Pension and fiduciary service

PMC VSR Intermediate Core Course

Phase 5: Proficiency Development
Part 2: Process a Claim

Overview of the Development Process

Trainee Guide

July 2024

Overview of the Development Process

Lesson Overview

| Topic | Description |
| --- | --- |
| Time Estimate: | 3 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 recognize issues in a claim and develop for all records needed for the claim in order to fulfill the duty to assist. |
| Prerequisite Training Requirements: | Prior to taking the Overview of the Development Process lesson, trainees must complete PMC VSR Core Course Phases 1–4, and Phase 5, Part 1.a-d. |
| Target Audience: | This lesson is for entry-level PMC VSRs. |
| Lesson References: | * 38 USC 5103 (Notice to Claimants of Required Information and Evidence)
* 38 CFR 3.159 (VA Assistance in Developing Claims)
* 38 CFR 3.160 (Status of Claims)
* 38 CFR 3.2601 (Higher-level Review)
* Public Law (PL) 106-475 (Veterans Claims Assistance Act of 2000)
* M21-1 III.i.2.D.1 (Requesting Evidence from the Claimant)
* M21-1 III.i.2.A.1 (General Information on VA’s Duty to Assist Claimants)
* M21-1 III.i.2.D.1.b. (Notice of Time Limits to Submit Evidence)
* M21-1 III.i.2.A.1.g. (Handling Concurrent Development Actions)
* M21-1 III.i.2.D.1.d. (Claims Development by E-Mail, Telephone, and Electronic Means)
* M21-1 III.i.2.D.1.e. (Documenting Information Received by Telephone)
* M21-1 III.i.2.D.2.a. (Time Limit for Responding to a Request)
* M21-1 III.i.2.D.1.a. (Written Requests for Evidence)
* M21-1 III.i.2.C.2.d. (Assisting in Obtaining Third Party Records)
* M21-1 III.ii.1.A.1.b. (Standard Procedure for Requesting Records from a Federal Entity)
* **Develop for Missing Information/Evidence** job aid
* **Pension Systems and Applications** job aid
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| Technical Competencies: | * Processing Claims (PMC VSR)
* Special Monthly Pension (SMP) Processes
* VBA Applications (PMC VSR)
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| Lesson Objectives: | By the end of this lesson, you should be able to:* Demonstrate how to develop for information/evidence needed to fulfill duty to assist
* Define key terms used by PMC VSR in development of a claim
* Describe the common steps in development
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| What You Need: | * Trainee Guide
* Appendix A: Worksheet
* Appendix B: Sample Development Letter with 5103 Notice
* Access to VSR Assistant for job aid:
	+ **Develop for Missing Information/Evidence** job aid
* Access to CPKM
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| PowerPoint Slides | Notes |
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| Overview of the Development Process  |  |
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 |  |
| Why It Matters!The **Overview of the Development Process** courseis important because it provides an overview of VA’s obligation to notify and assist claimants of any information and medical or lay evidence that is necessary to substantiate their claim for benefits. |  |
| Key Terms Used in DevelopmentThe following are key terms used in development:* Relevant records
* Evidence (divided into two categories)
	+ Competent medical evidence
	+ Competent lay evidence
* Event
* Information
* Records
* Duty to Assist
* Duty to Notify
 |  |
| Definitions (1 of 8)* **Relevant Records** are those records that relate to the disability or injury for which the claimant is seeking benefits, and have a reasonable possibility of helping to substantiate the claim
* **Event** means one or more incidents associated with places, types, and circumstances of service giving rise to disability
 |  |
| Definitions (2 of 8)* ***Information*** means non-evidentiary facts, such as:
	+ the claimant's Social Security number or address;
	+ the name and military unit of a person who served with the Veteran; or
	+ the name and address of a medical care provider who may have evidence pertinent to the claim
* **Initial claims** include a new claim requesting service connection for a disability or grant of a new benefit, and a claim for increase in a disability evaluation rating or rate of a benefit paid based on a change or worsening in condition or circumstance since the last decision issued by VA for the benefit.
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| Definitions (3 of 8)* A supplemental claim is a substantially complete claim for a VA benefit on an application form prescribed by the Secretary where an initial or supplemental claim for the same or similar benefit on the same or similar basis was previously decided.
* A **reopened claim** pertains to requests filed prior to February 19, 2019, for a benefit after the disallowance of an earlier claim for that benefit became final.
