M21-1, Part III, Subpart i, Chapter 2, Section A - Development Duties and Responsibilities

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Overview

In This Section This section contains the topic "**General Information on the Department of Veterans Affairs' (VA's) Duty to Assist Claimants**."

1. General Information on VA's Duty to Assist Claimants

Introduction This topic contains general information about VA's duty to assist claimants, including

- **VA's duty to notify and assist claimants**
- **who is responsible for obtaining evidence to substantiate a claim**
- **circumstances under which VA has no duty to assist a claimant**
- **fees charged for requested evidence**
- **requesting vital records from custodians of public records**
- **requests for buddy statements**, and
- **handling concurrent development and taking necessary claim actions**.

Change Date December 4, 2024

III.i.2.A.1.a. VA's Duty to Notify and Assist Claimants According to **38 CFR 3.159** the Department of Veterans Affairs (VA) has an obligation to notify and assist claimants in accordance with procedures described in

- **M21-1, Part I, Subpart i, 1.A**
- **M21-1, Part III, Subpart i, 2.B**
- **M21-1, Part III, Subpart i, 2.C**, and

- M21-1, Part III, Subpart i, 2.E.

III.i.2.A.1.b. Who Is Responsible for Obtaining Evidence to Substantiate a Claim

Claimants are ultimately responsible for providing VA with evidence to substantiate their claim. Nevertheless, VA has an obligation to

- make every effort to request all the evidence it needs to decide a claim based on the records available when the claim is filed
- undertake development to obtain additional evidence as it is identified by the claimant and/or their representative, and
- make reasonable efforts to obtain
- records held by a Federal records custodian, and
- privately held records the claimant identifies, as long as the claimant provides the proper authorization for release of the records to VA.

References: For more information on

- requesting records from a Federal records custodian, see
- M21-1, Part III, Subpart i, 2.C, and
- M21-1, Part III, Subpart ii, 2.D, and
- requesting privately held records, see M21-1, Part III, Subpart ii, 3.

III.i.2.A.1.c. Circumstances Under Which VA Has No Duty to Assist a Claimant

VA has no duty to assist a claimant when there is no reasonable possibility that rendering assistance would substantiate their claim.

Examples:

- A claimant is ineligible for benefits because they
- lack qualifying service, or
- fail to meet other legal, eligibility requirements.
- A claimant submits a claim that clearly lacks merit.

Reference: For more information on circumstances under which VA has no duty to assist a claimant, see M21-1, Part I, Subpart i, 1.A.4.b and c.

III.i.2.A.1.d. Fees Charged for Requested Evidence

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. However, 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.

Reference: For more information on payment of fees for evidence, see **VAOPGCPREC 7-1995** and **38 CFR 3.159(c)**.

III.i.2.A.1.e. Requesting Vital Records From Custodians of Public Records

The Department of Health and Human Services has an online version of a publication entitled ***Where to Write for Vital Records*** 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 to locate the address of the appropriate vital statistics office
- follow the **application guidelines** provided by the National Center for Health Statistics, and
- send the request to the appropriate address on the website.

III.i.2.A.1.f. Requests for Buddy Statements

A ***buddy statement*** is a statement from an individual who has information about the Veteran's
- sickness
- disease, or
- injury.

If the claimant identifies someone who knows about their disabilities and/or activities, notify the claimant that they may request the individual to provide a buddy statement to support the claim.

Note: A ***VA Form 21-4138, Statement in Support of Claim***, or ***VA Form 21-10210, Lay/Witness Statement***, may be used to submit this evidence to VA.

III.i.2.A.1.g. Handling Concurrent Development and Taking Necessary Claim Actions

Claims processors must take the most full and complete actions possible on a claim – including development, rating, and promulgation actions – to move the claim forward towards accurate completion in the claims process. Every effort should be made to move the claim to the next processing cycle each time it is handled.

When possible and in accordance with proper procedures, all necessary development actions should be completed concurrently, rather than piecemeal.

Examples:
- Social Security Administration disability records and Veteran employment history can be requested simultaneously.
- Service treatment records may be developed at the same time as private medical records (PMRs)

identified by the claimant.
Note: Concurrent development may not be appropriate in certain situations. For example, requests for PMRs identified by the claimant must be completed prior to requesting a medical opinion regarding the relevant condition, as discussed in **M21-1, Part IV, Subpart i, 1.A.1.d**.

From <https://vaww.vrm.km.va.gov/system/templates/selfservice/va_kanew/help/agent/locale/en-US/portal/554400000001034/content/554400000014099/M21-1-Part-III-Subpart-i-Chapter-2-Section-A-Development-Duties-and-Responsibilities>

M21-1, Part III, Subpart i, Chapter 2, Section B - Duty to Notify Under 38 U.S.C. 5103

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Overview

In This Section This section contains the topic "**Notification Requirements for Complete Claims**."

1. Notification Requirements for Complete Claims

Introduction This topic contains information on providing notice under 38 U.S.C. 5103, including

- **Department of Veterans Affairs' (VA's) duty to notify claimants of necessary information or evidence**
- **means through which Section 5103 notice is provided prior to and during claim development**
- **exceptions to the notification requirement**
- **Section 5103 notice requirements for subsequent claims**
- **cases that require issuance of a standard Section 5103 notice letter**, and
- **notification requirements for special issues**.

Change Date December 5, 2024

III.i.2.B.1.a. VA's Duty to Notify Claimants of Necessary Information or Evidence

The Department of Veterans Affairs (VA) shall provide to the claimant, by the most effective means available, a notice (hereafter referred to as 'Section 5103 notice') of any information and medical or lay evidence not previously provided that is necessary to substantiate the claim.

Important: VA has historically provided claimants the required Section 5103 notice in a paper-based letter *after* receipt of a substantially complete application for benefits. However, *Public Law 112-154*, *Honoring America's Veterans and Caring for Camp Lejeune Families Act of 2012*, enacted on August 6, 2012, amended **38 U.S.C. 5103** to afford VA more flexibility in how and when VA delivers the notice.

