Pension and Fiduciary Service

PMC VSR Basic Core Course
Phase 4: Foundational Enrichment

Establish Veteran Status

Trainee Guide

April 2024

Establish Veteran Status

Lesson Overview

| Topic | Description |
| --- | --- |
| Time Estimate: | 2 hours |
| Purpose of the Lesson: | This lesson is part of the entry-level curriculum, Core Course for PMC VSRs. The purpose of this lesson is to prepare PMC VSRs to establish a Veteran’s military service status to determine eligibility for pension benefits. |
| Target Audience: | This lesson is for entry level entry level PMC VSRs |
| Lesson References: | * 10 USC 1171 (Regular Enlisted Members: Early Discharge)
* 10 USC 1173 (Enlisted Members: Discharge for Hardship)
* 38 USC 5303A (Minimum Active-Duty Service Requirement)
* 38 CFR 3.2 (Periods of war)
* 38 CFR 3.3 (Pension)
* 38 CFR 3.12 (Character of discharge)
* M21-1 III.i.1.A (Establishing Veteran Status)
* M21-1 III.i.1.B (Service Requirements and Verification of Eligibility)
* M21-1 III.ii.1.A.1.e (Final Notification to Claimants That VA is Unable to Obtain Relevant Federal Records)
* M21-1 X.iv.1.A. (Character of Discharge (COD) and Bars to Benefits)
* M21-1 IX.i.1.2 (Service Requirement for Pension Eligibility)
* **Pension Systems and Application** job aid
 |
| Knowledge Check | Phase 4: Establish Veteran Status Knowledge Check |
| Lesson Objectives: | By the end of this lesson, you will be able to:* Establish Veteran status
* Determine if the Veteran meets length of qualifying service requirements for eligibility
* Determine if the Veteran meets wartime service requirements for eligibility
* Determine if the Veteran meets Character of Discharge (COD) requirements for eligibility
* Determine outcome due to Veteran status
 |
| What You Need: | * Trainee Guide
* Access to the Assessment Portal
* Access to the following VBA applications:
	+ CPKM
	+ VBA Intranet
	+ VBMS
	+ BIRLS Veterans Identification Data (VID) screen in SHARE
	+ PIES
* **Pension Systems and Application** job aid
 |

