



P&F Fiduciary Service
PMC VSR Journeyman Course

PACT Act Processing Guide

Job Aid

April 2023

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Please note: this job aid serves as a guide only and is not all-inclusive. VSRs are encouraged to refer to [the P&F PACT Act Information Page](#) for complete guidance. You may also use the [PMC PCGL PACT Act Reevaluation Scenario Paragraphs](#) PDF or [Notification Language](#) job aid for paragraphs needed within the “How We Made Our Decision” section of the notification letter.

References

- 38 USC 5103 (Notice to Claimants of Required Information and Evidence)
- 38 USC 5110 (Effective Dates of Awards)
- 38 USC 1305 (Reevaluation of DIC Determinations Pursuant to Changes in Presumptions of Service Connection)
- 38 CFR 3.114 (Change of Law or DVA Issue)
- 38 CFR 3.309 (Disease Subject to Presumptive Service Connection)
- 38 CFR 3.320 (Claims Based on Exposure to Fine Particulate Matter)
- 38 CFR 3.400 (General)
- M21-1, Part XII.i.3.A.2.a-b. (DIC Initial Authorization Issues)
- M21-4, Appendix B (End Product (EP) Codes)
- M21-4, Appendix C (Index of Claim Labels)
- M21-4, Appendix E (Index of Corporate Flashes and Special Issues)
- **govtrack, Sergeant First Class Heath Robinson Honoring our Promise to Address Comprehensive Toxics Act 2022**
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Overview of the PACT Act

Background

On August 10, 2022, the President signed Public Law (PL) 117-168, Sergeant First Class Heath Robinson Honoring our Promise to Address Comprehensive Toxics Act of 2022, or the Honoring our PACT Act of 2022 (hereafter referred to as “PACT Act”) establishing substantial legislative changes for the Department of Veterans Affairs (VA). This historic, multifaceted law:

- expands locations associated with radiation exposure
- expands presumptive conditions associated with herbicide exposure
- expands locations associated with herbicide exposure
- amends the statute involving Persian Gulf War Veterans
- establishes presumptive conditions associated with toxic exposures

- triggers changes to examination requirements when there is toxic exposure risk activity, and
- provides an avenue for a claimant-elected reevaluation of previously denied dependency and indemnity compensation (DIC) claims that can result in retroactive effective dates

Initial guidance was released to the field on August 10, 2022, followed by interim guidance on September 9, 2022. With the issuance of this standard operating procedure (SOP), both documents are rescinded as of January 1, 2023.

Effective Dates – Service-Connected Death Benefits

The effective date for these new presumptive conditions is August 10, 2022, the same day that the law went into effect. This is considered a **liberalizing law**. Therefore, for new claims (claimant did not elect VA to reevaluate the previously denied claim), consideration of the effective date provisions under **38 CFR 3.114 (Change of Law or DVA Issue)**, **38 USC 5110 (Effective Dates of Awards)**, and **38 CFR 3.400(General)** should be applied, allowing for consideration, in some cases, for an effective date earlier than the date of claim or date of enactment.

- Claims for SC Death:
 - if COD is a new presumptive (HTN, MGUS) based on section 404, effective date **may** be prior to date of law (8/10/22). See FAQ for effective date examples used as HTN COD.
 - If COD is **not** a new presumptive but able to grant based on a newly added location (Thailand, etc.), effective date cannot be prior to date of law (08/10/22).
 - Example: EP 140 received on June 1, 2022 and date of death is March 1, 2022. Veterans service shows service in Thailand. We would grant DIC from 8-10-22 if the Veteran died of a presumptive 3.309(e) condition which is not either of the two new presumptives.
- there are no tiered enactment or effective dates
- Consider survivor pension from earlier date if applicable.
 - From previous example, if applicable, grant pension from 03/01/2022, payable effective 04/01/22 and switch to DIC effective 08/10/22, date of law payable 09/01/22.

XII.i.1.B.1.c. When to Develop for Income and Net Worth on a Survivors Benefit Application Reevaluations: When elected by the claimant, VA is required to reevaluate such claims. **38 USC 1305 (Reevaluation of DIC Determinations Pursuant to Changes in Presumptions of Service Connection)** provides for reevaluation of previously denied DIC claims and the award of effective dates “as if the establishment or modification of the presumption of service connection had been in effect on the date of the submission of the original claim” without regard to **38 USC 5110 (Effective Dates of Awards)**.

