Pension and fiduciary service

PMC VSR Journey-Level Course

National Training Curriculum (NTC)

Notification Requirements

Trainee Guide

September 2024

Notification Requirements

Lesson Overview

| Topic | Description |
| --- | --- |
| Time Estimate: | 1.5 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 on the required elements for decision notices. |
| 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 3.103
* 38 CFR 3.104
* M21-1, Part V, Subpart iv, 1.A.4.c
* M21-1 VI.i.1.B. Decision Notices
* M21-1, Part IX, Subpart iii, 1.G.4.k
* M21-1, Part X, Subpart ii, 3.A and C
* M21-4 7 PMC National Quality Reviews and QRT
 |
| Lesson Objectives: | By the end of this lesson, you should be able to:• State the claimant’s rights concerning decision notices.• Recall decision notice requirements.• List the steps to follow after preparing a decision notice. |
| Knowledge Check | Notification Requirements Knowledge Check |
| What You Need: | * Trainee Guide
* Slides
* Projector
* 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
 |

| PowerPoint Slides | Notes |
| --- | --- |
| **Notification Requirements** |  |
| **References*** 38 CFR 3.103
* 38 CFR 3.104
* M21-1, Part V, Subpart iv, 1.A.4.c
* M21-1 VI.i.1.B. Decision Notices
* M21-1, Part IX, Subpart iii, 1.G.4.k
* M21-1, Part X, Subpart ii, 3.A and C
* M21-4 7 PMC National Quality Reviews and QRT
 |  |
| **Lesson Objectives**By the end of this lesson, you should be able to:* State the claimant’s rights concerning decision notices
* Recall decision notice requirements
* List the steps to follow when preparing a decision notice
 |  |
| **Why This Matters!**Per [38 CFR 3.103](https://www.ecfr.gov/cgi-bin/text-idx?SID=936ab234678db4862e850c6e8b8990c6&mc=true&node=se38.1.3_1103&rgn=div8) every claimant has the right to written notice of the decision made on his or her claim.* Claimants and their representatives are entitled to timely notice of any decision made by VA.
* This rule applies to both awards and disallowances.
 |  |
| **Notification of Potential Adverse Action**In most cases, the Department of Veterans Affairs (VA) must give claimants or beneficiaries advance notice of a decision that might adversely affect them. The legal term for this is “due process.” * Decisions that may require advance notice include, but are not limited to, those involving the:
	+ - character of a former service member’s discharge
		- competency of beneficiary to manage financial affairs
		- reduction or discontinuation of a VA benefit.
 |  |
| **Decision Notice Requirements**After deciding a claim, prepare a decision notice that independently, or in combination with its enclosures,* informs the claimant of the issues adjudicated
* summarizes the
	+ evidence VA considered
	+ laws and regulations applicable to the claim
	+ applicable review options to seek further review of the decision
* explains how to obtain or access evidence used in making the decision
 |  |
| **Decision Notice Requirements (cont.)*** identifies, if applicable, the criteria required to grant service connection (SC) or the next-higher level of compensation, and/or
* identifies, for denied claims, the element(s) required to grant the claim that were not met, and
* lists findings that are favorable to the claimant under [38 CFR 3.104(c)](https://www.ecfr.gov/cgi-bin/text-idx?SID=ff00394d750193f98af021aba4ea7659&mc=true&node=se38.1.3_1104&rgn=div8), if any
 |  |
| **Decision Notice: Overpayments**If the authorization of a decision resulted in the creation of an overpayment in a beneficiary’s account, * notify the beneficiary of the overpayment and the right to request
	+ a waiver of the overpayment, and/or
	+ a repayment plan
 |  |
| **Decision Notice: Adjustments**When VA grants entitlement to a benefit, or makes an adjustment to a running award, the decision notice must also notify the claimant of* the monthly rate of payment
* the effective dates of entitlement and payment
* the amount of any benefits VA is withholding and the reason for the withholding, and
* information about any additional benefits to which the claimant may be entitled
 |  |
| **Decision Notice: Adjustments (cont.)*** the effective date of entitlement must be identified in conjunction with any decision to grant a benefit
* a decision notice need only specify monthly rates of payment and effective dates of payment if it is intended to communicate
	+ an initial award of monetary benefits, or
	+ a subsequent award of benefits that
		- modifies the affected Veteran’s combined disability rating, or
		- otherwise alters the current rate of payment
 |  |
| **Decision Notice: Adjustment of Benefits*** Adjustments of benefits, such as for receipt of drill pay or incarceration, unassociated with an active claim for disability compensation, pension, death benefits, or dependency, does not require a listing of findings that are favorable to the claimant under [38 CFR 3.104(c)](https://www.ecfr.gov/cgi-bin/text-idx?SID=ff00394d750193f98af021aba4ea7659&mc=true&node=se38.1.3_1104&rgn=div8).
* When preparing a decision notice regarding a pension or Parents’ Dependency and Indemnity Compensation (DIC) claim, the notice must include rate tables, and information about the claimant’s income and medical expenses.
 |  |
| **Failure to Issue a Decision Notice*** If a regional office decides a claim but fails to notify the claimant of the decision, the claim remains open, legally, even if the corresponding end product (EP) is cleared.
* If VA denied entitlement to a benefit, failed to notify the claimant of the denial, and then granted entitlement to the same benefit years later, the claimant might be entitled to benefits retroactive to the initial date of claim, because the decision on the initial claim never became binding.
* If VA decided a claim, but the corresponding decision notice cannot be located in the claimant’s claims folder, proceed as if the claimant was never notified of the decision.
 |  |
| **Single Decision Notice Requirement*** Use a single decision notice to notify a claimant of a VA decision, even if the decision involves both an award and a denial of benefits.

