



PENSION AND FIDUCIARY SERVICE

PMC VSR Advanced Core Course
Phase 5: Stages of a Claim
Part 5: Award Adjustments

Lesson 5: Apply/Issue Due Process Provisions

Trainee Guide

May 12, 2017

Version 1.0

Lesson 5: Apply/Issue Due Process Provisions
Trainee Guide

Apply/Issue Due Process Provisions

Lesson Overview

Topic	Description
Time Estimate:	2 hours
Purpose of the Lesson:	This lesson is part of the entry-level curriculum course for PMC VSRs. The purpose of this lesson is to prepare you to determine when due process is required, apply due process provisions, and determine time limits for response from the claimant.
Prerequisite Training Requirements:	Prior to taking the Apply/Issue Due Process Provisions lesson, you must complete the entry-level course Phases 1–4, Phase 5, Parts 1-4, and Phase 5 part 5 lessons 1-4. (Refer to the Master Course Map learning aid for a list of lessons.)
Target Audience:	This lesson is for entry-level PMC VSRs.
Lesson References:	<ul style="list-style-type: none"> • Master Course Map learning aid • VA Form 27-0820 (Report of General Information) • M21-1 I.2.A (General Information on Due Process) <ul style="list-style-type: none"> ○ M21-1 I.2.A.1.a (Due Process and the U.S. Constitution) ○ M21-1 I.2.A.1.b (Due Process and VA) ○ M21-1 I.2.A.2.a (Types of Notification Concerning Change in Benefits) • M21-1 I.2.B.2 (Required Elements for a Notice of Proposed Adverse Action) • M21-1 I.2.C (Adverse Action Proposal Period) <ul style="list-style-type: none"> ○ M21-1 I.2.C.3 (Hearings Requested in Response to a Proposed Adverse Action) • M21-1 I.2.D (Contemporaneous Notice) • M21-1 III.iii.5.K (Verification of Marital Status and the Status of Dependents) <ul style="list-style-type: none"> ○ M21-1 III.iii.5.K.4 (Failure to Return a Questionnaire)

Lesson 5: Apply/Issue Due Process Provisions
Trainee Guide

Topic	Description
	<ul style="list-style-type: none"> • M21-1 III.iii.6.B (Awards and Adjustments Based upon School Attendance) <ul style="list-style-type: none"> ◦ M21-1 III.iii.6.B.6.f (Failure to Certify School Attendance) • M21-1 III.iv.8.A.5.a (Decree by a Court as Notice and Hearing) • M21-1 III.v.1.A.3.d (Sample Format for an Administrative Decision) • M21-1 III.v.1.I.1 (Overview of Erroneous Payments) • M21-1 III.v.1.I.2 (Adjusting Awards for Erroneous Benefits (Based on Duplicate Payment(s))) • M21-1 III.v.3.B (Adjusting Apportioned Awards) • M21-1 III.v.6.C.1.d (Due Process and Control Procedures for Hospitalization) • M21-1 III.v.8.A.2 (Benefit-Specific Effects of a Beneficiary's Incarceration) • M21-1 III.v.8.C.2.b (Providing Notification to an Incarcerated Surviving Spouse) • M21-1 III.v.9.B.3 (Due Process Requirements for Incompetency Determinations) • M21-1 III.vi.2.A.1 (General Information About Simultaneous Award Adjustments) • M21-1 III.vi.2.A.2 (Processing Simultaneous Award Adjustments) • M21-1 X.2.5.n (Monthly Entitlement Amount is Erroneous) • M21-1 X.5.2.h (DMF Match Identifies Veteran's Spouse) • M21-1 X.9.F (Income Verification Match) • M21-1 X.15.2 (Social Security Prison Match Worksheets) • M21-1 X.16.2.d (Deciding Whether an Individual Is a Fugitive Felon and Notifying the Beneficiary of the Decision) • 38 CFR 3.103 (Procedural Due Process and Appellate Rights) • 38 CFR 3.551 (Reduction Because of Hospitalization)