References: For more information on

- VA's duty to notify, see
- **38 CFR 3.159(b)**, and
- **38 U.S.C. 5103**
- when the duty to notify has already been provided to the claimant on the application form or through filing, see **M21-1, Part III, Subpart i, 2.B.1.b**
- when the duty to notify does not arise, see **M21-1, Part III, Subpart i, 2.B.1.c**, and
- when the duty to notify requires, or does not require, a new Section 5103 notice for a subsequent claim received when a prior claim is still pending, see **M21-1, Part III, Subpart i, 2.B.1.d**.

III.i.2.B.1.b. Means Through Which Section 5103 Notice Is Provided Prior to and During Claim Development

The claimant will have already received the Section 5103 notice

- on a standard EZ application form when filing
- a claim through the Fully Developed Claim (FDC) Program, or
- a claim through the standard claims process,
- through online claims submission via VA claims submission service websites
- when an automated Section 5103 notice is generated during the establishment of the end product, or
- when, on ***VA Form 20-0995, Decision Review***

Request: Supplemental Claim, the claimant certifies receipt of notice under Section 5103 via electronic review. In rare instances, such as those described in **M21-1, Part III, Subpart i, 2.B.1.d** and **e**, a Section 5103 notice letter must be sent to the claimant, but *only* when required, and *only* when one of the above methods was not utilized in the filing of the claim.

Important:

- If the Section 5103 notice has been provided to the claimant but there is a special issue or circumstance that requires additional information to support their claim (such as those described in **M21-1, Part III, Subpart i, 2.B.1.f**), then the claims processor is obligated to notify claimants of this required information. In such cases, ***do not*** include redundant Section 5103 notice information in the letter to claimants.
- Provide an automated Section 5103 notice to the claimant when their power of attorney is providing the sole signature on a non-original claim and both the
- claim submission is via means other than the Stakeholder Enterprise portal (SEP), and
- **38 U.S.C. 5103** notification requirement has not already been met.
- Pension and burial applications electronically submitted on-line via **www.va.gov** (va.gov) will not include FDC information, *What The Evidence Must Show* or application instructions in the electronic claims folder. However, claimants are already provided this information when submitting the application within va.gov.

Notes:

- Do not include the claimed conditions (contentions) in the Section 5103 notice letter.
- VA is not required to include the diagnostic criteria for a specific disability in the Section 5103 notice even if the claimant asserts entitlement to a specific evaluation level because the law permits a generic Section 5103 notice. See ***Wilson v. Mansfield***, 506 F.3d 1055, 1062 (Fed. Cir. 2007).
- To document VA's compliance with **38 U.S.C. 5103**, ensure a copy of any Section 5103 notice, along with enclosures, is included in the claims folder. Do not include copies of any forms requested to be returned.

References: For more information on

- the notice VA provides to claimants in
- ***VA Form 21-526EZ, Application for Disability Compensation and Related Compensation Benefits***, see **M21-1, Part X, Subpart i, 2.A.2.d**
- ***VA Form 21P-527EZ, Application for Veterans Pension***, see **M21-1, Part X, Subpart i, 2.A.2.e**, and
- ***VA Form 21P-534EZ, Application for DIC, Survivors Pension, and/or Accrued Benefits***, see **M21-1, Part X, Subpart i, 2.A.2.f**
- VA's notification requirements, see
- **38 U.S.C. 5103**, and
- **38 CFR 3.159(b)(1)**
- the background of Section 5103 notice, see **M21-1, Part I, Subpart i, 1.A.1**
- FDCs requiring special issue development, see **M21-1,**

Part X, Subpart i, 2.B.3.b, and
- electronic Section 5103 notice for claims submitted in SEP, see M21-1, Part II, Subpart iii, 4.B.2.i.

III.i.2.B.1.c. Exceptions to the Notification Requirement

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, 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.
  Note: Consider the factors below when determining whether the need to send Section 5103 notice has been eliminated based on the ability to grant the maximum benefit sought.
- Provide a Section 5103 notice if *any* development is necessary (including a request for an examination).
- Per 38 U.S.C. 5103A(b)(3)(B), the term "maximum benefit" means the highest evaluation assignable in accordance with the evidence of record, as long as such evidence is
- adequate for rating purposes, and
- sufficient to grant the earliest possible effective date.

III.i.2.B.1.d. Section 5103 Notice Requirements for Subsequent Claims

In accordance with 38 U.S.C. 5103(b)(4), regional offices (ROs) 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.

The table below contains notification requirements when the claimant submits a subsequent claim while a previous claim is still pending.

If the previous notice …	Then ...
sufficiently identified the information and evidence necessary to substantiate such subsequent claim(s)	a new Section 5103 notice is *not* required. ***Exception***: Send a Section 5103 notice if over one year has passed since the notice was sent *and a subsequent claim(s) is received.*
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.*

Important:

- In the context of 38 U.S.C. 5103(b)(4), 'pending' claims also include claims that are not finally adjudicated under 38 CFR 3.160(d).
- When notice is provided concurrent with a claim, such as on *VA Form 21-526EZ*, consider the notice received by the claimant on the date the claim is received by VA.

III.i.2.B.1.e. Cases That Require Issuance of a Standard Section 5103 Notice Letter

In rare instances when Section 5103 notice is required and the claimant ***has not*** been provided the required Section 5103 notice through the methods illustrated in M21-1, Part III, Subpart i, 2.B.1.b, it may be necessary to send the claimant a standard Section 5103 notice letter.

Example: When rating a claim pending for 15 months, the decision maker discovers a claimed issue that was received on a non-EZ form over one year after the initial Section 5103 notice was provided. No action has been taken on this issue.

Analysis: In this case, since the claimed issue was not previously covered by a prior Section 5103 notice, a standard Section 5103 notice letter must be provided to the claimant.

The table below describes the required elements and actions to take when issuing a claimant a standard Section 5103 notice letter.