- Section 204 does not contain a time limit on when a claimant can request reevaluation of a previously denied DIC claim.

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NOTE: If the spouse previously applied for DIC based on a location (regardless of the COD), and now that location was just added due to PACT, benefits can go back and grant from the original DIC claim, as long as the claimant elected a reevaluation.

Qualifying Service

In addition to the locations currently listed in 38 CFR 3.309(d), the Jackson RO will undertake the required development to the Department of Defense (DoD) to recognize **radiation risk activity** for any Veteran who is shown to have participated in one of the following qualifying activities during the applicable time frame:

Activity	Dates
Clean up of Enewetak Atoll	January 1, 1977 through December 31, 1980
Nuclear Response near Palomares, Spain	January 17, 1966 to March 31, 1967
Nuclear Response near Thule Air Force Base, Greenland	January 21, 1968 to September 25, 1968

The table below represents how the PACT Act impacts the **current herbicide exposure claims** process.

Provision	Before the PACT Act	After the PACT Act
Qualifying Service	<ul style="list-style-type: none"> • Limited to locations and conditions of service listed in 38 CFR 3.307(a)(6) and qualifying Vietnam offshore service under Section 1116A • Procedural concessions for Thailand 	Expands presumption of exposure to new locations as listed below in content titled <i>Expansion of Presumptive Herbicide Exposure</i>
Recognized Disabilities	Limited to disabilities listed in 38 CFR 3.309(e) as well as parkinsonism, bladder cancer, and hypothyroidism	Adds MGUS and hypertension to the list of recognized presumptive herbicide disabilities effective August 10, 2022
Degree of Disability	Except for parkinsonism, bladder cancer, hypothyroidism, disabilities must manifest to a degree of 10 percent or more	Statute does not require newly recognized disabilities (MGUS or hypertension) to manifest to a degree of disability of 10 percent or more to qualify as a presumptive disease
Nehmer	<ul style="list-style-type: none"> • Applies to currently recognized presumptive herbicide disabilities • Must have verified RVN/BWN service to be considered under the <i>Nehmer</i> court order 	Does not apply to MGUS or hypertension

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In addition to the currently recognized locations and conditions of service **associated with presumptive herbicide exposure**, the PACT Act added the following locations:

Location	Dates
Thailand at any United States or Royal Thai base, without regard to where on the base the Veteran was located or what MOS the Veteran performed	January 9, 1962, to June 30, 1976
Laos	December 1, 1965, to September 30, 1969
Cambodia at Mimot or Krek, Kampong Cham Province	April 16, 1969, to April 30, 1969
Guam or American Samoa, or in the territorial waters thereof	January 9, 1962, to July 31, 1980
Served on Johnston Atoll or on a ship that called at Johnston Atoll	January 1, 1972, to September 30, 1977

Recognize **presumptive exposure to herbicides** if a Veteran served during the applicable time in a qualifying location associated with presumptive herbicide exposure as follows:

Location	Dates
Service in the RVN, which includes on land in the RVN, on its inland waterways, or in the eligible offshore waters of the RVN, including specific bays and harbors.	The period beginning on January 9, 1962, and ending on May 7, 1975
In a unit determined by VA or the Department of Defense (DoD) to have operated in the Korean demilitarized zone (DMZ)	Between September 1, 1967, and August 31, 1971
Thailand at any United States or Royal Thai base, without regard to where on the base the Veteran was located or what MOS the Veteran performed	January 9, 1962, to June 30, 1976
Laos	December 1, 1965, to September 30, 1969
Cambodia at Mimot or Krek, Kampong Cham Province	April 16, 1969, to April 30, 1969
Guam or in the territorial waters thereof	January 9, 1962, to July 31, 1980
American Samoa or in the territorial waters thereof	January 9, 1962, to July 31, 1980

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Served on Johnston Atoll or on a ship that called at Johnston Atoll	January 1, 1972, to September 30, 1977
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Requirement to Identify Service-Connected Death PACT Act-Related Claims

The guidance below applies to claims for service-connected death benefits for survivors if:

- the Veteran's service falls into one of the newly recognized presumptive locations and there is evidence to indicate the Veteran's death was caused by or is secondary to one of the existing or newly recognized presumptive conditions associated with the toxic exposure in that location
- there is evidence indicating that the principal or contributory cause of the Veteran's death is, or is secondary to one of the newly recognized presumptive conditions and the Veteran's service meets the current or newly recognized presumptive locations associated with the presumptive condition(s)
- there is a specific allegation of eligibility by the claimant under the PACT Act, or
- the claim otherwise raises a question as to whether the PACT Act may affect eligibility
- Apply the correct special issue (SI) indicator to the appropriate contention. Remove the SI if it is determined the issue of PACT is no longer relevant to the contention. (See *Claims Establishment* section below and M21-1 III.i.2.F.2 *Utilizing Contentions and Special Issue Indicators Associated With the Claimed Issues* for more information.)

Note: While the PACT Act only specifically addressed DIC benefits, the provisions of the law expanding presumption of service connection will result in additional claimants qualifying for other types of survivor benefits. Unless otherwise specified below, claim establishment for PACT Act-related survivor claims should align with EP controls per [M21-4, Appendix B and C](#).

Establishing Claims

Apply all applicable special issues or flashes in addition to any PACT Act special issues or flashes under normal guidance, as applicable, found in [M21-4, Appendix E](#).

VBA's Mail Automation Service (MAS) will conduct a review of VA Form 21P-534EZ, during the claims intake process and at the time of claims establishment.

There are no new claim labels available for manual establishment that are related to the PACT Act. Follow the below table when establishing a claim.

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EP	Use this EP for a PACT Act-related claim for	Special issues should be applied upon claims establishment or when otherwise identified. The applied special issue should be
140	original DIC where no prior claim for survivors' benefits has been adjudicated	the <i>PACT</i> special issue <ul style="list-style-type: none"> • for claims that are identified as relating to the PACT Act, this special issue must be applied to the DIC contention in VBMS • this special issue should be applied upon claims establishment or when otherwise identified
020	DIC after an initial eligibility decision has been made	<ul style="list-style-type: none"> • the <i>PACT</i> special issue, applied to the DIC contention in VBMS, when there is no claim for reevaluation of a previously denied claim for DIC under the PACT Act, OR • the <i>PACT ACT DIC Reevaluation</i> special issue, applied to the DIC contention in VBMS, when a valid claim for reevaluation is elected and received by the claimant <ul style="list-style-type: none"> • A valid claim for reevaluation consists of an election by the claimant and the existence of a previously denied claim for DIC. • An election for a reevaluation of a previously denied DIC claim is accepted if correspondence requesting such a reevaluation is received with, or following receipt of, a prescribed form for survivor benefits.
040	Supplemental claim	when a supplemental claim is submitted on the prescribed supplemental claim form, VA Form 20-0995, Decision Review Request , use EP 040 (Established in CaseFlow) <ul style="list-style-type: none"> ▪ <i>PACT ACT DIC Reevaluation</i> special issue is used (applied in VBMS).
130	DIC claims from other beneficiaries after initial claims adjudicated under EP 140	the <i>PACT</i> special issue <ul style="list-style-type: none"> • for claims that are PACT Act-related, this special issue must be applied to the DIC contention in VBMS. • this special issue should be applied upon claims establishment or when otherwise identified.

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160	service-connected burial allowance	<ul style="list-style-type: none"> • the <i>PACT</i> special issue, applied to the appropriate contention, OR • in instances where service-connected burial is being addressed because of a grant of DIC benefits by reevaluation, the <i>PACT Act DIC Reevaluation</i> special issue should be used in lieu of the <i>PACT</i> special issue
		<p>If service connection can be granted under existing procedures and existing authorities (direct, secondary, aggravation, or established presumptions other than those specified by the PACT Act), do not apply, or remove, any PACT Act-related special issues.</p> <p>IMPORTANT: Follow current procedures to review for service connection entitlement.</p>
165	accrued, including when substitution is at issue	either the <i>PACT</i> or <i>PACT ACT DIC Reevaluation</i> special issue applied to the appropriate contention.
290	request for substitution, without an accompanying accrued claim, is received	either the <i>PACT</i> or <i>PACT ACT DIC Reevaluation</i> special issue applied to the appropriate contention.

