Process Incarceration/Fugitive Felon Adjustments

PMC VSR Advanced Core Course

Phase 6: Practical Application and Experience

Trainee Guide

July 2024

**Process Incarceration/Fugitive Felon Adjustments**

**Lesson Overview**

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| **Topic** | **Description** |
| Time Estimate: | 6 hours |
| Purpose of the Lesson: | This lesson is part of the entry-level course for PMC VSRs. The purpose of this lesson is to prepare trainees to recognize and process adjustments to the awards of beneficiaries with changes in incarceration and fugitive felon status. |
| Prerequisite Training Requirements: | Prior to taking the Process Incarceration/Fugitive Felon Adjustments lesson, trainees must complete the entry-level course Phases 1-5.6. |
| Target Audience: | This lesson is for entry-level PMC VSRs. |
| Lesson References: | * 38 USC 5313B (Prohibition on Providing Certain Benefits with Respect to Persons Who Are Fugitive Felons)
* 38 CFR 3.665 (Incarceration Beneficiaries and Fugitive Felons – Compensation)
* 38 CFR 3.666 (Incarcerated Beneficiaries and Fugitive Felon – Pension)
* M21-1 VI.iii.1.A. (Effects of an Individual’s Incarceration on Department of Veterans Affairs (VA) Benefits)
* M21-1 VI.iii.1.B. (Paying Benefits to the Dependent(s) of an Incarcerated Veteran)
* M21-1 VI.iii.1.C. (Incarceration of Dependents and Certain Survivors)
* M21-1 XIV.7 (Data-Matching Programs That Identify Incarcerated Beneficiaries and Dependents)
* M21-1 XIV.8 (Fugitive Felon Match)
* See *Appendix A* for references introduced in earlier lessons.
* VA Form 21-4193, Notice to Department of Veterans Affairs of Veteran or Beneficiary Incarcerated in Penal Institution
* VA Form FFP-3, VA Investigative Summary Form
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| **Topic** | **Description** |
| Technical Competencies: | * Program Benefits and Eligibility (PMC VSR)
* Processing Claims (PMC VSR)
* VBA Applications (PMC VSR)
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| Knowledge Check: | Phase 6 Process Incarceration/Fugitive Felon Adjustments Knowledge check |

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| **Topic** | **Description** |
| Lesson Objectives: | By the end of this lesson, you should be able to:* Process evidence of incarceration/fugitive felon status
* Determine actions based on the source of the incarceration/fugitive felon notification
* Determine if evidence is sufficient to process adjustment
* Apply the correct development actions for the information/evidence missing from claim
* Decide the award action(s)
* Apply due process provisions
* Create decision notice
* Submit the claim to the Authorizer
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| **Topic** | **Description** |
| What You Need: | * Trainee Guide
* Access to VSR Assistant to use the job aids associated with each claim
* Access to CPKM
* Access to VBMS
* Access to the Assessment Portal
* Access to the following job aids from VSR Assistant:
	+ **Processing an Award Adjustment** job aid
	+ **Annotate the Award Checklist**
	+ **Incarceration/Fugitive Felon** job aid
	+ **Prepare the Decision Notification** job aid
	+ **Notification Language** job aid
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**Trainee Notes**

This lesson provides trainees with instruction, practice, and the needed references to process adjustments due to changes in incarceration or fugitive felon status. Be sure to use the NOTES portion of your guide to record questions, comments, and concerns to present to instructors for further clarification.

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| **PowerPoint Slides** | **Notes** |
| **Process Incarceration/Fugitive Felon Adjustments** |  |

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| **PowerPoint Slides** | **Notes** |
| **Lesson Objectives**By the end of this training, you should be able to:* Process evidence of incarceration/fugitive felon status
* Determine actions based on the source of the incarceration/fugitive felon notification
* Determine if evidence is sufficient to process adjustment
* Apply the correct development actions for the information/evidence missing from claim
* Decide the award action(s)
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| **PowerPoint Slides** | **Notes** |
| **Why It Matters!**The **Process Incarceration/Fugitive Felon Adjustments** course is it is important to understand how to process these cases as federal regulation mandates VA to adjust pension or DIC benefits for beneficiaries incarcerated or when fugitive felon status is applicable. |  |
| **Lesson Overview*** Introduction to incarceration and fugitive felon adjustments
* Demonstration—Instructor processes evidence of incarceration or fugitive felon status from start to finish with opportunities for questions