Required Element	Action
What the evidence must show (WTEMS) to substantiate the claim	Provide the following WTEMS, when a claim for direct or increased service connection (SC) is sought • *original service connection* (also referred to as the *continuity* WTEMS), • *secondary service connection* (which includes information regarding *aggravation*), and • the *increased rating* attachments.
Information the claimant is responsible for submitting to VA	Request the claimant to • identify any records relevant to the claim, and • complete *VA Form 21-4142, Authorization to Disclose Information to the Department of Veterans Affairs (VA)*, and *VA Form 21-4142a, General Release for Medical Provider Information to the Department of Veterans Affairs (VA)*, where appropriate. This will allow VA to request private medical records on the claimant's behalf.
Time limit for submission of evidence	Inform the claimant that • if they do not respond to the request for information within 30 days of the date of the request, VA may decide the claim based on all the information and evidence of record, and • they have one year from the date of the request to submit any evidence or information to substantiate the claim.

Evidence VA will attempt to obtain on the claimant's behalf	Inform the claimant of the evidence VA is requesting, such as • service treatment records (STRs), • private records (when ***VA Forms 21-4142*** and ***21-4142a*** are received and complete), and • medical examination requests.
Section 5103 notice response form	Inform the claimant that they may • notify VA that there is no further information or evidence to submit, and • request that VA decide the claim based on all the information and evidence of record.

III.i.2.B.1.f. Notification Requirements for Special Issues

In some special issue or special circumstance claims, the standard 5103 notice letter does not inform the claimant that additional information or evidence is necessary to develop and adjudicate the claim. In these situations, send a subsequent development letter to the claimant soliciting the information needed. Do not send the development letter if the evidence of record

- provides the information the subsequent development letter solicits, or
- is otherwise sufficient to decide the claim.

Example: A Veteran claiming SC for hepatitis C submits medical records that address risk factors for the disease. Do not send a letter soliciting hepatitis C risk factors as this information is addressed in the evidence of record.

Use the table below to determine whether a special issue or special circumstance claim requires additional notice under Section 5103.

If the claimed issue is associated with or involves …	**Then ...**
asbestos exposure	send additional notice as directed at **M21-1, Part VIII, Subpart iii, 7.B.1.b**.
Chemical Biological Radiological Nuclear and Explosives claims	send additional notice as directed at **M21-1, Part VIII, Subpart iii, 5.A**.
entitlement to compensation under **38 U.S.C. 1151**	no additional notice is necessary. ***Reference***: For more information on development of claims for compensation under **38 U.S.C. 1151**, see **M21-1, Part VIII, Subpart iv, 6.A**.
environmental hazards (not covered under **38 CFR 3.317**)	send additional notice to request general information about the exposure event, as directed at **M21-1, Part VIII, Subpart iii, 9.B.1.c**.
fire-related STRs	send additional notice as directed at **M21-1, Part III, Subpart ii, 2.F.1.b**.
hepatitis requiring risk	send additional notice as directed

factor development	at M21-1, Part V, Subpart iii, 6.2.f.
herbicide exposure	send additional notice as directed at M21-1, Part VIII, Subpart i, 1.A.
military sexual trauma	send additional notice as directed at M21-1, Part VIII, Subpart iv, 1.A and B.
mustard gas or Lewisite exposure	send additional notice as directed at M21-1, Part VIII, Subpart iii, 3.A.3.b.
former prisoner of war (FPOW) status	send additional notice to develop for • evidence surrounding internment, and/or • witness information for the claimed in-service injury or disease. ***Reference***: For more information on development of claims based on FPOW status, see M21-1, Part VIII, Subpart iv, 2.C.1.a.
radiation exposure under 38 CFR 3.309(d)	no additional notice is necessary. ***Reference***: For more information on development of claims based on radiation exposure under 38 CFR 3.309(d), see M21-1, Part VIII, Subpart iii, 4.A.
radiation exposure (ionizing) under 38 CFR 3.311	send additional notice developing for evidence of • radiation exposure with the radiation risk activity questionnaire, and • a radiogenic disease. ***Reference***: For more information on development of claims based on ionizing radiation exposure under 38 CFR 3.311, see M21-1, Part VIII, Subpart iii, 4.B.2.
• legacy reopened claims, or • supplemental claims received more than one year after the prior decision	no additional notice is required. ***Note***: Supplemental claims received within one year of the last decision do not require notice under Section 5103, as discussed in M21-1, Part III, Subpart i, 2.B.1.c. ***References***: For more information on supplemental claims, see M21-1, Part II, Subpart iii, 2.B.
Shipboard Hazards and Defense (SHAD) project exposure	no additional notice is necessary. ***Reference***: For more information on development of claims based on SHAD project exposure, see M21-1, Part VIII, Subpart iii, 6.A.
special operations participation	send additional notice as directed at M21-1, Part VIII, Subpart iv, 9.A.1.b.
Southwest Asia service (qualifying disability under 38	no additional notice is necessary. ***Reference***: For more information on

CFR 3.317)	development of claims for qualifying disabilities associated with service in Southwest Asia, see **M21-1, Part VIII, Subpart ii, 1.B**.
Vet Center records	send additional notice as directed at **M21-1, Part III, Subpart ii, 1.A.2.n**.

Note: Homeless Veterans' claims do not require additional Section 5103 notice but do require special handling as directed at **M21-1, Part X, Subpart i, 1.2**.

Reference: For more information on the impact of special issue and/or special circumstance development on FDCs, see **M21-1, Part X, Subpart i, 2.B.3.b**.

From <https://vaww.vrm.km.va.gov/system/templates/selfservice/va_kanew/help/agent/locale/en-US/portal/554400000001034/content/554400000014101/M21-1-Part-III-Subpart-i-Chapter-2-Section-B-Duty-to-Notify-Under-38-USC-5103>

M21-1, Part III, Subpart i, Chapter 2, Section C - Duty to Assist With Obtaining Records

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Overview

In This Section

This section contains the following topics:

Topic	Topic Name
1	**Assisting With Federal Records Requests**
2	**Assisting With Non-Federal or Private Records Requests**
3	**Providing Notification of Inability to Obtain Records**

1. Assisting With Federal Records Requests

Introduction

This topic contains information about assisting with requesting Federal records, including

- **Department of Veterans Affairs' (VA's) duty to obtain Federal records**
- definition of
- **Federal records**, and
- **reasonable efforts to obtain Federal records**
- **concluding Federal records do not exist or further efforts would be futile**, and
- **claimant cooperation with the duty to assist in obtaining Federal records**.