 |  |
| Definitions (4 of 8)* New evidence is evidence not previously part of the actual record before agency adjudicators.
* Relevant evidence is information that tends to prove or disprove a matter at issue in a claim.
	+ Relevant evidence includes evidence that raises a theory of entitlement that was not previously addressed.
* The **evidentiary record** for a supplemental claim includes all evidence received by VA before VA issues notice of a decision on the supplemental claim.
 |  |
| Definition (5 of 8)* Competent medical evidence means evidence provided by a person who is qualified through education, training, or experience to offer medical diagnoses, statements, or opinions.
	+ Competent medical evidence may also mean statements conveying sound medical principles found in medical treatises.
* **Competent lay evidence** means any evidence not requiring that the proponent have specialized education, training, or experience.
 |  |
| Definitions (6 of 8)* Service records are records created during a service member’s period(s) of military service.
	+ The three main categories of service records are:
		- service treatment records (STRs),
		- military personnel records, and
		- clinical records
* Service treatment records (STRs) are the chronological records (electronic or paper) documenting the medical and/or dental care and treatment received primarily outside of a hospital during service
 |  |
| Definitions (7 of 8)* Clinical records are comprised of a variety of health care treatment records that document a service member’s treatment at a military treatment facility (MTF)
* Personnel records are administrative records, containing information about the service member's service history
 |  |
| Definitions (8 of 8)* Federal records are any documents in the custody of a Federal department or agency and include but are not limited to:
	+ service treatment records (STRs)
	+ other service department records (such as personnel records, line-of-duty determinations, inpatient treatment records or behavioral health records) that are not included with the STRs
	+ VA medical and other records (including Vet Center records and authorized VA medical treatment or examinations at a non-VA facility)
	+ Social Security Administration (SSA) records
	+ Public Health Service records, and
	+ Department of Labor records
 |  |
| **Development Process Overview** |  |
| **Common Steps in Development**  |  |
| **Duty to Notify and Duty to Assist Requirements** * Notice requirement for a substantially complete claim applies to initial and supplemental claims
	+ VA is **not required** to provide notice with respect to a supplemental claim filed within one year of an agency of original jurisdiction or Board decision on an issue
* VA’s duty to assist in the gathering of evidence begins upon receipt of a substantially complete application for an initial or supplemental claim and ends once VA issues a decision on the claim
	+ The duty to assist does not apply to higher-level reviews (HLRs)
 |  |
| **Examples of Information/Evidence** |  |
| **Requesting Vital Records*** The Department of Health and Human Services has an online version of a publication entitled [*Where to Write for Vital Records*](http://www.cdc.gov/nchs/howto/w2w/w2welcom.htm) that contains addresses within each State to which VA or claimants may send requests for certified copies of birth, death, marriage, and divorce documents
* To request vital records:
	+ determine the State in which the birth, death, marriage, or divorce occurred
	+ click on the hyperlink to the appropriate State, and
	+ send the request to the appropriate address on the website
 |  |
| **Not Authorized*** VA is ***not*** authorized to pay a fee for copies of public documents or other evidence from Federal, State, or local agencies or private sources
* Most custodians of public documents furnish copies to VA free of charge
* if payment of a fee is required to obtain a document, advise the claimant that VA is *not* authorized to pay the fee, and provide the claimant with information on how to secure the document
 |  |
| Section 5103 (1 of 2)* In accordance with [38 U.S.C.5103(b)(4)](https://www.law.cornell.edu/uscode/text/38/5103), field offices are not required in certain cases to send a Section 5103 notice for a subsequent claim that is filed while a previous claim is pending
* If the previous notice sufficiently identified the information and evidence necessary to substantiate such subsequent claim(s), a new Section 5103 notice is *not* required
 |  |
| Section 5103 Notice (2 of 2)* If the previous notice sufficiently did not include the information and evidence necessary to substantiate the current claim type:
	+ send a Section 5103 notice that specifically addresses the new claim type, and