**Example**: The following illustrates a decision that involves both an award and a denial of benefits:* VA awards entitlement to pension but denies entitlement to special monthly pension (SMP).
 |  |
| **Preparing a Decision Notice** |  |
| **Summarizing Evidence**Claims processors must summarize the evidence VA considered in reaching a decision in the corresponding decision notice. See [M21-1, Part VI, Subpart I, 1.B.1.f.](https://vaww.vrm.km.va.gov/system/templates/selfservice/va_kanew/help/agent/locale/en-US/portal/554400000001030/content/554400000179469/M21-1-Part-VI-Subpart-i-Chapter-1-Section-B-Decision-Notices) * When formulating a summarized list of relevant evidence for inclusion in the decision notice, use descriptive identifiers, such as
	+ form names
	+ document types
	+ date of receipt
* refer to the evidentiary naming conventions discussed in [M21-1, Part V, Subpart iv, 1.A.4.c](https://vaww.vrm.km.va.gov/system/templates/selfservice/va_kanew/help/agent/locale/en-US/portal/554400000001030/content/554400000180523/M21-1%2C-Part-V%2C-Subpart-iv%2C-Chapter-1%2C-Section-A---Completing-the-Rating-Decision-Narrative).
 |  |
| **Providing the Reason(s) for a Decision*****Rating Decision**** The rating activity is responsible for explaining the basis for its decisions in the Reasons for Decision section of each rating decision.
* The attachment of a copy of the rating decision to the corresponding decision notice satisfies the requirement for providing in the decision notice the reason(s) for the rating decision.
 |  |
| **Providing the Reason(s) for a Decision (cont.)***Decision made by the authorization activity that* ***does*** *require an administrative decision** The authorization activity is responsible for explaining in the body of the administrative decision the reasons and bases for said decision.
* The attachment of a copy of the administrative decision to the corresponding decision notice satisfies the requirement for providing in the decision notice the applicable elements.
 |  |
| **Providing the Reason(s) for a Decision (cont.)***Decision made by the authorization activity that* ***does not*** *require an administrative decision** The authorization activity must provide in the decision notice sufficient detail regarding the rationale used in reaching the decision to ensure the claimant will understand its basis.
	+ This might require restating applicable regulations in laymen’s terms.
 |  |
| **Providing Review Rights in PCGL*** To meet the requirement to provide review rights in a decision notice,
	+ include instructions regarding the actions the claimant or beneficiary may take if they disagree with the decision
	+ ensure the notice contains the language found in [M21-1, Part VI, Subpart i, 1.B.5](https://vaww.vrm.km.va.gov/system/templates/selfservice/va_kanew/help/agent/locale/en-US/portal/554400000001030/content/554400000179469/M21-1-Part-VI-Subpart-i-Chapter-1-Section-B-Decision-Notices), if it notifies the claimant of a decision regarding a contested claim
	+ attach [*VA Form 20-0998, Your Right to Seek Review of Our Decision*](http://www.vba.va.gov/pubs/forms/VBA-20-0998-ARE.pdf), to the decision notice.
 |  |