| PowerPoint Slides | Notes |
| --- | --- |
| **Establish Veteran Status** |  |
| ObjectivesBy the end of this lesson, you will be able to:* Establish Veteran status
* Determine if the Veteran meets length of qualifying service requirements for eligibility
* Determine if the Veteran meets wartime service requirements for eligibility
* Determine if the Veteran meets Character of Discharge (COD) requirements for eligibility
* Determine outcome due to Veteran status
 |  |
| Why It Matters!The **Establish Veteran Status** course matters because the Veteran’s status is the primary factor in determining basic eligibility to VA benefits. |  |
| Definitions: Verifying Service (1 of 2)* **Veteran** means a person who served in the active military, naval, air, or space service and who was discharged or released under conditions other than dishonorable.
* **Active service** includes active duty any period of **active duty for training (ADT)** during which a person is disabled or dies from a disease or injury incurred or aggravated in the line of duty, or any period of **inactive duty for training** **(IADT)** during which a person is disabled or dies from an injury incurred or aggravated in the line of duty
 |  |
| Definitions Verifying Service (2 of 2)* *Qualifying service* is any type of service that qualifies or potentially qualifies a claimant for Department of Veterans Affairs (VA) benefits.
	+ Eligibility for *live* benefits is based on the claimant’s Veteran status, and *survivors* benefits is based on the claimant’s status as the spouse, parent or child of a deceased Veteran
 |  |
| Veterans Discharge: Eligibility Pension Benefits* Entitlement to VA pension benefits is based on a Veteran's characters of discharge and meeting the wartime service requirement, and minimum active-duty service requirement, where applicable
* Wartime service for pension is established if a Veteran served in the active military, naval, space, or air service for
	+ at least 90 days during a period of war
	+ at least 90 consecutive days and such period began or ended during a period of war
	+ a total of 90 or more days during one or more wartime periods, *or* any amount of time during a period of war and was discharged or released for a disability incurred in or aggravated by service, or had an SC disability at the time of discharge that would have justified a discharge for disability
 |  |
| Veterans Discharge: Survivors Eligibility* A Veteran’s survivors may be eligible for pension if the Veteran met the wartime service requirement for Veterans Pension, or at the time of death, was in receipt of (or entitled to receive) compensation for an SC disability based on service during a period of war.
* If the Veteran had less than 90 days of wartime service, basic entitlement to Survivors Pension exists if the Veteran was in receipt of, or entitled to receive compensation or retirement pay by reason of wartime disability, even though such a grant of benefits is a clear and unmistakable error, and action to sever SC is pending at the time of death, in the absence of illegality or fraud
 |  |
| Secondary Eligibility* If initial review of the evidence available establishes potential Veteran status, consider secondary eligibility criteria such as:
	+ Are the service dates and character of discharge (COD) verified, including periods of active duty, or periods of ADT or IADT upon which a claim is based?
	+ If the evidence does not show a discharge under conditions other than dishonorable, has VA made a determination of COD?
	+ Have the benefit-specific eligibility criteria been met?
 |  |
| Verifying Service * The minimum active-duty service requirement must be met, by all persons, including officers, who originally enlisted in a regular component of the Armed Forces after September 7, 1980, *or* entered on active duty after October 16, 1981, *and* have not previously completed a continuous period of active duty of at least 24 months, nor been discharged or released from active duty under [10 U.S.C. 1171](https://www.law.cornell.edu/uscode/text/10/1171).
 |  |
| Denying for Lack of Qualifying Service * Deny a Veterans or Survivors Pension claim for lack of qualifying service if:
* qualifying service cannot be verified
* the Veteran served pre-Gulf War and has less than 90 days of active duty
* the Veteran served during the Gulf War period and has less than 24 consecutive months of active duty ***and*** did not fulfill the full period to which the individual was called, or
* the Veteran has ADT or IADT only
 |  |
| ADT and IADT (1 of 3)* Reserve and National Guard members without prior active service undergo a period of ADT, consisting of basic training and specialized job-based skill training
* Service as a traditional reservist or National Guard member is not active service and is not adequate service upon which to establish Veteran status
	+ service includes performing one period of weekend drill monthly and two weeks of annual training yearly
	+ service is referred to as IADT, which includes traditional drill weekends, and ADT, which includes the initial period of basic training and specialized job skill training, and two week (fifteen-day) annual training period
 |  |
| ADT and IADT (2 of 3)* Verification of specific periods of ADT or IADT (other than the initial period of ADT for which a *DD Form 214* is issued) is most easily accomplished via requesting the service personnel records and reviewing the *detailed report* of the member’s Retirement Points Annual Statement
* Examples of other records that may be used to verify ADT and IADT service include, but are not limited to:
	+ a line of duty investigation documented on *DD Form 261, Report of Investigation Line of Duty and Misconduct Status,* if the form is complete, and bears the signature of the final approval authority
	+ service treatment records documenting that a member was injured during a period of ADT or IADT
 |  |
| ADT and IADT (3 of 3)* Not all injuries, diseases, or deaths incurred or aggravated in the line of duty will be documented on *DD Form 261*, and a formal line-of-duty investigation is not a requirement to establish that a disease, injury, or death was incurred or aggravated in the line of duty during a period of ADT or IADT
* “In the line of duty” does not always mean while the reservist or National Guard member was at work
 |  |
| Minimum Active-Duty Requirement (1 of 3)* An individual who does not meet the minimum active- duty service requirements is not eligible for any benefit under 38 U.S.C. or under any other law administered by VA except
* benefits for, or in connection with, a service-connected (SC) disability or death
* insurance benefits provided by [38 U.S.C. Chapter 19](https://www.law.cornell.edu/uscode/text/38/part-II/chapter-19), and/or
* refunds of a participant’s contributions to the educational benefits program provided by post-Vietnam era Veteran’s educational assistance
 |  |
| Minimum Active-Duty Requirement (2 of 3)* In addition tothe wartime service requirement for pension and an other-than-dishonorable military service discharge, Veterans of the Gulf War and any future wartime periods must generally have met a minimum active-duty service requirement to be eligible for Veterans Pension or for their survivors to be eligible for Survivors Pension
 | **.** |