Change Date February 19, 2019

III.i.2.C.1.a. VA's Duty to Obtain Federal Records

The submission of a substantially complete initial or supplemental claim triggers the Department of Veterans Affairs' (VA's) duty to assist procedures which include a duty to make reasonable efforts to obtain relevant records in the custody of a Federal department or agency.

References: For more information on

- the definition of
- initial claim, see **M21-1, Part I, Subpart i, 1.A.4.i**, and
- supplemental claim, see **M21-1, Part I, Subpart i, 1.A.4.j**, and
- circumstances when VA may refrain from providing assistance, see **M21-1, Part I, Subpart i, 1.A.4.b**.

III.i.2.C.1.b. Definition: Federal Records

Federal records are any documents in the custody of a Federal department or agency. Federal records 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.

References: For more information on development procedures for

- service department records, see **M21-1, Part III, Subpart ii, 2**
- Federal records in connection with a fully developed claim (FDC), see **M21-1, Part X, Subpart i, 2.B.3.a and b**
- SSA records, see **M21-1, Part III, Subpart ii, 1.B**, and
- records of other Federal departments or agencies, see
- **M21-1, Part III, Subpart ii, 1.C**, and
- **M21-1, Part III, Subpart ii, 1.A**.

III.i.2.C.1.c. Definition: Reasonable Efforts to Obtain Federal Records

Reasonable efforts to obtain relevant Federal records means VA must continue 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.

References: For more information on

- the regulatory requirements for requesting Federal records as part of the duty to assist, see **38 CFR 3.159(c)(2) and (3)**, and
- developing for service records, see **M21-1, Part III, Subpart ii, 2**.

III.i.2.C.1.d. Concluding Federal Records Do Not Exist or Further Efforts Would be Futile

Determine on a case-by-case basis whether the requested Federal records do not exist or further attempts to obtain records would be futile based on

- completion of at least the minimum efforts specified in **M21-1, Part III, Subpart ii, 1.A.1.b**, and/or
- any response received from the records custodian.

Important: *DD Form 2963, Service Treatment Record (STR) Transfer or Certification* is a certification of the completeness of all available STRs at discharge from service. Treat this, or a predecessor certification letter, as a statement from the records custodian that it is reasonably certain that additional STRs do not exist and further attempts to obtain additional records would be futile except as provided in **M21-1, Part III, Subpart ii, 2.A.2.c**.

References: For more information on

- locating, and migration of, STRs, see **M21-1, Part III, Subpart ii, 2.A**
- the procedures for obtaining STRs, see **M21-1, Part III, Subpart ii, 2.B**, and
- refraining from or discontinuing assistance, see **M21-1, Part I, Subpart i, 1.A.4.b**.

III.i.2.C.1.e. Claimant Cooperation With the Duty to Assist in Obtaining Federal Records

The claimant must cooperate with VA's attempts to obtain Federal records by providing

- information, when requested by VA, to identify and locate existing records including
- the department or agency that is the custodian of the records
- the approximate time frame covered by the records, and
- for treatment records, a general description of the condition for which the treatment was provided
- information sufficient for the records custodian to conduct a search of records when records are requested to corroborate a stressor-event in service, and
- authorization to release existing records when requested by the department or agency custodian in the form acceptable to the custodian.

References: For more information on

- specific requirements to request stressor corroboration in posttraumatic stress disorder claims (PTSD), see **M21-1, Part VIII, Subpart iv, 1.A** and **B**, and
- specific requirements to authorize release of Vet Center records, see **M21-1, Part III, Subpart ii, 1.A.1.e**.

2. Assisting With Non-Federal or Private Records Requests

Introduction This topic contains information on providing assistance with obtaining non-Federal or private records, including

- **VA's duty to obtain relevant non-Federal or private records**
- definition of
- **reasonable efforts to obtain relevant non-Federal or private records**, and
- **adequate identification of private records**, and
- **assisting in obtaining third party records**.

Change Date February 19, 2019

III.i.2.C.2.a. VA's Duty to Obtain Relevant Non-Federal or Private Records

Upon receipt of a substantially complete initial or supplemental claim, VA must make reasonable efforts to assist a claimant in obtaining relevant non-Federal or private records from all sources that the claimant adequately identifies.

When a claimant or the claimant's representative adequately identifies the existence of relevant records, VA has a duty to obtain those records by requesting them or by sending the claimant the appropriate VA forms to allow VA to request the relevant records at any point during the claims process.

When ***VA Form 21-4142, Authorization to Disclose Information to the Department of Veterans Affairs (VA)***, and/or ***VA Form 21-4142a, General Release from Medical Provider Information to the Department of Veterans Affairs (VA)*** is not of record but is necessary to make a proper request for the records identified by the claimant, follow the procedures in **M21-1, Part III, Subpart ii, 3.1.d** to request the necessary release forms.

Note: VA has a duty to return for clarification unclear or insufficient private or VA medical records if it appears that a request for clarification could provide relevant information necessary to properly decide a claim. If VA does not obtain clarification, then it must explain why such clarification is not necessary.

References: For more information on

- when to, or to not, develop for ***VA Form 21-4142*** or ***VA Form 21-4142a*** while processing an FDC, see
- **M21-1, Part X, Subpart i, 2.B.2.a**, and
- **M21-1, Part X, Subpart i, 2.B.3.a and f**

- circumstances when VA may refrain from providing assistance, see **M21-1, Part I, Subpart i, 1.A.4.b**
- returning unclear or insufficient private or VA medical records for clarification, see ***Savage v. Shinseki***, 24 Vet.App. 259 (2011), and
- the definition of reasonable efforts, see **M21-1, Part III, Subpart i, 2.C.2.b**.

III.i.2.C.2.b. Definition: Reasonable Efforts to Obtain Relevant Private Records

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.

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.

References: For more information on

- what constitutes reasonable efforts, see **38 CFR 3.159(c)(1)**, and
- requesting evidence from private healthcare providers, see **M21-1, Part III, Subpart ii, 3**.