Guided Practice Exercise— Trainees process evidence of incarceration or fugitive felon status with questions and feedback/remediation |  |

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| **PowerPoint Slides** | **Notes** |
| **Overview of Processing Incarceration Adjustments*** [**38 CFR 3.665**](http://www.ecfr.gov/cgi-bin/text-idx?SID=1b6a528f90d9b9f9560fd80bdfcb0880&node=se38.1.3_1665&rgn=div8) requires the ***reduction*** of a beneficiary’s***disability compensation*** or ***Dependency and Indemnity Compensation (DIC)*** when the beneficiary is incarcerated more than 60 days following conviction of a ***felon.***
* [**38 CFR 3.666**](http://www.ecfr.gov/cgi-bin/text-idx?SID=1b6a528f90d9b9f9560fd80bdfcb0880&node=se38.1.3_1666&rgn=div8) requires the ***discontinuance*** of a beneficiary’s ***pension*** when the beneficiary is incarcerated more than 60 days following conviction of a ***felony or misdemeanor***
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| **PowerPoint Slides** | **Notes** |
| **Overview of Fugitive Felon Adjustments*** DIC, and pension are not payable, to a beneficiary that is a fugitive felon, or for a dependent that is a fugitive felon.
* A fugitive felon is anyone that is fleeing to avoid prosecution, being taken into custody, or confinement, after being convicted for, or attempting to commit, an offense that is a felony, or violating a condition of probation or parole imposed for commission of a felon.
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| **PowerPoint Slides** | **Notes** |
| **Receipt of Notice of Incarceration*** Per  in [**M21-1, Part VI, Subpart iii, 1.A.1.c**](https://vaww.vrm.km.va.gov/system/templates/selfservice/va_kanew/help/agent/locale/en-US/portal/554400000001034/content/554400000179493/M21-1-Part-VI-Subpart-iii-Chapter-1-Section-A-Effects-of-an-Individuals-Incarceration-on-Department-of-Veterans-Affairs-VA-Benefits%3FarticleViewContext%3Darticle_view_related_article), there is no requirement to remove an incarcerated dependent from the award of a surviving spouse in receipt of DIC.
* An official source of information regarding an individual’s incarceration includes Federal, State, and local government authorities, BOP’s website ([**http://www.bop.gov/**](http://www.bop.gov/)), and official websites of individual correctional facilities.
* Follow required actions outlined in [**M21-1 VI.iii.1.A.3.a.**](https://vaww.vrm.km.va.gov/system/templates/selfservice/va_kanew/help/agent/locale/en-US/portal/554400000001034/content/554400000179493/M21-1-Part-VI-Subpart-iii-Chapter-1-Section-A-Effects-of-an-Individuals-Incarceration-on-Department-of-Veterans-Affairs-VA-Benefits%3FarticleViewContext%3Darticle_view_related_article) when a notice of incarceration is received.
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| **PowerPoint Slides** | **Notes** |
| **Overview of Considering an Official Notice of Incarceration**The following constitute official notice of incarceration: * an 800 series work item that was system-generated as a result of the data-matching programs described in [**M21-1, Part XIV, 7**](https://vaww.vrm.km.va.gov/system/templates/selfservice/va_kanew/help/agent/locale/en-US/portal/554400000001034/content/554400000173307/M21-1-Part-XIV-Chapter-7-Data-Matching-Programs-That-Identify-Incarcerated-Beneficiaries-and-Dependents)
* a completed [***VA Form 21-4193, Notice to Department of Veterans Affairs of Veteran or Beneficiary Incarcerated in Penal Institution***](http://vbaw.vba.va.gov/bl/20/cio/20s5/forms/VBA-21-4193-ARE.pdf), from a correctional facility, and
* evidence of incarceration that originated from an official source, including statements affirming incarceration from
	+ prison or law enforcement authorities
	+ prosecutors, or
	+ parole officers
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| **PowerPoint Slides** | **Notes** |
| **Overview of Adjusting an Award due to Incarceration*** To execute the reduction or discontinuance of benefits in the claims-processing system based on ***beneficiary’s*** incarceration, follow the instructions in [**M21-1, Part VI, Subpart iii, 1.A.3.f**](https://vaww.vrm.km.va.gov/system/templates/selfservice/va_kanew/help/agent/locale/en-US/portal/554400000001034/content/554400000179493/M21-1-Part-VI-Subpart-iii-Chapter-1-Section-A-Effects-of-an-Individuals-Incarceration-on-Department-of-Veterans-Affairs-VA-Benefits%3FarticleViewContext%3Darticle_view_related_article).
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| **PowerPoint Slides** | **Notes** |
| * **Scenario1: Incarceration Adjustment**