Note: Establishing a Claim for Reevaluation: A claim qualifies as reevaluation when

- a previous denial of service-connected death exists, and
- The claimant is the original claimant or substitute claimant, and
- the claimant explicitly requests in writing a reevaluation of the decision that denied DIC.

NOTE: The PACT ACT DIC Reevaluation and PACT special issue should not both be applied to the same EP. Therefore, when the PACT ACT DIC Reevaluation special issue is applicable, then the PACT special issue should not be added and, if it was already added, then it should be removed prior to applying the PACT ACT DIC Reevaluation special issue to the EP.

SC Development - Requesting Additional Evidence from the Claimant

VA's current notice provided in accordance with 38 USC 5103 (Notice to Claimants of Required Information and Evidence) is sufficient to provide the general information to

substantiate the basic elements of DIC claims for the PACT Act, including what evidence is necessary.

- Important: It is unnecessary to issue a 5103 notice when a claimant submits a claim on a form that provides or otherwise indicates they received the notice. However, should specific development for the new presumptive conditions be necessary, ensure that any free text development actions properly address the new presumptive condition(s). Use the language in VBMS for all PACT Act-related development action as it pertains to service-connected death.
- When VBMS development letters are not possible, and Modern Awards Processing – Development (MAP-D) must be utilized, claims processors should not include AO–not a recognized condition paragraph or the MAP-D AO – SC Death, Nexus, Vietnam Service paragraph simply because the conditions are not currently listed under 38 CFR 3.309(e).

Exception: If the claimant has already provided specific dates of tour of duty or other service in a presumptive herbicide location, do not send a subsequent development letter.

Non-Service Connected (NSC) Claims Involving PACT Issues

If the NSC claim has been identified with PACT related issues, pursuing SC death further may involve additional development steps to verify exposure, or rule out probable PACT related SC death.

- If the evidence of records suggests SC death may be probable, claims processors may apply discretion to pursue SC death further. Follow M21-1 XI.ii.1.1 Referring Claims Involving Death After Service.
- Develop for PACT related evidence on the NSC claim may include, but not limited to: requesting STRs, ILER, CAPRI, development to the claimant, and/or a TERA memo for corresponding medical opinion if needed.
- If at any time the evidence definitively rules out SC death due to PACT, remove the SI and process the NSC claim accordingly.
- A TERA memo is not required for NSC PACT identified claims unless a medical opinion is needed for TERA.
- If applicable, pend the NSC EP on authorization of NSC awarded benefits while waiting for the additional development for the SC PACT issues. Notify the claimant a separate letter will be sent regarding an SC decision.

Note: In the absence of specific guidance, if a claims processor applies discretion that has been rightly afforded within the procedural guidance, an error would not be called. Generally, actions that claims processors *must* take and actions they may *not* take are specified by P&FS in M21-1 or SOP. In the absence of a specific requirement or prohibition, claims processors should use their best judgment when determining the propriety of a given action. In the absence of explicit requirements to do or not do something, a benefit entitlement error would not be called, including when a claims processor applies discretion that has been rightly afforded within the procedural guidance. Such a scenario would arise when a surviving spouse is claiming Survivors Pension, there is no statement indicating

toxic exposure, and the military service documents of record and ILER report summary do not reflect service in any of the locations that are presumptively associated with a specific exposure, including those service location added within the PACT Act. In such a case, further action to request the full service personnel file may not be needed if such documentation would not be required to properly adjudicate the Survivors Pension claim.

Example: When a surviving spouse is claiming Survivors Pension,

- there is no statement indicating toxic exposure, and
- the military service documents **of record** and ILER report summary do not reflect service in any of the locations that are presumptively associated with a specific exposure, including those service location added within the PACT Act, then

further action to request the full service personnel file may not be needed if such documentation would not be required to properly adjudicate the Survivors Pension claim.

