Pension and fiduciary service

PMC VSR Journey-Level Course

National Training Curriculum (NTC)

Intent to File For PMC

Trainee Guide

September 2024

Intent to File for PMC

Lesson Overview

| Topic | Description |
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| Time Estimate: | 1.25 hour |
| Purpose of the Lesson: | This lesson is part of the NTC for PMC VSRs. The purpose of this lesson is to explain to PMC employees what an Intent to File (ITF) is, why they’re important, how they are communicated to VA, what to do if the ITF is incomplete, and how to determine the status of an ITF. |
| Prerequisite Training Requirements: | Prior to taking this lesson, trainees must have completed the PMC VSR Core Pension Training (CPT) program and be at journey-level. |
| Target Audience: | This lesson is for journey-level PMC VSRs. |
| Lesson References: | * 38 CFR 3.110 – Computation of Time Limit
* 38 CFR 3.114 – Change of Law or Department of Veteran Affairs Issue
* 38 CFR 3.155 – How to File a Claim
* M21-1 II.iii.2.A – Intent to File (ITF)
* M21-1 II.iii.2.H – Historical Guidance on Formal Applications and Informal Claims Received Prior to March 24, 2015
* M21-1 X.ii.2.A.2.b. – ITFs and Supplemental Claims
 |
| Lesson Objectives: | By the end of this lesson, you should be able to:* Identify a claimant’s intent to file
* Determine if a claim meets ITF requirements
* Discuss what constitutes an acceptable communication of an ITF
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| Knowledge Check | Intent to File (ITF) Knowledge Check |
| What You Need: | * Trainee Guide
* Access to VBA Intranet
* Access to the Assessment Portal
* Pen and paper or access to a whiteboard
* Access to the following systems:
	+ SHARE
	+ MAP-D
	+ VBMS
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| PowerPoint Slides | Notes |
| --- | --- |
| **Intent to File for PMC** |  |
| **References*** 38 CFR 3.110 – Computation of Time Limit
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| **Lesson Objectives**By the end of this lesson, you should be able to:* Identify a claimant’s intent to file
* Determine if a claim meets ITF requirements
* Discuss what constitutes an acceptable communication of an ITF
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| **Why This Matters!*** The **Intent to File (ITF)** course matters because VA may grant entitlement to benefits from an effective date prior to the date of claim (DOC) if the claimant submits a complete claim within one year of the date VA received the ITF.
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| **Informal Claims*** If a claimant expresses an ITF *before* March 24, 2015, determine whether VA may accept the communication as an informal claim.
* Identify an informal claim received prior to March 24, 2015, by any of the following characteristics:
	+ any communication or action that shows an intent to apply for benefits under laws administered by VA per[**38 CFR 3.155**](https://www.ecfr.gov/cgi-bin/text-idx?SID=9582432f4994a087c1b78dbf536633b9&mc=true&node=se38.1.3_1155&rgn=div8)
	+ an original claim *not* filed on the prescribed form
	+ an unsigned application (*except* for those received via the Veterans On-Line Application (VONAPP) or VONAPP Direct Connect (VDC))
	+ evidence of examination or hospitalization in a VA or uniformed services healthcare facility for a service-connected disability (see 38 CFR 3.157) or
	+ any communication regarding the death of the appellant in a legacy appeal
	+ submitted to the U.S. Court of Appeals for Veterans Claims (CAVC)
 |  |
| **What ITF Applies to and Does Not Apply To*** ITF applies to claims for
	+ Pension
	+ Survivors Pension, and
	+ DIC
* ITF does not apply to:
	+ Requests for dependency
	+ Ancillary benefits
	+ Requests for higher-level review
	+ Duplicate claims, and
	+ Requests for review based on clear and unmistakable error
 |  |
| **Communication of an Intent to File*** Claimants desiring the benefit of filing an informal claim (as expressed in [**M21-1, Part II, Subpart iii, 2.H**](https://vaww.vrm.km.va.gov/system/templates/selfservice/va_kanew/help/agent/locale/en-US/portal/554400000001034/content/554400000174880/M21-1-Part-II-Subpart-iii-Chapter-2-Section-H-Historical-Guidance-on-Formal-Applications-and-Informal-Claims-Received-Prior-to-March-24-2015)) must now communicate to VA an “intent to file” a claim.  They may accomplish this by
* submitting a completed [***VA Form 21-0966, Intent to File a Claim for Compensation and/or Pension, or Survivors Pension and/or DIC***](http://www.vba.va.gov/pubs/forms/VBA-21-0966-ARE.pdf)
	+ contacting a national call center at 1-800-827-1000
	+ ***initiating*** an application for benefits via a VA claims submission service website, **or**
	+ contacting the PMC by telephone or in person
* The ***initiation*** of an application for benefits via a VA claims submission service website constitutes an acceptable communication of an ITF.
 |  |
| **Elements of an ITF*** A claimant’s communication of an ITF is adequate for VA purposes if, in the communication, the claimant
	+ provides VA with enough information to identify the Veteran (*and* the claimant, if the claimant is *not* the Veteran), and
	+ specifies the general benefit they are seeking pension, or Survivors Pension and/or DIC
 |  |
| **ITFs by Phone*** When a claimant expressed an intent to file a claim during a telephone conversation, determine whether the claimant wishes to submit an ITF.
	+ Verify the identity of the person providing the information by telephone by asking for the claimant’s (SSN, DOB, and any other information need to establish identity)
* Complete development to the claimant by letter if the caller is unable to furnish requested information or the person’s identity remains questionable
	+ Notify the claimant that VA regulations require all claims to be submitted on a prescribed form
 |  |
| **Reviewing VA Form 21-0966 (1 of 3)*** When an ITF is submitted in writing, it must be submitted on[***VA Form 21-0966***](http://www.vba.va.gov/pubs/forms/VBA-21-0966-ARE.pdf)***.***