	+ provide the following statement in the notice:
		- “*We are continuing to work on your previous claim(s) and have received your additional claim(s). Our previous letter(s) provided you with sufficient information regarding the evidence needed to support your claim, as well as what VA will do.”*
 |  |
| Exceptions to Sending 5103 Notice* It is unnecessary to provide a claimant Section 5103 notice
	+ upon receipt of a supplemental claim within one year of the date VA issues notice of a prior decision
	+ upon receipt of a request for higher-level review under [38 CFR 3.2601](https://www.ecfr.gov/cgi-bin/text-idx?SID=3967d2b525436657ad0fad655ff65e9c&mc=true&node=se38.1.3_12601&rgn=div8), or
	+ where the evidence of record (to include VA medical center records available electronically) is sufficient to substantiate a claim and award the maximum benefit sought without undertaking development for additional evidence
 |  |
| What’s Considered a Reasonable Effort (1 of 4)* Reasonable efforts to obtain relevant Federal records involve attempts to obtain the records until
	+ records are obtained, or
	+ it is reasonably certain that
		- the records do not exist, or
		- further efforts by VA to obtain the records would be futile
* *DD Form 2963,* *Service Treatment Record (STR) Transfer or Certification* is a certification of the completeness of all available STRs at discharge from service
 |  |
| What’s Considered a Reasonable Effort (2 of 4)* Reasonable efforts to obtain relevant private records that are not in the custody of a Federal department or agency include making an initial request for such evidence, and at least one follow-up request if no response is received from the custodian of the records *unless* a response to the initial request indicates that the records do *not* exist, or a follow-up request would be futile
 |  |
| What’s Considered a Reasonable Effort (3 of 4)* If VA receives information showing that subsequent requests to a different custodian of the records could result in obtaining the records sought, then *reasonable efforts* include making an initial request to the new source, and at least one follow-up request to the new source if the records are not received.
 |  |
| What’s Considered a Reasonable Effort (4 of 4)* If VA has made reasonable efforts to obtain relevant private records identified by the claimant, and such records are not obtained, decision makers must ensure that claimants receive the appropriate notification, and notification must:
	+ identify the records that were not obtained
	+ briefly explain the efforts made to obtain the records
	+ describe any further action that will be taken with respect to the claim including follow-up requests and that VA is processing the claim based on the evidence of record, and
	+ indicate that the claimant is ultimately responsible for providing the evidence
 |  |
| Practice Exercise 1—Match the Term* Instructions:
	+ Divide into pairs.
	+ Complete Appendix A: Part A—Define the Term Worksheet.
	+ Given the definition, select the correct development term.
	+ Use the references listed on Appendix A, Part A.
	+ Be prepared to share your finished activity with other groups.
* Time allowed: 5-7 minutes
 |  |
| Practice Exercise 1—Match the Term Questions (1 of 2)1. Request for documentation from state government, local government and/or privately held entity.
2. Provided by a person who is qualified through education, training, or experience to offer medical diagnoses, statements, or opinions.
3. Help claimant obtain information or evidence to substantiate the claim.
4. Non-evidentiary facts used to substantiate the claim.
 |  |
| Practice Exercise 1—Match the Term Questions (2 of 2)1. Request for documentation from Social Security Administration (SSA), VA medical centers (VAMCs), or National Personnel Records Center (NPRC).
2. Provide a notice of any information or evidence needed to substantiate the claim.
3. Provided by a nonexpert who has knowledge of facts or circumstances and conveys matters that can be observed.
 |  |
| Substantially Complete Application (1 of 2)* Substantially complete application means the application contains:
	+ the claimant's name
	+ his/her relationship to the Veteran, if applicable
	+ sufficient service information for VA to verify the claimed service, if applicable
	+ the benefit sought and any medical condition(s) on which it is based
	+ the claimant's signature
 |  |
| Substantially Complete Application (2 of 2)* Substantially complete application means the application contains:
* a statement of income in claims for Veterans Pension or Survivors Pension and Parents' DIC
* identification or inclusion of potentially new evidence in supplemental claims, and
* for HLRs, identification of the date of the decision for which review is sought