Processing New DIC Claims Related to PACT Act

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Follow the below guidance when processing new PACT Act-related claims for DIC:

Stage	Description
1	Review the submitted claim to confirm the application was received on the appropriate prescribed form, and the claim is a PACT Act-related claim.
2	Establish claims as described within the content titled <i>Manual Claims Establishment</i> , and add the PACT special issue to the DIC contention in VBMS.
3	<p>Initiate any necessary development for entitlement issues, to include gathering STRs/MPRs, CAPRI records, and checking ILER for TERA claims.</p> <p>References:</p> <ul style="list-style-type: none"> • obtaining STRs, see M21-1, Part III, Subpart ii, 2.B • common DIC processing issues, see M21-1, Part XII, Subpart i, 1.B, and • general claims development, see M21-1, Part III, Subpart i, 2.A-F
4	<p>If TERA is at issue and</p> <ul style="list-style-type: none"> • the Veteran died of a non-presumptive condition, and • the rating decision cannot be granted under existing procedures and existing authorities (direct, secondary, aggravation, or established presumptions other than those specified by the PACT Act) <p>Then complete a TERA memo regardless of the conclusion for participation in TERA as a “Yes” or “No” decision.</p>
5	<p>Continue processing the claim under existing DIC processing guidance unless otherwise specified within this letter.</p> <p>Note: TERA memos are required for medical opinions involving TERA</p> <p>Note: Pension may be payable prior to DIC entitlement. Multiple effective dates may apply. Consider <i>Effective Dates</i> section of this Job Aid.</p>
6	At the authorization stage, if a deferral is necessary, defer all PACT Act-impacted contentions using the appropriate deferral reason.

When potential entitlement to DIC retroactivity is shown, but a proper reevaluation election has not been received, solicit for a VA Form 21P-534EZ or VA Form 21P-535 in the notification letter and inform the claimant they could be entitled to retroactivity.

SC Burial Benefits: PL 114-315 allows VBA to grant service-connected burial allowance to a surviving spouse without a claim when DIC benefits are granted upon reevaluation, and the Veteran's date of death occurred **on or after December 16, 2016**.

If...	Then...
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<ul style="list-style-type: none"> • The Veteran’s date of death is prior to December 16, 2016, and • A valid claim for burial benefits on a VA Form 21-530 was previously received 	<p>Process the SC burial benefit.</p>
<ul style="list-style-type: none"> • The Veteran’s date of death is prior to December 16, 2016, and • A valid claim for burial benefits on a VA Form 21-530 was not previously received 	<p>Solicit for a Service-Connected Burial claim in the notification letter</p>

- ***The DIC award establishes entitlement and dependency.***

Processing DIC Claims for Reevaluation of Previously Denied DIC

Requirements for submission of a valid claim for DIC have changed over time. Prior to March 24, 2015, a standardized claim form was not a requirement for a substantially complete application (M21-1, Part II, Subpart iii, 2.A.1.a., and M21-1, Part I, Subpart i, 1.A.4.f.).

If the corporate record does not indicate a claim for DIC has been previously filed, claims processors must exhaust all methods to determine if a claim has been previously filed, such as completing a full review of the claims folder to identify any documentation showing a previous claim for DIC (eFolder and physical claims folder if necessary), prior to moving to the next step.

Follow the below guidance when processing DIC claims for reevaluation of a previously denied PACT Act-related claim for DIC.

Step	Action
1	Review the submitted claim to confirm it is a written statement requesting reevaluation of a previously denied DIC claim and has been received by the original claimant or valid substitute claimant.

