**DEPARTMENT OF VETERANS AFFAIRS**

**[Designation of VA Office]                   [File Number]**

**[Location of VA Office]                    [Veteran’s Name]**

**ADMINISTRATIVE DECISION**

**ISSUE:  Administrative error** **due to a failed electronic dependency claim submission.**

**EVIDENCE:**  [**List all documents and information reviewed in making the decision using the evidentiary naming conventions prescribed in**[**M21-1, Part V, Subpart iv, 1.A.4.c**](https://vaww.vrm.km.va.gov/system/templates/selfservice/va_kanew/help/agent/locale/en-US/portal/554400000001034/content/554400000180523/M21-1-Part-V-Subpart-iv-Chapter-1-Section-A-Completing-the-Rating-Decision-Narrative)**.]**

***Examples***:

* *VA Form 21-686c, Application Request to Add and/or Remove Dependents*, received on January 17, 2017.
* *VA Form 21-674, Request for Approval of School Attendance*, received on January 17, 2017.

**PERTINENT LAWS AND REGULATIONS:  [List all laws and regulations applicable to the decided issue.]**

38 C.F.R. § 3.500(b)(2) **[include in all]**

The effective date of a rating which results in the reduction or discontinuance of an award will be in accordance with the facts found except as provided in § 3.105. The effective date of reduction or discontinuance of an award of pension, compensation, or dependency and indemnity compensation for a payee or dependent will be the earliest of the dates stated in these paragraphs unless otherwise provided. Where an award is reduced, the reduced rate will be effective the day following the date of discontinuance of the greater benefit.

(b) Error; payee's or administrative (38 U.S.C. 5112(b), (9), (10)).

(2) Except as provided in paragraph (r) of this section, and § 3.501 (e) and (g), date of last payment on an erroneous award based solely on administrative error or error in judgment.

***Additional Citations [include as appropriate]***:38 C.F.R. § 3.500(g)(2)(ii) **[death]**

Death on or after October 1, 1982: last day of the month in which death occurred, except that section 306 and old-law pension reductions or terminations will continue to be effective the last day of the calendar year in which death occurred.

38 C.F.R. § 3.500(n)(2)(ii) **[marriage]**

Marriage on or after October 1, 1982: last day of the month in which marriage occurred, except that section 306 and old-law pension reductions or terminations will continue to be effective the last day of the calendar year in which marriage occurred.

38 C.F.R. § 3.501(d)(2) **[divorce]**

Divorce or annulment on or after October 1, 1982: last day of the month in which divorce or annulment occurred, except that section 306 and old-law pension reductions or terminations will continue to be effective the last day of the calendar year in which divorce or annulment occurred.

38 C.F.R. § 3.667(c) **[termination of school attendance]**

(c) Ending dates. Except as provided in paragraph (b) of this section, benefits may be authorized through the last day of the month in which a course was or will be completed.

38 C.F.R. § 3.660(a) **[pension and parental dependency]**

(a) Reduction or discontinuance —

(1) General. A veteran, surviving spouse or child who is receiving pension, or a parent who is receiving compensation or dependency and indemnity compensation must notify the Department of Veterans Affairs of any material change or expected change in his or her income or other circumstances which would affect his or her entitlement to receive, or the rate of, the benefit being paid. Such notice must be furnished when the recipient acquires knowledge that he or she will begin to receive additional income or when his or her marital or dependency status changes. In pension claims subject to § 3.252(b) or § 3.274 and in compensation claims subject to § 3.250(a)(2), notice must be furnished of any material increase in corpus of the estate or net worth.

(2) Effective dates. Where reduction or discontinuance of a running award of section 306 pension or old-law pension is required because dependency of another person ceased due to marriage, annulment, divorce or death, or because of an increase in income, which increase could not reasonably have been anticipated based on the amount actually received from that source the year before, the reduction or discontinuance shall be made effective the end of the year in which the increase occurred. Where reduction or discontinuance of a running award of improved pension or dependency and indemnity compensation is required because of an increase in income, the reduction or discontinuance shall be made effective the end of the month in which the increase occurred. Where reduction or discontinuance of a running award of any benefit is required because of an increase in net worth or corpus of estate, because dependency of a parent ceased, or because dependency of another person ceased prior to October 1, 1982, due to marriage, annulment, divorce, or death, the award shall be reduced or discontinued effective the last day of the calendar year in which the increase occurred, or dependency ceased. Except as noted in this subparagraph for section 306 or old-law pension, where the dependency of another person ceased on or after October 1, 1982, due to marriage, annulment, divorce or death, the reduction or discontinuance shall be effective the last day of the month in which dependency ceased.

**DECISION:  [Insert in all decisions]**

A failed online application submission caused administrative error to occur from [insert date of the failed submission] to [insert date last paid]; therefore, the overpayment of [insert total amount determined in Step 2, last row of Table 3] is not subject to recoupment.

**REASONS AND BASES:  [The reasons and bases section must be included on all administrative decisions, including favorable ones. Adjust language as appropriate for the scenario.]**

You submitted [insert form name] on [date of submission failure], reporting the [death, divorce, marriage, discontinuance of school attendance] of [dependent’s name]. This submission was affected by an electronic submission technical defect.

38 CFR [identify applicable citation] requires reduction based upon the dependency change due to [death, divorce, marriage, discontinuance of school attendance] be effective the last day of the month in which the event occurred, therefore [dependent’s name] has been removed as a dependent [award effective date].

Due to the electronic submission defect VA erroneously paid [amount determined in Step 2, last row of Table 3]. This amount represents the timeframe that elapsed from the date of receipt of your notification to VA of the change in dependency through the last payment date of your VA benefits. The defect, which was purely due to a VA system error where VA effectively overlooked the submitted information, constitutes an administrative error. It is determined that this amount is no fault of your own, was solely based upon the electronic submission defect, and therefore is determined to be an administrative error under the provisions of 38 CFR 3.500(b)(2).

All elements required to decide the issue of **if an administrative error occurred** were met, and all findings were favorable to the claimant.