* [***VA Form 21-0966***](http://www.vba.va.gov/pubs/forms/VBA-21-0966-ARE.pdf)must be signed by the claimant
	+ the claimant’s Veterans service organization (VSO)
	+ a VA-recognized power of attorney (POA), or
	+ an alternate signer if submitted with[***VA Form 21-0972, Alternate Signer Certification***](https://www.vba.va.gov/pubs/forms/VBA-21-0972-ARE.pdf)
 |  |
| **Reviewing VA Form 21-0966 (2 of 3)*** If it can be determined that  the claimant via information included on[***VA Form 21-0966***](http://www.vba.va.gov/pubs/forms/VBA-21-0966-ARE.pdf)or other information submitted with the form, the only sections of[***VA Form 21-0966***](http://www.vba.va.gov/pubs/forms/VBA-21-0966-ARE.pdf)a claimant must complete are the sections gathering information on the type of benefit elected and the signature of the claimant or authorized representative.
	+ Assume the claimant is the Veteran if the *Claimant/Veteran Identification* section of the form is blank
* If a claimant communicates their ITF by contacting a VA call center, and the claimant does not have a corporate record, a call center employee must complete, sign, and submit[***VA Form 21-0966***](http://www.vba.va.gov/pubs/forms/VBA-21-0966-ARE.pdf)on the claimant's behalf.
* A claimant may communicate their ITF to a Field Examiner
 |  |
| **Reviewing VA Form 21-0966 (3 of 3)*** When a VSO submits[***VA Form 21-0966***](http://www.vba.va.gov/pubs/forms/VBA-21-0966-ARE.pdf)on a claimant’s behalf via Digits-to-Digits, then data concerning the claimant’s ITF is automatically transferred to the corporate record,
	+ the[***VA Form 21-0966***](http://www.vba.va.gov/pubs/forms/VBA-21-0966-ARE.pdf)is automatically uploaded into the claimant’s electronic claims folder (eFolder)
* When a claimant submits a completed***[VA Form 21-0966](http://www.vba.va.gov/pubs/forms/VBA-21-0966-ARE.pdf)***to VA, then the intake processing center (IPC) of the station of origin is responsible for manually updating the corporate record through Veterans Benefits Management System (VBMS) or SHARE to reflect receipt of the communication of an ITF.
 |  |
| **ITF: Benefit Sought*** An ITF is specific to the benefit sought.  When the claim received is not for the same type of benefit identified on the ITF, the ITF may not be applied to the claim for purposes of effective date assignment.
* A survivor’s ITF on which pension is selected as the benefit sought cannot be applied to a claim for Survivors Pension or DIC.
	+ A survivor’s ITF with pension selected should be handled as an incomplete ITF.
* Any subsequent duplicate ITF submitted for the same benefit during the active period will have no effect on benefit entitlement.
 |  |
| **Is the ITF “Active”? (1 of 4)*** A claimant’s communication of an ITF is “active” for the purpose of assigning an earlier effective date of entitlement until the ***earlier***of the following occur:
	+ VA receives a substantially complete application for benefits for the same type of benefit identified on the ITF, **or** the one-year period following VA’s receipt of the communication of the ITF ends
 |  |
| **Is the ITF “Active”? (2 of 4)*** Once VA associates a specific application for benefits with a communication of an ITF, that communication is no longer active for the purpose of assigning an earlier effective date of entitlement to the same specific benefit for which the claimant might ***subsequently*** apply.
	+ This limitation applies even if VAreceives the subsequent application(s) within one year of the date it received the communication of an ITF.
* Once VA associates a specific application for benefits with a claimant’s communication of an ITF, the claimant may submit ***another*** communication of an ITF that VA will then consider when assigning an effective date of entitlement to benefits for which the claimantmight ***subsequently*** apply.
 |  |
| **Is the ITF “Active”? (3 of 4)*** Take the following steps to determine if the claimant has an active ITF for the same general benefit.
	+ If an active ITF exists, then notify the claimant that an active ITF associated with the same general benefit is currently pending and inform the claimant of the
		- date the ITF was received
		- appropriate form(s) needed to submit a complete application
		- timeframe necessary to submit the complete application to retain the ITF effective date placeholder, and
		- ways to submit the complete application, and no further action is required
 |  |
| Is the ITF “Active”? (4 of 4)* **If an active ITF does not exist**, then notify the claimant that an ITF can be entered and be used as an effective date placeholder if the claimant submits a complete application within one year of receipt of the ITF, **and if the claimant provided authorization**, then enter the ITF in the claimant’s claims folder and inform the claimant of
	+ - the appropriate form(s) needed to submit a complete application
		- the timeframe necessary to submit a complete application to retain the ITF effective date placeholder, and
		- ways to submit a complete application
 |  |
| **ITF: Time Limit*** Each ITF remains active until
* a claim for the corresponding benefit is received, **or**
* the one-year period for submission of a claim for the corresponding benefit expires
* An ITF remains active for one year or until a claim is received, whichever occurs earlier.
* Effective July 30, 2021, an ITF filed within one year of notification of a VA decision may operate to maintain continuous pursuit if the ITF is followed by a complete supplemental claim, **even if** the supplemental claim is filed after the one-year period following notice of a decision.
 |  |
| **Date of Receipt of an ITF (1 of 2)*** Apply[**38 CFR 3.110**](https://www.ecfr.gov/cgi-bin/text-idx?SID=b1d01c335ed4338df0246b6f0125f624&mc=true&node=pt38.1.3&rgn=div5)in the calculation of timeliness of receipt of a claim following receipt of an ITF.
* When determining whether a claim is timely received following receipt of an ITF, calculate the applicable time period by
	+ excluding the first day
	+ including the last day, and
	+ including the following workday when the time limit expires on a Saturday, Sunday, or holiday