III.i.2.C.2.c. Definition: Adequate Identification of Private Records

Adequate identification of private records entails a claimant and/or the claimant's representative identifying *at least* the following information to VA:

- the existence of relevant records, and
- the provider or source of the medical treatment for which the records exist.

The records must be identified in claims-related evidence or correspondence originating from the claimant or the claimant's representative. Examples of acceptable means of identifying records include, but are not limited to,

- ***VA Form 21-4142*** and/or ***VA Form 21-4142a***
- a claims form
- statements made in support of a claim, or
- a Compensation and Pension examination report that transcribes a Veteran's report of the existence of private records.

III.i.2.C.2.d. Assisting in Obtaining Third Party Records

VA is obligated to make reasonable efforts to obtain records pertaining to another individual if

- those records are
- adequately identified by the claimant
- relevant to the claim, and
- potentially helpful in substantiating the claim, and
- VA would be authorized to disclose the relevant portions of such records to the Veteran under the Privacy Act and **38 U.S.C.**

5701 and 38 U.S.C. 7332.
However, in certain circumstances, VA may conclude that *reasonable efforts* do not include requesting third-party records even when adequately identified by a claimant. A case-by-case determination should be made to decide whether an attempt to obtain such records is within the scope of VA's duty to exert reasonable efforts to obtain the records of another individual.

An adjudicator may determine that reasonable efforts do not include a request of third-party records when the following factors weigh unfavorably:

- the third party's interest in their records
- the likelihood that the request would result in consent to disclose the records to the claimant
- the potential for such a request to generate conflict or otherwise adversely affect the safety, health, or rights of either the claimant or the third party, and
- whether there is a basis for believing that records of the type referenced by the claimant exist, as distinguished from mere speculation that such records may exist.

Example 1: A determination that reasonable efforts do not require seeking a third party's consent to disclose their records to the claimant would be most strongly justified in a case where the interests of the third party are adverse to the claimant's interest, such as where the claimant alleges that the third party assaulted the claimant or engaged in other improper or unlawful behavior. In such cases, the third-party's interest in maintaining the confidentiality of their records would be high, and the likelihood that the third party would consent to disclosure of their records would be quite low. Further, asking the third party to allow disclosure to the claimant may create some risk of conflict or other adverse effects.

Example 2: Where the interests of the claimant and the third party are not adverse, there ordinarily would be a stronger basis for a finding that VA's reasonable efforts may include asking the third party to consent to disclosure of their records to the claimant. For example, if a claimant who is claiming service connection for PTSD alleges that the records of another Veteran will verify his exposure to a particular stressor experienced by both service members, then reasonable efforts should be made to obtain the records given that the third party does not have an adverse interest, it is plausible that the third party would consent, resulting conflict is unlikely, and there is a basis for believing that the records exist.

Important: VA adjudicators generally may not consider documents that cannot be disclosed to the claimant.

Note: VA's duty to assist generally would not require VA to obtain a court order to secure authority for third-party disclosure. Obtaining a court order related to a pending benefits claim would typically be beyond the scope of the "reasonable efforts" VA must undertake to assist a claimant in obtaining evidence necessary to substantiate a claim as contemplated by 38 U.S.C. 5103A(a).

Reference: For more information on seeking records pertaining to an individual other than the claimant, see VAOPGCPREC 5-2014.

3. Notification of Inability to Obtain Records

Introduction This topic contains general information on VA's obligation to notify the claimant of the inability to obtain records, including notification requirements of inability to obtain

- **private records**, and
- **Federal records**.

Change Date July 28, 2022

III.i.2.C.3.a. Notification Requirements of Inability to Obtain Private Records

VA has a duty under **38 U.S.C. 5103A(b)** and **38 CFR 3.159(e)** to notify claimants of the inability to obtain any relevant *private records* that are identified by the claimant and necessary to substantiate a claim.

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. The 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.

Note: The required notification of inability to obtain private records may also be sent when making a final attempt to obtain the records.

References: For more information on

- sending notice of private medical record unavailability, see **M21-1, Part III, Subpart ii, 3.1.g**, and
- evidence requested from the claimant, see **M21-1, Part III, Subpart i, 2.D**.

III.i.2.C.3.b. Notification Requirements of Inability to Obtain Federal Records

VA has the duty under **38 CFR 3.159(e)** to notify claimants of the inability to obtain relevant *Federal records* that are necessary to substantiate a claim.

If, after continued efforts to obtain Federal records, it is reasonably certain that such records do not exist or further efforts to obtain them would be futile, VA must provide the claimant with a final notification letter as discussed in **M21-1, Part III, Subpart ii, 1.A.1.g**.

The notification must contain the following information:

- the identity of the Federal records that were not obtained
- an explanation of the efforts made to obtain the records
- a description of any further action that will be taken with respect to the claim including a notice that VA will process the claim based on the evidence of record unless the claimant furnishes such records, and
- an indication that the claimant is ultimately responsible

for providing the evidence.
Important: The format of the final notification letter may be determined based on the individual case, as dictated by **M21-1, Part III, Subpart ii, 1.A.1.e**.
References: For more information on

- determining relevance of records, see **M21-1, Part III, Subpart i, 2.E.1**
- documenting the claims folder when identified evidence is not considered relevant, see **M21-1, Part III, Subpart i, 2.E.1.f**
- determining if a final notification letter for VA medical center records is warranted, see **M21-1, Part III, Subpart ii, 1.A.2.h**
- control and follow up on requests for service records, see **M21-1, Part III, Subpart ii, 2.D**
- requesting records from SSA, see **M21-1, Part III, Subpart ii, 1.B**, and
- requesting evidence from Federal record custodians, see **M21-1, Part III, Subpart ii, 1.A**.