Lesson 5: Apply/Issue Due Process Provisions
Trainee Guide

Topic	Description
	<ul style="list-style-type: none"> • 38 CFR 3.552 (Adjustment of allowance for aid and attendance) • Due Process job aid • Initial Year job aid • Processing an Award Adjustment job aid
Knowledge Check:	Phase 5: Stages of a Claim, Part 5b: Award Adjustments
Technical Competencies:	<ul style="list-style-type: none"> • Program Benefits and Eligibility (PMC VSR) • Processing Claims (PMC VSR) • Income Counting and Net Worth • VBA Applications (PMC VSR) • Special Monthly Pension (SMP) Processes
Lesson Objectives:	<p>Apply due process provisions to a claim.</p> <ul style="list-style-type: none"> • Determine if due process is applicable to a claim. • Determine effective dates for the proposed change in benefits. • Determine if change requires contemporaneous notice or due process notification letter. • Identify elements for due process letter/contemporaneous notice.
What You Need:	<ul style="list-style-type: none"> • Trainee guide • Master Course Map learning aid • Access to VBA intranet • Pen and paper • Access to Effective Dates EPSS • Access to the following VBA systems in academy mode: <ul style="list-style-type: none"> ○ VBMS ○ PCGL ○ SHARE

**Lesson 5: Apply/Issue Due Process Provisions
Trainee Guide**

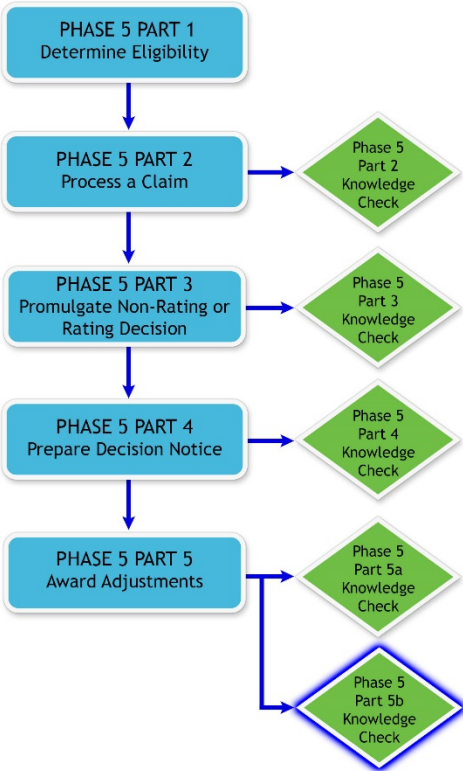
Topic	Description
	<ul style="list-style-type: none"> • Access to the following job aids from VSR Assistant: <ul style="list-style-type: none"> ○ Due Process job aid ○ Initial Year job aid ○ Processing an Award Adjustment job aid

PowerPoint Slides	Notes
<p>Lesson 5: Apply/Issue Due Process Provisions</p>	
<p>You Are Here</p> <pre> graph TD P1[PHASE 1 Mandatory Training] --> P2[PHASE 2 PMC VSR Foundation] P2 --> P3[PHASE 3 PMC VSR Resources] P3 --> P4[PHASE 4 Introduction to Pension Management] P4 --> P5[PHASE 5 Stages of Claim] P5 --> P6[PHASE 6 Processing Claims] P5 --> P5P1[PHASE 5 PART 1 Determine Eligibility] P5P1 --> P5P2[PHASE 5 PART 2 Process a Claim] P5P2 --> P5P3[PHASE 5 PART 3 Promulgate Non-Rating or Rating Decision] P5P3 --> P5P4[PHASE 5 PART 4 Prepare Decision Notice] P5P4 --> P5P5[PHASE 5 PART 5 Award Adjustments] style P5 stroke:#0000FF,stroke-width:2px style P5P1 stroke:#0000FF,stroke-width:2px style P5P2 stroke:#0000FF,stroke-width:2px style P5P3 stroke:#0000FF,stroke-width:2px style P5P4 stroke:#0000FF,stroke-width:2px style P5P5 stroke:#0000FF,stroke-width:2px </pre>	
<p>Technical Competencies</p> <ul style="list-style-type: none"> • Program Benefits and Eligibility (PMC VSR) • Processing Claims (PMC VSR) • Income Counting and Net Worth • VBA Applications (PMC VSR) • Special Monthly Pension (SMP) Processes 	

**Lesson 5: Apply/Issue Due Process Provisions
Trainee Guide**

PowerPoint Slides	Notes
<p>Lesson Objectives</p> <p>Apply due process provisions to a claim.</p> <ul style="list-style-type: none">• Determine if due process is applicable to a claim.• Determine effective dates for the proposed change in benefits.• Determine if the change in benefits requires contemporaneous notice or due process notification letter.• Identify due process elements for Personal Computer Generated Letter (PCGL)/contemporaneous notice.	