2	<p>Verify if previously denied DIC Claims exists.</p> <p>Claims processors should utilize the corporate record in Share, and/or VBMS, to identify the date of claim of a previously established EP 140, or the dates of claim of any subsequent EP 020, 040s (Supplemental claims), 030 (HLRs), 070 (BVA Appeals), historical 170 appeal EPs (Pre AMA) and use these dates as a basis to review documents in the claims folder.</p>								
<table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 50%; text-align: left; padding: 5px;">If...</th> <th style="width: 50%; text-align: left; padding: 5px;">Then...</th> </tr> </thead> <tbody> <tr> <td style="padding: 5px;"> If a valid claim for reevaluation is shown </td> <td style="padding: 5px;"> <ul style="list-style-type: none"> Establish claims as described within the content titled, Manual Claims Establishment section of this letter, and add the <i>PACT ACT DIC Reevaluation</i> special issue to the DIC contention in VBMS, and go to Step 3. </td> </tr> <tr> <td style="padding: 5px;"> The corporate record indicates: <ul style="list-style-type: none"> no original claim for survivor benefits was ever previously filed, and the claims folder is void of any source documents related to a previously filed claim for survivors benefits </td> <td style="padding: 5px;"> Change the EP to 400, and send an RFA notification letter. </td> </tr> <tr> <td style="padding: 5px;"> <ul style="list-style-type: none"> The corporate record indicates: no original claim for survivor benefits was ever previously filed, and the claims folder is void of any source documents related to a previously filed claim for survivors benefits, and The request for reevaluation was filed on or with a prescribed form for survivor benefits </td> <td style="padding: 5px;"> <ul style="list-style-type: none"> Change the EP to 140, and Change the <i>PACT ACT DIC Reevaluation</i> special issue to <i>PACT</i> special issue (or add the <i>PACT</i> special issue to the DIC contention if not already applied), and Process initial claim for DIC, and Deny the claimed reevaluation in the final notification letter. </td> </tr> </tbody> </table>		If...	Then...	If a valid claim for reevaluation is shown	<ul style="list-style-type: none"> Establish claims as described within the content titled, Manual Claims Establishment section of this letter, and add the <i>PACT ACT DIC Reevaluation</i> special issue to the DIC contention in VBMS, and go to Step 3. 	The corporate record indicates: <ul style="list-style-type: none"> no original claim for survivor benefits was ever previously filed, and the claims folder is void of any source documents related to a previously filed claim for survivors benefits 	Change the EP to 400, and send an RFA notification letter.	<ul style="list-style-type: none"> The corporate record indicates: no original claim for survivor benefits was ever previously filed, and the claims folder is void of any source documents related to a previously filed claim for survivors benefits, and The request for reevaluation was filed on or with a prescribed form for survivor benefits 	<ul style="list-style-type: none"> Change the EP to 140, and Change the <i>PACT ACT DIC Reevaluation</i> special issue to <i>PACT</i> special issue (or add the <i>PACT</i> special issue to the DIC contention if not already applied), and Process initial claim for DIC, and Deny the claimed reevaluation in the final notification letter.
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3	Initiate any necessary development for entitlement issues, to include gathering STRs/MPRs, CAPR records, and checking ILER for TERA claims.
4	<p>If TERA is at issue and</p> <ul style="list-style-type: none">• the Veteran died of a non-presumptive condition, and• the rating decision cannot be granted under existing procedures and existing authorities (direct, secondary, aggravation, or established presumptions other than those specified by the PACT Act) <p>Then complete a TERA memo regardless of the conclusion for participation in TERA as a "Yes" or "No" decision.</p>
5	<p>Continue processing the claim under existing DIC processing guidance unless otherwise specified within this letter.</p> <p>Note: TERA memos are required if a medical opinion is needed involving TERA</p> <p>Note: Consider effective dates in <i>Effective Dates</i> of this Job Aid</p>

Processing Service-Connected Burial Claims Related to PACT Act

When a claim is received for service-connected burial benefits based on newly recognized presumptive eligibility under the PACT Act, claims processors should establish a PACT identified claim with appropriate special issue indicators as required.

- Review the eFolder and corporate record for previous payments of NSC burial benefits.
- Per PL 116-315 for all burial claims processed on or after January 5, 2023, review for possible transportation benefits with an SC grant if the Veteran is buried in a covered Veterans' Cemetery (National, State, or Tribal). Use the National Cemetery Administration Nationwide Gravesite Locator.

Note: There is no time limit for submitting a claim for Service Connected burial benefits.

Processing Accrued Claims and Requests for Substitution Related to PACT Act

There is **no language in the PACT Act that supersedes 38 CFR 3.1010(g)**, therefore, **a substitute claimant can only pursue claims and appeals that were pending at the time of the original claimant's death, and cannot pursue a new claim that was not filed by the deceased claimant.**

An individual seeking **accrued benefits or substitution could elect to have an original DIC claim reevaluated**, even if the original claimant had not made such an election, **if a relevant DIC claim was pending at the time of the original claimant's death.**

When a claim is received for accrued benefits or a request for substitution based on expanded presumptive eligibility under the PACT Act, claims processors should apply the following guidance:

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- confirm a PACT Act-related claim has been identified and properly received by and that the prescribed application (where applicable) has been submitted,
- establish claims as described within the content titled, *Manual Claims Establishment* of this letter. Special issues should be applied upon claims establishment or when otherwise identified, **and**
- utilize current accrued/substitution procedures found in M21-1, Part XI, Subpart ii.3 while applying policy letter benefit-specific guidance associated with the claim pending at death to address potential entitlement under the PACT Act.