From <https://vaww.vrm.km.va.gov/system/templates/selfservice/va_kanew/help/agent/locale/en-US/portal/554400000001034/content/554400000014102/M21-1-Part-III-Subpart-i-Chapter-2-Section-C-Duty-to-Assist-With-Obtaining-Records>

M21-1, Part III, Subpart i, Chapter 2, Section D - Evidence Requested From the Claimant

Article ID: 554400000033257
Updated Dec 05, 2024
Topics
M21-1 Adjudication Procedures Manual >
Part 03 (Part III). The Development Process >
Subpart i. Verification of Service and Claims Development >
Chapter 02. Claims Development

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Overview

In This Section This section contains the following topics:

Topic	Topic Name
1	Requesting Evidence From the Claimant
2	Controls for Responses to Requests for Evidence
3	Affidavits and Certification of Statements Provided in Support of a Claim
4	Certifying Eligibility and Continued Entitlement to Department of Veterans Affairs (VA) Benefits
5	Determining the Acceptability of Photocopies

1. Requesting Evidence From the Claimant

Introduction This topic contains information on requesting evidence from a claimant, including

- written requests for evidence
- notice of time limits to submit evidence
- clarifying issues and claims
- claims development by e-mail, telephone, and electronic means
- documenting information received by telephone
- handling information received by telephone that might affect benefits
- referencing information received by telephone in decision notices, and
- managing damaged electronic media.

Change Date December 5, 2024

III.i.2.D.1.a. Written Requests for Evidence

When sending written requests for evidence to a claimant, use available automated tools to generate letter text.

Note: The Department of Veterans Affairs (VA) also encourages claims development by e-mail, telephone, and electronic means.

References: For more information on

- generating letters with automated tools, see the
- *Veterans Benefits Management System (VBMS) Core User Guide*, and
- user guides on the Personal Computer Generated Letters webpage, and
- claims development by e-mail, telephone, and electronic means, see M21-1, Part III, Subpart i, 2.D.1.d.

III.i.2.D.1.b. Notice of Time Limits to Submit Evidence

Specify a time limit of 30 days for the claimant to submit evidence.

Further advise the claimant

- if evidence is not submitted within 30 days, VA may decide the claim based on the information and evidence of record, and
- they have one year from the date of VA's request to submit evidence or information to substantiate the claim.

III.i.2.D.1.c. Clarifying Issues and Claims

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.

Example: A Veteran files a claim for compensation for a knee disability, but does not specify whether it is the right or the left knee.

Follow the steps in the table below when reviewing unclear claims.

Step	Action
1	Is the claim substantially complete per M21-1, Part I, Subpart i, 1.A.4.f? • If *yes*, go to the next step. • If *no*, follow the procedures outlined in M21-1, Part II, Subpart iii, 1.C.2.b.
2	Contact the claimant and the authorized representative to clarify. When contacting the • *claimant*, follow the procedures in M21-1, Part III, Subpart i, 2.D.1.d and e for requesting and documenting information by telephone, and • *authorized representative*, • send an encrypted e-mail, or • follow the procedures in M21-1, Part III, Subpart i, 2.D.1.d and e, for requesting and documenting information by telephone.
3	Place a copy of the correspondence in the claims folder and continue processing the claim.

Note: Notification letters or response periods are not provided when requesting clarification.

III.i.2.D.1.d. Claims Development by E-Mail, Telephone, and Electronic Means

VA strongly encourages, when appropriate,
- claims development by e-mail and telephone, and
- electronic submission of evidence.

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.

Notes:
- 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.

- The instructions for handling correspondence received through traditional means apply to correspondence received by e-mail or electronic submission.
- When using electronic media for communication, be sure to adhere to VA's information security policy in maintaining the privacy of a claimant's records.

References: For more information on

- development by e-mail, telephone, and electronic means, see **M27-1, Part I, 5.06**
- handling e-mail responses, see **M27-1, Part I, 5.06.d**, and
- VA's information security policy, see ***VA Handbook 6500***.

III.i.2.D.1.e. Documenting Information Received by Telephone

Summarize the details of telephone contact with a claimant and/or authorized representative on ***VA Form 27-0820, Report of General Information***. Document unsuccessful attempts to contact a claimant and/or authorized representative by telephone as a permanent note.

III.i.2.D.1.f. Handling Information Received by Telephone That Might Affect Benefits

VA may use information it receives by telephone to adjust a beneficiary's award as long as the VA employee who took the information

- identified himself/herself to the caller as an employee who is authorized to receive the information or statement
- established the identity of the caller as either the beneficiary or fiduciary by asking the caller to provide specific information about the beneficiary that is contained in VA records, such as the
- beneficiary's SSN
- beneficiary's date of birth
- Veteran's branch of service
- dates of the Veteran's service, or
- other information only the beneficiary would know, and
- informed the caller VA will use the information they provide for the purpose of calculating benefits.

Following telephone contact, the employee must document the call by summarizing it on ***VA Form 27-0820***. The employee must then retain the form in the claims folder and send a copy of it to the beneficiary's power of attorney, if applicable.

The summary must include the

- specific information or statement the caller provided
- date of the call
- identity of the caller
- steps taken to verify the caller's identity as either the beneficiary or fiduciary
- confirmation the employee informed the caller that VA would use the information or statement they provided for the purpose of calculating benefits, and
- clear identification of the employee executing the ***VA Form***

27-0820, including a signature that meets the requirements described in M21-1, Part II, Subpart i, 2.B.2.e.

Exceptions:

- Completion of *VA Form 27-0820* is unnecessary when a regional office (RO) or VA contact center employee
- receives communication of an intent to file a claim for VA benefits, and
- updates the corporate record to reflect receipt of the communication, according to the instructions in M21-1, Part II, Subpart iii, 2.A.2.a.
- When an RO or VA contact center employee completes *VA Form 21-686c, Application Request to Add and/or Remove Dependents*, or *VA Form 21-674, Request for Approval of School Attendance*, on a beneficiary's behalf (as explained in M21-1, Part VII, Subpart i, 1.A.4.j) there is *no* need to complete *VA Form 27-0820* in addition to the *VA Form 21-686c* or *VA Form 21-674*.

Notes:

- If a VA employee follows the preceding steps for handling information received by telephone, VA may adjust a beneficiary's award and provide only contemporaneous notice of the action taken.
- If a VA employee does *not* follow the preceding steps, and the beneficiary or fiduciary does not provide signed, written notice of the matter affecting their benefits, VA must provide the beneficiary advance notice of any adverse action it intends to take.
- An e-mail or electronic submission from a beneficiary or fiduciary may serve as written notice of a matter affecting benefits, thereby allowing VA to adjust benefits and provide only contemporaneous notice of the action taken.

