

## Section A. Description and General Information

### Overview

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**In this Section** This section contains the following topics:

<b>Topic</b>	<b>Topic Name</b>	<b>See Page</b>
1	Description of the Veterans Claims Assistance Act of 2000, PL 106-475	1-A-2
2	Description of the Duty to Assist Criteria	1-A-3

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## 1. Description of the Veterans Claims Assistance Act of 2000, PL 106-475

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**Introduction** This section describes the Veterans Claims Assistance Act of 2000 (VCAA), *PL 106-475*, and contains information about the

- responsibilities of the Department of Veterans Affairs (VA)
  - background of *PL 106-475*, and
  - description of *PL 106-475*.
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**Change Date** August 1, 2002; Initial Release

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**a. Responsibilities of VA** Decisions on Department of Veterans Affairs (VA) benefit eligibility and entitlement are based on the evidence of record. Evidence consists of documents, records, testimonials and information in other forms provided by, or obtained for, a claimant.

VA has a duty to assist a claimant who files a substantially complete application in obtaining evidence to substantiate his or her claim before making a decision on the claim. We are charged with granting every benefit supported by the law.

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**b. Background of PL 106-475** On November 9, 2000, *PL 106-475* was enacted, superceding the decision of the Court of Appeals for Veterans Claims (CAVC) in *Morton vs. West*, which held that VA cannot assist in the development of a claim that is not well grounded.

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**c. Description of PL 106-475** The new law, *PL 106-475*

- eliminates the concept of a well grounded claim
  - redefines VA's duty to assist, and
  - mandates specific notice requirements.
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## 2. Description of the Duty to Assist Criteria

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**Introduction** This section contains information about duty to assist, including issues pertaining to

- claimants
  - relevant
    - Federal records, and
    - non-Federal records
  - requests for VA examinations or medical opinions,
  - circumstances where VA will refrain from or discontinue providing
  - assistance, and
  - contact information for questions.
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**Change Date** April 25, 2007

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**a. Duty to Assist Claimants** The Veterans Claims Assistance Act of 2000, *PL 106-475*, defines the scope of Veterans Benefits Administration's (VBA's) duty to assist claimants who file substantially complete applications for VA benefits.

**Reference:** For more information on what constitutes a substantially complete application, see M21-1MR, Part I, 1.B.3.a and [38 CFR 3.159](#).

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**b. Duty to Obtain Relevant Federal Records** VA's duty to assist includes developing for all relevant records in the custody of a Federal department or agency, including

- VA medical records
- service medical records
- Social Security Administration records, or
- evidence from other Federal agencies.

**Note:** Relevancy is determined by what is being claimed. For example, in claims for service connection, relevant documents are those that may substantiate one of the elements of service connection (incurrence, current condition, or links). However, in most cases, it may be impossible to determine relevancy before obtaining the records.

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## 2. Description of the Duty to Assist Criteria, Continued

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**c. Duty to Obtain Relevant Non-Federal Records**

Our duty to assist also includes developing for

- private medical records, and
- lay or other non-Federal governmental evidence, such as
  - current or former employer records, or
  - state and local government records.

**Important:** VA should obtain the veteran’s authorization before including identifying data such as the veteran’s name and claim number in a development letter for lay evidence from a third-party. Authorization may be obtained on *VA Form 3288, Request for and Consent to Release of Information from Claimant’s Records*. This should not be used to obtain authorization and consent for release of medical evidence which is covered by *VA Form 21-4142, Authorization and Consent to Release Information to the Department of Veterans Affairs*, or release of employer information, which is covered by *VA Form 21-4192, Request for Employment Information in Connection With Claim for Disability Benefits*.

**Reference:** For information on the limitation of use of business reply envelopes for third-party development, see

- M21-1 MR, Part II, 5.B.5.c (TBD) or [M21-1, Part III, 11.05](#), and
  - *VBA Letter 20-05-42*.
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**d. Duty to Obtain Examination or Medical Opinion**

If an examination or a medical opinion is necessary to make a decision on a claim for compensation, then our duty to assist includes

- examining claimants, and/or
  - obtaining a medical opinion from the Veterans Health Administration (VHA) or designated contracted provider.
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## 2. Description of the Duty to Assist Criteria, Continued

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**e.  
Circumstances  
Where VA Will  
Refrain From  
or Discontinue  
Providing  
Assistance**

VA will not provide assistance in obtaining evidence if a substantially complete application for benefits indicates that there is no reasonable possibility that any assistance VA would provide to the claimant would substantiate the claim.

Discontinue providing assistance if the evidence obtained indicates that there is no reasonable possibility that further assistance would substantiate the claim. Circumstances in which to refrain from or discontinue providing assistance in obtaining evidence include, but are not limited to:

- the claimant's ineligibility for the benefit sought because of lack of qualifying service, lack of veteran status, or other lack of legal eligibility
- claims that are inherently incredible or clearly lack merit, and
- an application requesting a benefit to which the claimant is not entitled as a matter of law.

***Example***

***Situation:*** A veteran's surviving spouse files a claim for accrued benefits. At the time of the veteran's death, there was no claim pending and no rating decision of record granting benefits that had not been paid.

***Result:*** VA may deny the surviving spouse's claim for accrued benefits without providing assistance. The claim clearly lacks merit, because no accrued benefits are available for payment.

***Important:*** VA employees have the broad authority to determine whether or not a claim is inherently incredible or clearly lacks merit. However, before deciding such a claim, VA may request that the claimant submit evidence to render the claim plausible or credible.

***References:*** For more information on

- the criteria for a substantially complete application, see, M21-1MR, Part I, 1.B.3.a
- circumstances where VA will refrain from or discontinue providing assistance, see
  - [38 CFR 3.159\(d\)](#), and
  - [VAOPGCPREC 5-2004](#), and
- handling compensation claims that are inherently incredible or clearly lack merit, see M21-1MR, Part III, Subpart iv, 2.A.3.b.

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## 2. Description of the Duty to Assist Criteria, Continued

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**f. Contact  
Information for  
Questions**

Questions regarding duty to assist should be submitted

- to the Q&A mailbox at **VAVBAWAS/CO/21Q&A**
  - by the Q&A station coordinator.
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