**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:**

* *VA Form*

**PERTINENT LAWS AND REGULATIONS:**

38 C.F.R. § 3.500(b)(2)

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.

**DECISION:**

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:**

*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.