**Scenario 1:**Henry Veteran, 65-year-old army Veteran, had been in receipt of VA pension, and had no income when he applied. On August 10, 2020, VA received notice from the Veteran’s best friend that that Mr. Henry Veteran has been incarcerated since February 14, 2020, and has been sentenced to a 3-year prison term. The best friend felt it necessary to inform VA as the Veteran has no dependents, and Mr. Henry Veteran has yet to contact VA. **Based on the information provided, what actions are needed?** |  |

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| **PowerPoint Slides** | **Notes** |
| **Scenario 2 —Incarceration Adjustments****Scenario 2**:Henry Veteran, 65-year-old army Veteran, had been in receipt of VA pension, and had no income when he applied. On August 10, 2020, VA received notice from the Veteran’s best friend that that Mr. Henry Veteran has been incarcerated since February 14, 2020, and has been sentenced to a 3-year prison term. The best friend felt it necessary to inform VA as the Veteran has no dependents, and Mr. Henry Veteran has yet to contact VA. However, VA has received a completed VA Form 21-4193 from the Ride It Out Correctional Facility, corroborating the unofficial notice, confirming the Veteran has been incarcerated for at least 60 days, and his term is for 3 years.**Based on the information provided, what actions are needed?** |  |

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| **PowerPoint Slides** | **Notes** |
| **Scenario 3: Incarceration Adjustment**Henry Veteran, 65-year-old army Veteran, had been in receipt of VA pension, and had no income when he applied. On August 10, 2020, VA received notice from the Veteran’s best friend that that Mr. Henry Veteran has been incarcerated since February 14, 2020, and has been sentenced to a 3-year prison term. The best friend felt it necessary to inform VA as the Veteran has no dependents, and Mr. Henry Veteran has yet to contact VA. After taking all the required steps to confirm incarceration and issue due process, the Veteran still has not responded to VA.**Based on the information provided, what actions are needed?** |  |