| **Additional Benefits Notification PCGL**When notifying the claimant of any additional benefit(s) to which potential entitlement exists, follow [M21-1 VI.i.1.B.1.k.](https://vaww.vrm.km.va.gov/system/templates/selfservice/va_kanew/help/agent/locale/en-US/portal/554400000001030/content/554400000179469/M21-1-Part-VI-Subpart-i-Chapter-1-Section-B-Decision-Notices) which lists:* + additional benefits to which a claimant may be entitled
	+ the form for applying for each benefit
	+ references to additional information about these benefits
 |  |
| **Additional Benefits Notification** |  |
| **Other Decision-Related Issues**Use resources in [M21-1 VI.i.1.B.1.l](https://vaww.vrm.km.va.gov/system/templates/selfservice/va_kanew/help/agent/locale/en-US/portal/554400000001030/content/554400000179469/M21-1-Part-VI-Subpart-i-Chapter-1-Section-B-Decision-Notices) when considering ***other*** decision-related issues the authorization activity commonly faces when processing an award or denial of benefits and preparing a decision notice.For example:* awards to incompetent beneficiaries through a fiduciary
* adjustments or reductions due to hospitalization
* reduction based on Medicaid-covered nursing home
* effect of income and net worth on pension entitlement
 |  |
| **After Preparing a Decision Notice**1. Review it for completeness and accuracy, making corrections as needed. Check if the notice:
	* documents the current power of attorney on file
	* summarizes the evidence considered
	* explains the applicable laws and regulations
	* provides applicable favorable findings
	* of denial identifies missing elements required for a grant
	* summarizes of the applicable review options
	* provides appeal rights to the claimant
 |  |
| **After Preparing a Decision Notice (cont.)**1. Confirm the notice date reflects the expected date of mailing
2. Ensure that the notice is addressed to the claimant or beneficiary at the most recent address of record
3. Make sure the notice is addressed to claimant’s or beneficiary’s fiduciary, if VA has appointed one
 |  |
| **After Preparing a Decision Notice (cont.)**1. Ensure that the noticeand any other associated documents:
* comply with the rules in the document titled [Preparing Files for Centralized Printing](https://dvagov.sharepoint.com/sites/VBAOBI/VCIP/BTSHUB/Shared%20Documents/Forms/AllItems.aspx?id=%2Fsites%2FVBAOBI%2FVCIP%2FBTSHUB%2FShared%20Documents%2FCBCM&viewid=50ba1ea8%2D281d%2D4251%2Db9ee%2D03a61742f8d7)
* are included in a package, created in VBMS Package Manager
* are transmitted for centralized printing and mailing
1. Confirm that a copy of the decision notice has been included in the eFolder.
 |  |
| **PACT Act Notifications*** All decision notices issued under the PACT Act must follow existing guidance in M21-1, Part VI, Subpart i, 1.B to generate a decision notice that complies with the requirements outlined in 38 CFR 3.103(f). ​
* When system-generated language does not provide adequate explanation or cite the correct regulatory or statutory authority, claims processors must use free text or glossary text to ensure the decision notice is adequate.
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| **Knowledge Check: Lesson Summary Review****Time Allowed: 10 minutes** |  |
| What’s Next* Complete **Notification Requirements** course evaluation: TMS ID #: **4648100**
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Appendix

**Preparing a Decision Notice**

**Additional Benefits Notification**