**Lesson 5: Apply/Issue Due Process Provisions
Trainee Guide**

PowerPoint Slides	Notes
<p>Knowledge Check</p>  <pre>graph TD; P1[PHASE 5 PART 1 Determine Eligibility] --> P2[PHASE 5 PART 2 Process a Claim]; P2 --> KC2{Phase 5 Part 2 Knowledge Check}; P2 --> P3[PHASE 5 PART 3 Promulgate Non-Rating or Rating Decision]; P3 --> KC3{Phase 5 Part 3 Knowledge Check}; P3 --> P4[PHASE 5 PART 4 Prepare Decision Notice]; P4 --> KC4{Phase 5 Part 4 Knowledge Check}; P4 --> P5[PHASE 5 PART 5 Award Adjustments]; P5 --> KC5a{Phase 5 Part 5a Knowledge Check}; P5 --> KC5b{Phase 5 Part 5b Knowledge Check};</pre> <p>The flowchart illustrates the Phase 5 process. It begins with 'PHASE 5 PART 1: Determine Eligibility'. This leads to 'PHASE 5 PART 2: Process a Claim', which includes a 'Phase 5 Part 2 Knowledge Check'. The process continues to 'PHASE 5 PART 3: Promulgate Non-Rating or Rating Decision', which includes a 'Phase 5 Part 3 Knowledge Check'. Next is 'PHASE 5 PART 4: Prepare Decision Notice', which includes a 'Phase 5 Part 4 Knowledge Check'. Finally, 'PHASE 5 PART 5: Award Adjustments' includes two knowledge checks: 'Phase 5 Part 5a Knowledge Check' and 'Phase 5 Part 5b Knowledge Check'.</p>	

Lesson 5: Apply/Issue Due Process Provisions
Trainee Guide

PowerPoint Slides	Notes
<p>Why It Matters!</p> <ul style="list-style-type: none">• Could reduce or terminate benefits for the beneficiary• Provides the beneficiary with the opportunity to:<ul style="list-style-type: none">○ Provide additional evidence to contest the action○ Hold a hearing before VA decision-makers• In some situations, such as a character of discharge determination, due process applies before VA determines eligibility for benefits• If contemporaneous notice applies, benefits are reduced or terminated immediately	
<p>Job Aids for Applying Due Process</p> <ul style="list-style-type: none">• Processing an Award Adjustment job aid• Initial Year job aid• Due Process job aid	

**Lesson 5: Apply/Issue Due Process Provisions
Trainee Guide**

PowerPoint Slides	Notes
<p>Due Process vs. Contemporaneous Notice</p> <p>Due process</p> <ul style="list-style-type: none"> • Informs beneficiary of proposed reduction or termination of benefits • Applied when information is received from a third party regarding the beneficiary <p>Contemporaneous notice</p> <ul style="list-style-type: none"> • Informs beneficiary of a change in benefits that was implemented at the time the notice was sent • Sent when information is received from the beneficiary or designated POA 	
<p>Most Common Reasons for Due Process</p> <ul style="list-style-type: none"> • Overpayment caused by: <ul style="list-style-type: none"> ○ Claimant did not respond to request for additional information ○ Change in income received from third party ○ Excess net worth ○ Write-outs ○ Hospital adjustments ○ Apportionments ○ Incarceration/fugitive felon ○ Dependency status 	

Lesson 5: Apply/Issue Due Process Provisions
Trainee Guide

PowerPoint Slides	Notes
<p>changes</p> <ul style="list-style-type: none"> ○ Renouncement request with a report of change in income <ul style="list-style-type: none"> ● Other circumstances for due process include: <ul style="list-style-type: none"> ○ Additional children apply for Dependency and Indemnity Compensation (DIC) ○ \$90 Medicaid rate ○ Removal of administrative Aid and Attendance (A&A) ○ Incompetency ○ VA error ○ Character of discharge ○ Special Monthly Pension (SMP) reduction 	
<p>Scenario—What is the Reason to Apply Due Process?</p> <p>You receive information from Social Security showing that Veteran Gerald Jenkins has been incarcerated since November 14, 2014, for a hit-and-run accident after he sped through an intersection. He currently receives pension benefits but is not entitled to compensation benefits.</p> <p>What is the reason for due process?</p>	

Lesson 5: Apply/Issue Due Process Provisions
Trainee Guide

PowerPoint Slides	Notes
<p>Scenario—What is the Reason to Apply Due Process? Answer</p> <p>You receive information from Social Security showing that Veteran Gerald Jenkins has been incarcerated since November 14, 2014, for a hit-and-run accident after he sped through an intersection. He currently is receiving pension benefits but is not entitled to compensation benefits.</p> <p>What is the reason for due process?</p>	
<p>Effective Date and New Benefit Amount of Proposed Change to Benefits</p> <ul style="list-style-type: none"> • Effective date varies depending on the reason for due process (see the details for each reason in the Due Process job aid) • Most often, the proposed benefit amount will vary depending on the information received • Net worth is the exception as benefits will never be reduced due to a change in net worth • Due process due to administrative error may require an administrative decision 	

