What is the potential effective date?

Response #4

March 1, 2015. The “Standard Forms and Appeals Rule” does not become effective until March 24, 2015. Therefore, the informal claim received by the PMC on March 1, 2015 must still be considered since a complete paper claim was received within one year of the receipt of the informal claim for original pension benefits.

Example #5

A Veteran visits his local VSO office and they submit an informal claim for pension benefits on his behalf. This informal claim for original pension benefits is received by the PMC and date stamped on March 1, 2015. He later visits the local PMC and submits a VA Form 21-0966 for pension benefits on May 6, 2015. The Veteran submits his complete claim for pension benefits on April 15, 2016.

What is the potential effective date?

Response #5

The earliest possible effective date would be May 6, 2015, the date the intent to file was received by the PMC. Since the complete claim was not received within one year of the informal claim, the March 1, 2015 effective date is not warranted.

Intent to file, effective dates, and 38 CFR§ 3.400 examples

Example #6

A Veteran submits a VA Form 21-0966 for compensation, which is received on April 1, 2017. The Veteran later submits a claim for increase for a right knee condition which is received on a VA Form 526EZ on May 1, 2017 with attached treatment records from a local treating facility dated January 1, 2016. A review of the records reveals an increase in the severity of the service connected right knee condition.

What is the intent to file date?

What is the effective date?

Response #6

The *intent to file* date is April 1, 2017, the date the Veteran first communicated the intent to submit a claim for compensation benefits.

The earliest possible *effective date* is April 1, 2017. Since the Veteran completed the claim for compensation within one year of the submission of the intent to file form, we are able to assign the intent to file as the effective date for the knee condition as April 1, 2017.

****Note:** Submitted treatment records show an increase in the severity of the service-connected knee condition as early as January 1, 2016. However, the intent to file was not received within 1 year of the hospitalization, examination, or treatment. Therefore, we are unable to assign the earlier effective date of January 1, 2016.

Standard notice of disagreement (SNOD) examples

Example #7

The Veteran received a decision notification letter with an attached VA Form 21-0958, dated September 1, 2015 which denied a right leg condition. On December 1, 2015, the Veteran submits a 21-0958 referencing the denial of the right leg condition. The VA notifies the Veteran

by letter dated February 1, 2016 that his NOD is incomplete as the submitted VA Form 21-0958 is missing his signature.

How long does the Veteran have to submit a complete SNOD?

Response #7

The Veteran has until September 1, 2016, which is the remainder of his one year appeal period.

Intent to file status examples

Example #8

A surviving spouse submits an intent to file on April 1, 2015. Later, the surviving spouse submits a second intent to file for the same general benefit on July 1, 2015. A complete claim is later submitted on May 1, 2016. Can the surviving spouse benefit from the second intent to file?

Response #8

No. The earliest effective date that can be applied is May 1, 2016. The surviving spouse initially submitted an intent to file on April 1, 2015. The submission of the second intent to file (on July 1, 2015) was a duplicate since there can only be one active intent to file per benefit category at any given time. Since the receipt of the completed claim was not timely, the intent to file of April 1, 2015 has now expired. Therefore, the earliest effective date is the date of receipt of the complete claim, which is May 1, 2016.

Example #9

The Veteran submits an intent to file on April 1, 2015. Later, the Veteran submits a second intent to file for the same general benefit on July 1, 2016. A complete claim is not received by VA until August 1, 2016. Can the Veteran benefit from the second intent to file?

Response #9

Yes. The earliest possible effective date is July 1, 2016, the date of the second intent to file. The Veteran initially submitted an intent to file on April 1, 2015, which expired on April 1, 2016. The second intent to file was submitted on July 1, 2016 followed by a timely submitted complete claim received on August 1, 2016. The second submission on July 1, 2016 starts the intent to file process again providing a new 1 year time limit to complete the claim.

Example #10

The surviving spouse submits a VA Form 21-0996 for DIC benefits on May 10, 2015 and then submits an original claim on VA Form 21-534EZ on August 10, 2015. Can the surviving spouse submit another VA Form 21-0996 for DIC benefits after August 10, 2015?

Response #10

Yes, the surviving spouse may submit another VA Form 21-0966 as it is noted that his prior intent to file became complete on August 10, 2015 with the receipt of the VA Form 21-534EZ. Once the complete claim was received within the one year time frame of the intent to file, the intent to file was consumed and cannot be applied to any additional claims for the same general benefit received. If any additional complete claims for the same general benefit are received afterwards, they are not entitled to the intent to file date associated with an earlier claim for the same general benefit. Please note the surviving spouse is only allowed to have one active intent to file per general benefit at any given time. Upon submitting a complete claim for the same general benefit, the surviving spouse may submit a new VA Form 21-0966 to start the intent to file process for additional claims of the same general benefit.

Intent to file and development

Example #11

The Veteran submits a VA Form 21-0966 on March 28, 2015 on which he has written out his intent to file for compensation benefits for a left shoulder condition and a right knee condition. The Veteran receives correspondence informing him that he has one year from the date of the intent to file to submit a complete claim. The Veteran submits his VA Form 21-526EZ on November 1, 2015 with the following contentions: lower back, right elbow and left foot. When we develop for the conditions on the VA Form 21-526EZ, should we also develop for the left shoulder and right knee conditions mentioned on the VA Form 21-0996?

Response #11

No. The submission of a VA Form 21-0966 is not a claim, but merely a placeholder for effective date purposes. If the intent to file is received on paper and the Veteran uses the white space to suggest or describe a particular disability, this will not be considered a claim. A claim must be submitted on one of the prescribed forms; however, the intent to file will be applied for effective date purposes regardless of the specific issues noted because it was for the same general benefit.