| PowerPoint Slides | Instructor Activities |
| --- | --- |
| Minimum Active-Duty Requirement (3 of 3)* To fulfill the minimum active-duty service requirement for pension, the Veteran must have
	+ completed 24 months of continuous active duty
	+ completed the full period for which they were called or ordered to active duty
	+ been discharged or released from active duty
		- for a disability determined to be SC without presumptive provisions of law, **or** had a disability at discharge, which in medical judgment would have justified a discharge for disability
	+ any SC disability with a compensable evaluation, **or** discharged within one year before the expiration of the term of enlistment for hardship discharge on the DD Form 214
 |  |
| Exceptions to Minimum Active-Duty Requirements  |  |
| Where to Look—DD Form 214A blank copy of the DD Form 214 Certificate of Release or Discharge from Active Duty with Special Additional Information Section Highlighted**DD FORM 214 with Emphasis on Special Additional Information Section** |  |
| Example: BIRLS VID Screen BIRLS Veterans Identification Data (VID) screen wiht service data section highlighted. BIRLS VID Screen with Emphasis on Service Data Section |  |
| DPRIS or PIES (1 of 2)* Develop for additional evidence when applicable
* DPRIS or PIES via the Records Management Center (RMC)
	+ Character of Discharge (COD)
	+ Entrance on Duty (EOD) and Release from Active Duty (RAD)
	+ Branch of Service
 |  |
| DPRIS or PIES (2 of 2)* Service *personnel* records of Veterans who were discharged, having no further service obligation, are available only through the DPRIS relative to their individual branches of service as noted below:
	+ Army – October 1, 1994
	+ Navy – January 1, 1995
	+ Air Force – October 1, 2004
	+ Marine Corps – January 1, 1999, and
	+ Space Force – December 20, 2019
* Use a PIES O50 request for all prior service dates.
 |  |
| Example: VBMS |  |
| Service Verification with VIS |  |
| Verifying Service: Travel Time (1 of 2)* A service member is considered to remain on active duty after discharge or release for the time necessary to travel directly home.
	+ Travel time is determined by the service department; however, a person is always considered to be on active duty until midnight of the day of discharge or release
* Consider travel time in determining eligibility to benefits requiring 90 days or 24 months of active service
	+ Do not routinely request certification of travel time if the records show that the Veteran had less than 80 days of active service
 |  |
| Verifying Service: Travel Time (2 of 2)* If the Veteran is disabled or dies from an injury within 11 days after discharge from service, compensation or DIC may be payable
* In these cases, or if travel time is put at issue by the claimant, make an inquiry to the service department as to whether the Veteran was entitled to travel time for the date and hour on which the injury or death occurred
 |  |
| Determine Outcome* If a claimant has submitted evidence of service which cannot be accepted and military service cannot be verified by other methods send a denial letter which explains the attempts to verify service, and describes the acceptable forms of evidence, and furnish notice of decision review rights
* When qualifying service cannot be verified in a claim for compensation or DIC, complete an administrative decision as directed by [M21-1, Part X, Subpart v, 1.C](https://vaww.vrm.km.va.gov/system/templates/selfservice/va_kanew/help/agent/locale/en-US/portal/554400000001034/content/554400000177999/M21-1%2C-Part-X%2C-Subpart-v%2C-Chapter-1%2C-Section-C----Administrative-Decisions) before administrative denial of the claim
 |  |

| PowerPoint Slides | Instructor Activities |
| --- | --- |
| Character of Discharge (COD) |  |
| Establish Veteran Status* Review claimant’s military separation document (DD Form 214)
* BIRLS VID screen
* CORPORATE Military Tour/Theater screen
* State Adjutant General
* Request copies of documents from claimant
* Develop via DPRIS, PIES or VBMS through the RMC if service is not verified
* Develop for personnel records if the COD requires an Administrative Decision
* Write Predetermination Notice (Due Process) to Claimant
* Determine if COD is a statutory bar
 |  |

| PowerPoint Slides | Instructor Activities |
| --- | --- |
| **PACT Act-related Claims (1 of 2)*** ILER can be used to help verify service location(s) for PACT Act presumptive claims
	+ If a Veteran that may be subject to a TERA is not found in ILER or ILER does not provide exposure or deployment-related verification for a Veteran, claims processors should continue developing for a potential TERA through normal verification methods
 |  |
| **PACT Act-related Claims (2 of 2)*** Currently, VA recognizes a presumption of exposure to herbicides in specific locations as listed in 38 CFR 3.307(a)(6).
	+ Under the PACT Act, the locations associated with presumptive exposure are expanded for example:

 |  |
| ****Lesson Summary Review Questions********Time Allowed: 10 minutes**** |  |
| ****What’s Next**** * **Complete Establish Veteran Status course evaluation: TMS ID #: 4189364**
 |  |

Appendix

**Exceptions to Minimum Active-Duty Requirements**



**Character of Discharge Image**