Lesson 5: Apply/Issue Due Process Provisions
Trainee Guide

PowerPoint Slides	Notes
<p>Demonstration—Determine Award Amount and Effective Date for Claim Requiring Due Process</p> <ul style="list-style-type: none"> • Review claim for indications of adverse actions • Determine the effective date of the proposed benefit change • Determine the new benefit amount • Determine if the change in benefit requires due process or contemporaneous notice 	
<p>Due Process Letter/Contemporaneous Notice</p> <p>Due Process Letter</p> <ul style="list-style-type: none"> • Create a due process letter in SHARE. • Ensure letter reflects the reason for the due process as well as the information listed in the Due Process section of the Processing an Award Adjustment job aid. • Claimant has 60 days (plus 5 days for mail) to respond with new evidence or information <p>Contemporaneous Notice</p> <ul style="list-style-type: none"> • Create a notice in SHARE • Elements of a contemporaneous notice should include: 	

Lesson 5: Apply/Issue Due Process Provisions
Trainee Guide

PowerPoint Slides	Notes
<ul style="list-style-type: none"> ○ Statement of the decision (including new rates) ○ Effective date(s) ○ Detailed reasons for the decision ○ Overpayment information ○ Hearing, representation, and appeal rights 	
<p>CEST Claim</p> <ul style="list-style-type: none"> • Claims Establishment (CEST) an EP 607 • Refer to local procedures for specific steps on when to send the due process letter and when to CEST the claim 	
<p>Requesting a Hearing</p> <ul style="list-style-type: none"> • Claimant can request a hearing within 30 days of the due process letter. • If a hearing is requested, do not adjust the effective date. • Payments will continue at current rate until hearing has been conducted. • Continue with adjustment after the hearing has been conducted and the Veteran has had the opportunity to submit new evidence. 	
<p>Claim 1 Activity—Apply Due</p>	

Lesson 5: Apply/Issue Due Process Provisions
Trainee Guide

PowerPoint Slides	Notes
<p>Process Provisions</p> <ul style="list-style-type: none">• Instructions:<ul style="list-style-type: none">○ Access Claim 1 provided by the instructor in VBMS.○ Access the following job aids:<ul style="list-style-type: none">▪ Processing an Award Adjustment job aid▪ Initial Year job aid▪ Due Process job aid○ Complete Appendix A: Apply Due Process Provisions worksheet.○ Be prepared to answer questions about how you determined the reason for due process, the effective date, adjusted amount, and type of letter to send.• Time allowed: 15 min.	

**Lesson 5: Apply/Issue Due Process Provisions
Trainee Guide**

PowerPoint Slides	Notes
<p>Claim 1 Activity—Apply Due Process Provisions Debrief</p> <ul style="list-style-type: none"> • Follow along as the instructor confirms: <ul style="list-style-type: none"> ○ Reason for due process ○ Effective date ○ Adjusted benefit amount ○ Specific information to include in the letter ○ CESTs the claim per local procedures for your station • Ask for clarification on how the effective date and adjusted amount were determined, if needed. 	
<p>Review Evidence Received During Due Process Period</p> <p>If new evidence is received during the due process period, review the evidence to determine whether the proposed decision should be changed.</p>	
<p>Apply/Issue Due Process Provisions Review</p> <ul style="list-style-type: none"> • Due process is necessary when proposing to reduce or terminate benefits • Review the Due Process job aid for most common reasons for due process • Determine new effective date 	

**Lesson 5: Apply/Issue Due Process Provisions
Trainee Guide**

PowerPoint Slides	Notes
<p>and proposed changes to benefits</p> <ul style="list-style-type: none"> • Consider if contemporaneous notice would be appropriate • What to do if a hearing is requested • Prepare a due process letter/contemporaneous notice • CEST an EP 607 • Review evidence received during due process period 	
<p>Questions?</p> <div style="border: 1px solid black; width: 60px; height: 40px; margin-left: 10px;"></div>	
<p>What's Next?</p> <ul style="list-style-type: none"> • Phase 5, Part 5, Lesson 6: Introduction to Overpayments and Waiver Withholdings • Review all references and job aids provided in this lesson 	