**NOTE:** The ITF screen in VBMS is not currently programmed to consider[**38 CFR 3.110**](https://www.ecfr.gov/cgi-bin/text-idx?SID=9582432f4994a087c1b78dbf536633b9&mc=true&node=se38.1.3_1110&rgn=div8)in the reflection of ITF status when the submission period expires on a Saturday, Sunday, or holiday. |  |
| **Date of Receipt of an ITF (2 of 2)*** When the assignment of an effective date for a grant of entitlement to benefits is necessary in a case involving a claimant who communicated to VA an ITF, and there is a date discrepancy, utilize the date of receipt of the communication as shown in a note in Modern Award Processing – Development (MAP-D) or VBMS, or[***VA Form 21-0966***](http://www.vba.va.gov/pubs/forms/VBA-21-0966-ARE.pdf)in the claimant’s claims folder
* The date of receipt of a[***VA Form 21-0966***](http://www.vba.va.gov/pubs/forms/VBA-21-0966-ARE.pdf)that does *not* contain the required elements set forth cannot be used to establish a potential effective date for entitlement to VA benefits.
	+ *Do not* enter the ITF in VBMS.
	+ Notify the claimant that the ITF cannot be utilized in conjunction with the current claim using the *Incomplete ITF Claim Received* letter
 |  |
| **Scenario: Date of Receipt Question****Scenario:*** Grace Veteran’s POA is American Legion. On December 15, 2023, during her meeting with Lyle POA, Grace informs him of her intent to file for Veterans Pension some time soon. Hearing this, Lyle, then phones the NTC, while Grace is in his office, and they both inform the NTC representative of her intent to file. All of this is noted in the system. Grace then submitted VA Form 21-0966, electronically on March 9th, 2024.
	+ **Determine the correction actions/results.**
 |  |
| **ITF: Supplemental Claims (1 of 2)*** Prior to July 30, 2021, [**38 CFR 3.155**](https://www.ecfr.gov/cgi-bin/text-idx?SID=5367e4de4f7a6742214dd4bae5086289&mc=true&node=se38.1.3_1155&rgn=div8) precluded the application of ITFs to supplemental claims.
	+ In [***Military-Veterans Advocacy v. Secretary of Veterans Affairs***](https://vaww.vrm.km.va.gov/system/templates/selfservice/va_kanew/help/agent/locale/en-US/portal/554400000001034/content/554400000224729/Military-Veterans-Advocates-v-Secretary-of-Veterans-Affairs), No. 19-1600 (Fed. Cir. 2021), the court invalidated this portion of VA’s regulation.
		- This means an ITF may now be applied to supplemental claims that are not finally adjudicated on or after July 30, 2021.
 |  |
| **ITF: Supplemental Claims (2 of 2)*** A***qualifying supplemental claim*** is
	+ substantially complete
	+ the first application received for the same benefit type identified on the ITF, and
	+ received within one year of the ITF

**NOTE**:  ITFs do not apply to other decision review lanes, such as HLRs. |  |
| **Incomplete ITF*** When an incomplete ITF is received but later made complete with further development either via telephone or letter, the date of receipt of the completed ITF or information required to complete the ITF is applicable for future assignment of effective dates.
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| **Knowledge Check: Lesson Summary Review****Time Allowed: 10 minutes** |  |
| What’s Next* Complete **Intent to File for PMC** course evaluation: TMS ID #: **4643593**
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