Processing Supplemental Claims Requesting DIC

When a supplemental claim is received and is associated with a PACT Act-related claim for DIC, use the guidance listed below:

Step	Action						
1	<p>Review the submitted claim to confirm</p> <ul style="list-style-type: none"> • the claim was received on the appropriate prescribed form VA Form 20-0995 Decision Review Request: Supplemental Claim • the claim has been received from the original claimant or valid substitute claimant, and • The claim specifically identifies the previously denied DIC claim by issue and date of denial decision 						
2	<p>Verify if previously denied DIC Claims exists.</p> <p>Claims processors should utilize the corporate record in Share, and/or VBMS, to identify the date of claim of a previously established EP 140, or the dates of claim of any subsequent EP 020, 040s (Supplemental claims), 030 (HLRs), 070 (BVA Appeals), historical 170 appeal EPs (Pre AMA) and use these dates as a basis to review documents in the claims folder.</p> <table border="1" style="width: 100%; border-collapse: collapse; margin-top: 10px;"> <thead> <tr> <th style="width: 50%; text-align: center;">If...</th> <th style="text-align: center;">Then...</th> </tr> </thead> <tbody> <tr> <td style="vertical-align: top;"> <p>A valid supplemental claim is received identifying a valid previously denied DIC claim</p> </td> <td style="vertical-align: top;"> <ul style="list-style-type: none"> • Establish an EP 040 in CaseFlow, and • add the <i>PACT ACT DIC Reevaluation</i> special issue to the DIC contention in VBMS, and <p>Continue to Step 3</p> </td> </tr> <tr> <td style="vertical-align: top;"> <p>The corporate record indicates:</p> <ul style="list-style-type: none"> • no original claim for survivor benefits was ever previously filed, and </td> <td style="vertical-align: top;"> <p>Change the EP to 400, and send an RFA notification letter.</p> </td> </tr> </tbody> </table>	If...	Then...	<p>A valid supplemental claim is received identifying a valid previously denied DIC claim</p>	<ul style="list-style-type: none"> • Establish an EP 040 in CaseFlow, and • add the <i>PACT ACT DIC Reevaluation</i> special issue to the DIC contention in VBMS, and <p>Continue to Step 3</p>	<p>The corporate record indicates:</p> <ul style="list-style-type: none"> • no original claim for survivor benefits was ever previously filed, and 	<p>Change the EP to 400, and send an RFA notification letter.</p>
If...	Then...						
<p>A valid supplemental claim is received identifying a valid previously denied DIC claim</p>	<ul style="list-style-type: none"> • Establish an EP 040 in CaseFlow, and • add the <i>PACT ACT DIC Reevaluation</i> special issue to the DIC contention in VBMS, and <p>Continue to Step 3</p>						
<p>The corporate record indicates:</p> <ul style="list-style-type: none"> • no original claim for survivor benefits was ever previously filed, and 	<p>Change the EP to 400, and send an RFA notification letter.</p>						

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	<ul style="list-style-type: none"> the claims folder is void of any source documents related to a previously filed claim for survivors benefits 	
	<p>The corporate record indicates:</p> <ul style="list-style-type: none"> no original claim for survivor benefits was ever previously filed, and the claims folder is void of any source documents related to a previously filed claim for survivors benefits, and <p>The supplemental claim was filed with a prescribed form for survivor benefits</p>	<ul style="list-style-type: none"> Cancel the EP 040 in CaseFlow and establish an EP 140 in VBMS <i>Apply the PACT</i> special issue to the DIC contention if not already applied), and Process initial claim for DIC, and Deny the claimed reevaluation in the final notification letter.
3	Initiate any necessary development for entitlement issues, to include gathering STRs/MPRs, CAPR records, and checking ILER for TERA claims.	
4	<p>If TERA is at issue and</p> <ul style="list-style-type: none"> the Veteran died of a non-presumptive condition, and the rating decision cannot be granted under existing procedures and existing authorities (direct, secondary, aggravation, or established presumptions other than those specified by the PACT Act) <p>Then complete a TERA memo regardless of the conclusion for participation in TERA as a "Yes" or "No" decision.</p>	
5	<p>Continue processing the claim under existing DIC processing guidance unless otherwise specified within this letter.</p> <p>Note: TERA memos are required if a medical opinion is needed involving TERA</p> <p>Note: Consider effective dates in <i>Effective Dates</i> of this Job Aid</p>	