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| **PowerPoint Slides** | **Notes** |
| **Claim 1—Process Incarceration Adjustments*** **Instructions**:
	+ Divide in groups of 2.
	+ Perform the steps needed to process Claim 1 – Live Case.
	+ Use the job aids, references, and systems available.
	+ Confer with your partner.
	+ Be prepared to discuss your results with the class.
* **Time allowed**: 20 minutes
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| **PowerPoint Slides** | **Notes** |
| **Claim 1—Process Incarceration Adjustments Prepare the Decision Notice*** **Instructions**:
	+ Perform the steps to prepare the decision notice for Claim 1.
	+ Use the job aids, references, and systems available.
	+ Confer with your partner to assess each other’s decision notice.
	+ Ask for guidance from the instructor if you identify discrepancies.
* **Time allowed**: 20 minutes
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| **PowerPoint Slides** | **Notes** |
| **Claim 2—Process Incarceration Adjustments*** **Instructions**:
	+ Perform the steps needed to process Claim 2 – Live Case.
	+ Use the job aids, references, and systems available.
	+ Confer with your partner.
	+ Be prepared to discuss your results with the class.
* **Time allowed**: 20 minutes
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| **PowerPoint Slides** | **Notes** |
| **Claim 2—Process Incarceration Adjustments Prepare the Notification*** **Instructions**:
	+ Perform the steps to prepare the decision notice for Claim 2.
	+ Use the job aids, references, and systems available.
	+ Confer with your partner to assess each other’s decision notice.
	+ Ask for guidance from the instructor if you identify discrepancies.
	+ **Time allowed**: 20 minutes
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| **PowerPoint Slides** | **Notes** |
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| **Processing Overturned Convictions**Follow the steps in the table shown in[**M21-1 VI.iii.1.A.3.h.  Handling Notice That Charges Against an Incarcerated Beneficiary Were Dismissed or Overturned or the Type of Conviction Was Changed**](https://vaww.vrm.km.va.gov/system/templates/selfservice/va_kanew/help/agent/locale/en-US/portal/554400000001034/content/554400000179493/M21-1-Part-VI-Subpart-iii-Chapter-1-Section-A-Effects-of-an-Individuals-Incarceration-on-Department-of-Veterans-Affairs-VA-Benefits%3FarticleViewContext%3Darticle_view_related_article) after receiving notice of the charges that resulted in a beneficiary’s incarceration have been dismissed or were overturned, or type of conviction (felony) that resulted in incarceration has changed such that a reduction or discontinuance of benefits is no longer required. |  |
| **Processing Cases Where Incarceration Has Ended*** Follow the steps in [**M21-1 VI.iii.1.A.5.c. (Handling Notice that a Beneficiary’s Incarceration has Ended)**](https://vaww.vrm.km.va.gov/system/templates/selfservice/va_kanew/help/agent/locale/en-US/portal/554400000001034/content/554400000179493/M21-1-Part-VI-Subpart-iii-Chapter-1-Section-A-Effects-of-an-Individuals-Incarceration-on-Department-of-Veterans-Affairs-VA-Benefits%3FarticleViewContext%3Darticle_view_related_article) after receiving notice that incarceration has ended.
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| **PowerPoint Slides** | **Notes** |
| **Claim 3—Incarceration Has Ended*** **Instructions**:
	+ Perform the steps needed to process Claim 3 (Live Case).
	+ Use the job aids, references, and systems available.
	+ Confer with your partner to assess each other’s decision notice.
	+ Ask for guidance from the instructor if you identify discrepancies.
* **Time allowed**: 20 minutes
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| **PowerPoint Slides** | **Notes** |
| **Claim 3—Incarceration Ended Prepare the Decision Notice*** **Instructions**:
	+ Perform the steps needed to process Claim 3.
	+ Use the job aids, references, and systems available.
	+ Confer with your partner to assess each other’s decision notice.
	+ Ask for guidance from the instructor if you identify discrepancies.
* **Time allowed**: 20 minutes
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| **PowerPoint Slides** | **Notes** |
| **Claim 2—Create Decision Notice*** The National Crime Information Center (NCIC) assigns codes and corresponding descriptions, which are an indicator that the individual with the felony arrest warrant is/was fleeing or has violated the conditions of probation or parole.