 |  |
| Signature Requirements* Accept signatures by *X* mark or thumbprint *only* if any one of the following individuals (or group of individuals) witness the mark or thumbprint:
	+ two persons who give their addresses
	+ a VA employee
	+ a VSO representative
	+ an attorney
	+ an accredited agent
	+ a notary public, or
	+ a person having the authority to administer oaths for general purposes
 |  |
| Written Request for Evidence* When sending written requests for evidence to a claimant, use available automated tools to generate letter text
* Specify a time limit of 30 days for the claimant to submit evidence
* Whenever the disability claimed is not clearly identified, ask the claimant and authorized representative to clarify the issues to ensure appropriate development and accurate decision-making
 |  |
| Time Limit for Submitting Evidence* Unless otherwise required by VA policy or regulation, allow claimants 30 days to respond to a request for evidence
* When a claimant submits evidence in response to a request, refer the evidence to either authorization or rating activity (whichever has responsibility for deciding the corresponding claim) for a decision
	+ Take the same action if a claimant does not respond to a request for evidence within 30 days
 |  |
| Extension of Time Limit (1 of 2)* Extend the 30-day time limit for a response if the response to initial development action raises new issues requiring resolution initial development action did not include a request for essential evidence, and/or the claimant requests an extension, and is making an honest effort to obtain and submit the requested evidence
* An extension of the 30-day time limit for a response does *not* affect the one-year statutory time limit for submission of evidence, or effective date of subsequent award action
 |  |
| Extension of Time Limit (2 of 2)* Do *not* extend the 30-day time limit for submitting evidence if a request for evidence that is essential to establishing entitlement to the benefit sought was sent to the claimant’s last known address and returned as undeliverable
 |  |
| Photocopies or Abstracts of Public Documents* When the claimant’s signed statement is insufficient to a establish a fact, photocopies or abstracts of public documents are acceptable as evidence if examination of the copies or abstracts confirms they are
	+ genuine, and
	+ free from alteration (e.g., marriage certificates, birth certificates, and death certificates)
* VA accepts photocopies of original documents that confirm a Veteran’s military service if the Veteran’s service department issued the original document
 |  |
| Email, Telephone, Electronic Development (1 & 2)* VA considers evidence received by e-mail or electronic submission to be authentic unless there is a specific reason to question the source of the document
	+ Appropriate situations for such development/submission methods include, but are *not* limited to, requests to the claimant for
		- medical evidence
		- Social Security numbers (SSNs)
		- award/denial letters for certain benefits, such as Social Security disability benefits
		- addresses
		- employment information, and
		- clarification of income-related issues and medical expenses
 |  |
| VAMC Records* To find the registration or enrollment date for a specific VAMC
	+ log into that VAMC through CAPRI
	+ input the Veteran’s identifying information, and
	+ click on the REPORTS tab, and from the menu displayed on the left side of the screen, select
* VIEW REGISTRATION DATA, scroll down the displayed report to the APPLICATION INFORMATION field, and
* PATIENT PROFILE MAS (Full), scroll down the displayed report to the ENROLLMENTS field
 |  |
| Requesting Disability Records from SSA* Regional offices (ROs) are required to
	+ request records through the [SSA-GSO website](https://secure.ssa.gov/acu/LoginWeb/loginHandler.do?SUITE=G2GSO), and
	+ follow the format for the requests as outlined in the [*SSA-GSO User Guide*](http://vbaw.vba.va.gov/bl/21/publicat/Users/Index.htm)
* Veterans Service Center and Pension Management Center management are responsible for designating employees to assume the following roles for the purpose of controlling and monitoring access to the interface:
	+ Authorization Designee
	+ Super User, and
	+ Alternate Super User
 |  |
| Using FOLQ* The Federal On-Line Query (FOLQ) is a read-only, person-specific, real-time query developed by SSA for Federal agencies to obtain the SSA data described in [M21-1, Part III, Subpart ii, 1.B.3.b](https://vaww.vrm.km.va.gov/system/templates/selfservice/va_kanew/help/agent/locale/en-US/portal/554400000001034/content/554400000014111/M21-1%2C-Part-III%2C-Subpart-ii%2C-Chapter-1%2C-Section-B---Department-of-Veterans-Affairs-%28VA%29-Requests-for-Information-From-the-Social-Security-Administration-%28SSA%29)