Processing HLRs of a Previously Denied DIC Claim

Higher-level reviews (HLRs) are closed evidentiary records. Therefore, reevaluation must have been previously elected by the original claimant. For consideration for reevaluation that was not previously claimed, the claimant must select the supplemental claim lane, appeal to the Board of Veterans' Appeals (BVA) or file a new claim altogether.

When a **supplemental claim** is received requesting a reevaluation of a previously denied DIC claim due to the PACT Act, use the following guidelines:

Step	Action
1	Review the submitted claim to confirm the application was received on the appropriate prescribed form, and request for a reevaluation of a previously

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	denied DIC claim has been received by the original claimant or valid substitute claimant.	
2	Establish an EP 040 in CaseFlow, and add the PACT ACT DIC Reevaluation special issue to the DIC contention in VBMS.	
3	Claims processors should utilize the corporate record in Share, and/or VBMS, to identify the date of claim of a previously established EP 140, or the dates of claim of any subsequent EP 020, and use these dates as a basis to review documents in the claims folder.	
4	If a valid claim for reevaluation is shown go to Step 5.	
	If the corporate record indicates no claim for DIC was ever previously filed, and the claims folder is void of any source documents related to a previously filed claim for DIC	Then the special issue should be removed the EP should be changed to an EP 400, a request for application should be provided to the claimant, and the EP should be closed
5	Initiate any necessary development for entitlement issues, to include gathering STRs/MPRs, CAPR records, and checking ILER for TERA claims.	
	<p>If TERA is at issue and</p> <ul style="list-style-type: none"> • the Veteran died of a non-presumptive condition, and • the rating decision cannot be granted under existing procedures and existing authorities (direct, secondary, aggravation, or established presumptions other than those specified by the PACT Act) <p>Then complete a TERA memo regardless of the conclusion for participation in TERA as a "Yes" or "No" decision.</p>	
6	Continue processing the claim under existing DIC processing guidance unless otherwise specified within this letter.	
	Note: TERA memos are required if a medical opinion is needed involving TERA	

Individual Longitudinal Exposure Record (ILER)

- ILER currently provides access to over two million unique Veteran records and acts as a single access point to deployment history; including time, location, military occupational specialty (MOS), occupational hazard data, environmental hazards known or later found, monitoring performance in the area(s), diagnosis, treatment, and laboratory data.

Mandatory use of ILER applies to claims for service-connected death that involve TERA-related service-connected conditions, or causes of death, where:

- the evidence of record does not provide exposure-related verification and

- the benefit cannot otherwise be granted based on the evidence of record

Note that an ILER check is required when completing a TERA Memo.

The absence of exposure or deployment-related verification in ILER does not mean exposure-related evidence does not exist. If a Veteran that may be subject to a Toxic Exposure Risk Activity (TERA) is not found in ILER or ILER does not provide exposure or deployment-related verification for a Veteran, claims processors should document in the efolder that no ILER record exists and continue developing for a potential TERA through normal verification methods.

In addition to TERA claims, the use of ILER is suggested for the following types of claims (this is not an all-inclusive list and claims processors should determine if information available in ILER may satisfy the elements of an event, injury, or disease in service):

- Common claimed exposures related to service-connected (SC) Survivor benefits:
 - Diseases specific to former prisoners of war under 38 CFR 3.309(c).
 - Diseases specific to radiation-exposed Veterans under 38 CFR 3.309(d).
 - Chronic diseases and cancers associated with Burn Pits/other Toxins (BPOT) under 38 CFR 3.320.