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| **PowerPoint Slides** | **Notes** |
| **Handling Form FFP-3 – VA Investigative Summary Form*** During the initial stages of handling Form FFP-3, follow the steps in [**M21-1 XIV.8.2.a. (Initial Stages of the Process for Handling Form FFP-3)**](https://vaww.vrm.km.va.gov/system/templates/selfservice/va_kanew/help/agent/locale/en-US/portal/554400000001034/content/554400000173306/M21-1-Part-XIV-Chapter-8-Fugitive-Felon-Match%3FarticleViewContext%3Darticle_view_related_article)
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| **PowerPoint Slides** | **Notes** |
| **Manually Processing Form FFP-3 – VA Investigative Summary Form*** During the initial stages of handling Form FFP-3, follow the steps in [**M21-1 XIV.8.2.b. (Handling Fugitive Felon Cases That Must be Processed Manually)**](https://vaww.vrm.km.va.gov/system/templates/selfservice/va_kanew/help/agent/locale/en-US/portal/554400000001034/content/554400000173306/M21-1-Part-XIV-Chapter-8-Fugitive-Felon-Match%3FarticleViewContext%3Darticle_view_related_article)
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| **PowerPoint Slides** | **Notes** |
| **Fugitive Felon: Automated Processing*** PMCs become involved in the processing of fugitive felon cases that initially met the criteria for automated processing if the beneficiary or apportionee responds to the notice of proposed adverse action referenced in Stage 2 of the process described under [**M21-1, Part XIV, 8.2.a**](https://vaww.vrm.km.va.gov/system/templates/selfservice/va_kanew/help/agent/locale/en-US/portal/554400000001034/content/554400000173306/M21-1-Part-XIV-Chapter-8-Fugitive-Felon-Match%3FarticleViewContext%3Darticle_view_related_article), within 65 days, or the beneficiary or apportionee does *not* respond to the notice of proposed adverse action within 65 days, ***and***
	+ the beneficiary is currently receiving no benefits (because the award was stopped or suspended) **or** there is a history of an award override
	+ an award withholding is in place (to include a withholding for an apportionment) **or** an award adjustment is pending authorization, or
	+ new documents were recently uploaded into the beneficiary’s eFolder
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| **PowerPoint Slides** | **Notes** |
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| **Fugitive Felon: Actions and Notification*** If the warrant agency confirms the warrant is still valid, or was not cleared within 30 days of issuance **or** contact could not be established with the warrant agency, ***AND*** the beneficiary **or apportionee** acknowledges the validity of the warrant that resulted in generation of *Form FFP-3*, **or** fails to respond to the notice of proposed adverse action
* **stop (if the beneficiary is the fugitive felon)** or
* **reduce (if the beneficiary’s dependent is the fugitive felon)**
	+ the beneficiary’s award under the pending EP 600 effective the date proposed in the notice of proposed adverse action, **and** notify the beneficiary or apportionee of the action taken, using the *Fugitive Felon Final Decision Letter*
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| **Practice Exercise – Claim 1: Fugitive Felon Determination*** **Instructions**:
	+ Divide into groups of 4.
	+ Access Appendix A (Fugitive Felon) - Claim 1
	+ Read the scenario to determine the actions needed.
	+ Use the worksheet to record a response.
	+ Be prepared to discuss your rationale.
* **Time allowed**: 10 minutes
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| **Practice Exercise – Claim 2: Fugitive Felon Determination*** **Instructions**:
	+ Access Appendix A (Fugitive Felon) - Claim 2
	+ Read the scenario to determine the actions needed.
	+ Use the worksheet to record a response.
	+ Be prepared to discuss your rationale.
* **Time allowed**: 10 minutes
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| **Practice Exercise – Claim 2: Fugitive Felon Determination*** **Instructions**:
	+ Access Appendix A (Fugitive Felon) - Claim 3
	+ Read the scenario to determine the actions needed.
	+ Use the worksheet to record a response.
	+ Be prepared to discuss your rationale.
* **Time allowed**: 25 minutes
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| **Practice Exercise – Claim 4: Fugitive Felon Determination*** **Instructions**:
	+ Access Appendix A (Fugitive Felon) - Claim 4
	+ Read the scenario to determine the actions needed.
	+ Use the worksheet to record a response.
	+ Be prepared to discuss your rationale.
* **Time allowed**: 25 minutes
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| **Practice Exercise – Claim 5: Fugitive Felon Determination*** **Instructions**:
	+ Access Appendix A (Fugitive Felon) - Claim 5
	+ Read the scenario to determine the actions needed.
	+ Use the worksheet to record a response.
	+ Be prepared to discuss your rationale.
* **Time allowed**: 25 minutes
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| **Knowledge Check: Lesson Summary Review Questions****Time Allowed**: 15 minutes  |  |
| What’s Next?* Complete Process Incarceration/Fugitive Felon Adjustments course evaluation: **TMS ID: 4408414**
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**Appendix**