* FOLQ provides Federal agencies with verification of Social Security numbers (SSNs), Title II, Retirement, Survivors, and Disability Insurance data, Title XVI, Supplemental Security Income (SSI) data, and a limited payment history file
* Access FOLQ through VBMS or SHARE using the SSA INQUIRY command
 |  |
| Developing for STRs (1 of 4)* If a certification letter/*DD Form 2963* accompanies STRs that an RO obtains from a service department, do *not* undertake additional development to obtain STRs *unless*all of the following criteria are met:
	+ the claimant alleges treatment at a specific MTF during a specific period of time, and
	+ records referring to the treatment
		- do not exist in the available STRs, and
		- are not accessible through the Joint Legacy Viewer (JLV)
 |  |
| Developing for STRs (2 of 4)* If additional development is necessary, submit a PIES request, under request code O99, to address code 07
* in the body of the request, provide details on why contact with the service department is necessary
* For reasons that include the following, VA does not rely exclusively on STRs when deciding a Veteran’s claim:
	+ the loss of many Veterans’ STRs in a fire at NPRC in 1973, and
	+ the absence of documentation in most STRs of treatment by private health care providers during service or shortly after separation
 |  |
| Developing for STRs (3 & 4)* The various types of evidence VA may use to supplement or substitute for STRs include, but are not limited to, the following:
	+ statements from service medical personnel
	+ certified “buddy” statements or affidavits
	+ accident and police reports
	+ employment-related examination reports
	+ medical evidence from civilian/private hospitals, clinics, and physicians that treated the Veteran during service or shortly after separation
	+ letters written during service
	+ photographs taken during service
	+ pharmacy prescription records, and/or
	+ insurance-related examination reports
 |  |
| Incomplete Evidence* If the partial evidence has been received **prior** to the time limit, then follow guidelines in M21-1 III.i.2.D.2.c. (Incomplete Responses That Justify Award Action)
* If all the evidence has **not** been received by the time limit, then follow the guidelines in M21-1 III.i.2.D.2.b. (Next Steps After Sending a Request for Evidence)
 |  |
| Practice Exercise 2—What Would You Do Next?* Instructions:
	+ Divide into groups of three.
	+ Use the **Develop** for **Missing Information/Evidence** job aid.
	+ Complete Appendix A: Part B—What Would You Do Next? Worksheet.
	+ Read the scenarios and decide what would be the next step in the development process.
	+ Be prepared to share your finished activity with other groups.
* Time allowed: 20 minutes
 |  |
| **PACT Act: Development (1 & 2)*** It is unnecessary to issue a 5103 notice when a Veteran or survivor files a claim related to exposure to herbicides on a form that provides or otherwise indicates he/she received the notice, such as *VA Form 21P-534EZ, Application for DIC, Death Pension, and/or Accrued Benefits*
* Send a subsequent VBMS development letter using the *AO–Exposure General Notice* paragraph in the following situations:
	+ claimant fails to provide specifics of how or where exposure occurred, or
	+ claimant states they served in a qualifying location, but fails to provide specific dates, and service records do not show service in a qualifying presumptive location
 |  |
| **Knowledge Check: Lesson Summary Review****Time Allowed: 15 minutes** |  |
| **What’s Next*** Complete TMS Evaluation Process Overview of the Development Process using **(TMS# 4408466)**
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Practice Exercise Worksheet

Practice Exercise 1 – Match the Term

**Use the following for assistance:**

1. Request for documentation from state government, local government and/or privately held entity.​
2. Provided by a person who is qualified through education, training, or experience to offer medical diagnoses, statements, or opinions.​
3. Help claimant obtain information or evidence to substantiate the claim. ​
4. Non-evidentiary facts used to substantiate the claim.​
5. Request for documentation from Social Security Administration (SSA), VA medical centers (VAMCs), or National Personnel Records Center (NPRC).​
6. Provide a notice of any information or evidence needed to substantiate the claim.
7. Provided by a nonexpert who has knowledge of facts or circumstances and conveys matters that can be observed. ​

Appendix

**Development Process Overview**

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**Common Steps in Development**

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**Examples of Information/Evidence**