References: For more information on

- documenting information received by telephone, see 38 CFR 3.217
- signatures by VA employees, see M21-1, Part II, Subpart i, 2.B.2.e
- notice of proposed adverse action, see M21-1, Part X, Subpart ii, 3.A, and
- contemporaneous notice related to information received by telephone, see M21-1, Part X, Subpart ii, 3.C.2.

III.i.2.D.1.g. Referencing Information Received by Telephone in Decision Notices

Decision notices *must* include references to any evidence VA

- received by telephone, and
- used in determining entitlement.

When referencing the information received by telephone in decision notices, include the

- date of telephone contact, and
- name of the individual who provided the information.

Reference: For more information on decision notice requirements, see

- M21-1, Part VI, Subpart i, 1.B, and
- 38 CFR 3.103(f).

III.i.2.D.1. When evidence submitted via portable media (such as a compact

h. Managing Damaged Electronic Media

disc (CD), digital versatile disc (DVD), or thumb drive) is inaccessible due to corrupted files or damaged media, use the *Special Media Return Letter* to

- notify the claimant that attempts to retrieve evidence stored on the portable media were unsuccessful, and
- ask the claimant to resubmit the evidence.

Follow the steps in the table below for creating a letter to notify the claimant if the *Special Media Return Letter* is *unavailable*.

Step	Action
1	Insert the following text into the IMPORTANT INFORMATION free-text field of a subsequent development letter: *Our records show you submitted evidence via portable media format* **[insert type of evidence - CD, DVD, thumb drive, etc.]** *on* **[date evidence was received]**. *Unfortunately, the data could not be retrieved due to file corruption or damage; therefore, we are returning the portable media to you. Please send us a copy of these records within 15 days from the date of this letter. If we do not hear from you within the 15 days, we will proceed with the claim and make a decision based on the evidence of record. Please show your full name and VA file number on all correspondence or evidence submitted*.
2	Change all referenced response times in the letter to 15 days.

Important: Regardless of the means used to notify the claimant,

- update the claim level suspense reason to *Develop to Claimant for: damaged media info*, and
- update the suspense dates for the corresponding claim and tracked item to reflect a date that is 15 days from the date on the notice to the claimant.

2. Controls for Responses to Requests for Evidence

Introduction

This topic contains information about controls for responses to VA requests for evidence, including

- time limit for responding to a request
- next steps after sending a request for evidence
- incomplete responses that justify award action
- situations warranting extension of the 30-day time limit
- what an extension of the 30-day time limit does not affect
- situations that do not warrant extension of the 30-day time limit, and
- authority to take the next claim action after erroneous development is identified.

III.i.2.D.2.a. Time Limit for Responding to a Request

Unless otherwise required by VA policy or regulation, allow claimants 30 days to respond to a request for evidence.

References: For more information on

- specifying a 30-day response period in letters requesting evidence, see **M21-1, Part III, Subpart i, 2.D.1.b**, and
- nullifying the response period associated with erroneous development, see **M21-1, Part III, Subpart i, 2.D.2.g**.

III.i.2.D.2.b. Next Steps After Sending 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.

If the evidence of record fails to support an award of the benefits the claimant is seeking, the authorization activity is responsible for

- processing the denial in the appropriate claims-processing system, and
- preparing and sending a decision notice as described in **M21-1, Part VI, Subpart i, 1.B**.

Important:

- If VA requested evidence from a private physician or medical facility on behalf of the claimant, do not deny the claim before taking the actions required under Section 5103, as explained in **M21-1, Part III, Subpart i, 2.C.2**.
- If VA obtains *any* medical evidence in connection with the claim, (such as treatment records from a VA medical facility), the rating activity must determine whether it justifies an award of benefits.

III.i.2.D.2.c. Incomplete Responses That Justify Award Action

Award action does not need to be postponed until the end of the 30-day time limit, if the

- claimant furnishes some of the requested evidence, and
- evidence of record supports a partial award of the benefits the claimant is seeking.

When award action is taken prior to expiration of the 30-day time limit

- leave the current end product (EP) running
- send decision notice to the claimant, providing them the
- decision notice elements described in **M21-1, Part VI, Subpart i, 1.B**, and
- notice that VA is deferring action on the remaining aspects of the claim, pending receipt of the other requested evidence.

Note: Follow the instructions in **M21-1, Part III, Subpart i, 2.D.2.b** if the

- claimant fails to provide all of the requested evidence by the end of the 30-day time limit, and
- evidence of record fails to support an award of the

remainder of the benefits the claimant is seeking.

III.i.2.D.2.d. Situations Warranting Extension of the 30-Day Time Limit

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.

Note: It is improper to deny a claim while simultaneously developing for evidence to support it. Maintain EP control, with an accurate date of claim, as long as development is pending.

III.i.2.D.2.e. What an Extension of the 30-Day Time Limit Does Not Affect

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.

III.i.2.D.2.f. Situations That Do Not Warrant Extension of the 30-Day Time Limit

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.

If the mailing address on the request is correct and a more current address is not available, follow the instruction provided in **M21-1, Part II, Subpart i, 2.C.6.d**.

III.i.2.D.2.g. Authority to Take the Next Claim Action After Erroneous Development Is Identified

Claims processors have the authority to nullify the claimant response period and take the next claim action, including deciding the claim, if the associated development action is determined to have been erroneous or unnecessary.

Examples of erroneous/unnecessary development of a pending claim include

- requesting missing information from a ***September 2018 or later*** version of ***VA Form 21-686c*** submitted for additional compensation or dependency and indemnity (DIC) benefits, or
- sending the claimant a Section 5103 notice upon receipt of a supplemental claim within one year of the date VA issues notice of a prior decision.

Important: If the claimant's response period is nullified, the rating decision/decision notice must address this fact.

References: For more information on

- handling an incomplete ***VA Form 21-686c*** for additional compensation or DIC benefits, see **M21-1,**

Part VII, Subpart i, 1.A.4.b, and
- exceptions to the Section 5103 notice requirement, see M21-1, Part III, Subpart i, 2.B.

3. Affidavits and Certification of Statements Provided in Support of a Claim

Introduction

This topic contains information on affidavits and the certification of statements claimants provide in support of a claim, including
- means for satisfying VA's requirement for an affidavit or certification
- alternate means of certification
- determining certification requirements for a claim for service connection (SC)
- handling uncertified statements for a claim for SC
- waiving the certification requirement for a claim for SC, and
- returning an uncertified statement for a claim for SC.

Change Date November 18, 2020

III.i.2.D.3.a. Means of Satisfying VA's Requirement for an Affidavit or Certification

If VA regulations require an affidavit or certification, an individual may satisfy this requirement by completing the appropriate VA form that contains a certification statement. Therefore, when requesting evidence to support a claim, enclose the appropriate VA form with the request.

Example: VA uses *VA Form 21-686c* to obtain information from a claimant about their dependents. This form contains the following statement above the space provided for the claimant's signature: *I hereby certify that the information I have given above is true and correct to the best of my knowledge and belief*.

III.i.2.D.3.b. Alternate Means of Certification

If the specific type of information or evidence provided in support of a claim does not require submission on a standard claim form identified in M21-1, Part II, Subpart iii, 1.A.1.b, VA will also accept the following:
- a signed statement on
- *VA Form 21-4138, Statement in Support of Claim*, or
- *VA Form 21-10210, Lay/Witness Statement*, or
- any other written communication that
- is signed, and
- includes the appropriate certification statement.

Reference: For more information on what makes a certification statement appropriate, see M21-1, Part III, Subpart i, 2.D.3.c.

III.i.2.D.3.c. Determining Certification Requirements for a Claim for SC

To comply with the provisions of 38 CFR 3.200, statements provided by or on behalf of a claimant for the purpose of establishing service connection (SC) must be
- made under oath or affirmation, or
- certified.

Use the table below to determine what language an

individual should use to certify the authenticity of records or the truthfulness of statements they provide in support of a claim for SC.

If the individual is providing …	Then they should use the following language:
records	*I hereby certify that the following (or attached) is a true transcript of my records pertaining to this case*.
a statement	*I hereby certify that the information given above is true and correct to the best of my knowledge and belief*.

III.i.2.D.3.d. Handling Uncertified Statements

Any statement provided for the purpose of establishing SC that is *not* certified or made under oath must be referred to the rating activity for a determination as to whether or not the statement is required to establish SC.

If the rating activity determines the statement is required, follow the steps in **M21-1, Part III, Subpart i, 2.D.3.f** to obtain certification.

III.i.2.D.3.e. Waiving the Certification Requirement for a Claim for SC

The rating activity may waive the certification requirement if it can establish SC

- based on other evidence of record, and
- without consideration of the uncertified statement.

III.i.2.D.3.f. Returning an Uncertified Statement for a Claim for SC

If the rating activity determines certification of an individual's statement is required to establish SC

- photocopy the uncertified statement
- type the appropriate certification language (from **M21-1, Part III, Subpart i, 2.D.3.c**) on the photocopy and provide a signature line
- advise the individual that failure to certify the statement within 30 days may result in a denial of benefits
- send the photocopy to the individual for certification, and
- maintain the original document in the claims folder.

4. Certifying Eligibility and Continued Entitlement to VA Benefits

Introduction

This topic contains information about certifying eligibility for and continued entitlement to VA benefits, including

- **requirement to certify eligibility and continued entitlement**
- **procedures for certifying eligibility and continued entitlement**, and
- **example of a situation requiring certification of eligibility and continued entitlement**.

Change Date May 19, 2020

III.i.2.D.4.a. Requirement to Certify Eligibility and Continued Entitlement

VA may require beneficiaries to certify that an eligibility factor on which VA based an entitlement determination continues to exist.

Reference: For more information on periodic certification of continued eligibility, see **38 CFR 3.652**.

III.i.2.D.4.b. Procedure for Certifying Eligibility and Continued Entitlement

Follow the steps in the table below upon receipt of evidence suggesting an eligibility factor on which VA based an entitlement determination no longer exists.

Step	Action
1	Send notice of proposed adverse action to the beneficiary • requesting certification of the eligibility factor, and • advising them that VA may discontinue benefits if they do not provide certification within 60 days. Control for the beneficiary's response with an EP 600. ***Exception***: Do not use a separate EP 600 for income verification match cases. ***Note***: Although the beneficiary is instructed to respond to notice of proposed adverse action within 60 days • select a suspense date that is 65 days in the future (to allow for mail handling), and • take no action to adjust benefits until after the 65-day period has expired. ***References***: For more information on • notices of proposed adverse action, see **M21-1, Part X, Subpart ii, 3.A.1**, and • proper EPs for notice of proposed adverse action, see **M21-4, Appendix B**.
2	Review the folder. Did the beneficiary respond within 60 days? • If *yes*, • continue, adjust, or stop the award based on the beneficiary's response, and • send the proper decision notice. • If *no*, • adjust benefits effective the first of the month following the date on which the evidence of record shows the beneficiary last confirmed the existence of the eligibility factor, and • send the proper decision notice.

III.i.2.D.4.c. Example: Situation Requiring

The paragraphs below describe
• a situation that would require certification of eligibility

Certification of Eligibility and Continued Entitlement

and continued entitlement, and
- the appropriate actions to take based on the specific set of facts.

Situation:
- VA receives reliable evidence indicating a surviving spouse in receipt of pension might have remarried.
- The surviving spouse has no children.
- A review of the claims folder shows the most recent documentation confirming the surviving spouse's marital status is a ***VA Form 21-686c*** dated November 12, 2004.
- On February 11, 2010, VA sends notice of proposed adverse action to the surviving spouse
- requesting completion of ***VA Form 21-686c***, and
- advising her that VA may discontinue benefits effective the first of the month following the date on which the evidence of record shows the beneficiary last confirmed her marital status if she does not return the completed form within 60 days.

Result: If the surviving spouse does not respond within 60 days
- stop the award effective December 1, 2004, and
- send proper decision notice.

5. Determining the Acceptability of Photocopies

Introduction

This topic contains information on the acceptability of photocopies, including
- **photocopies or abstracts of public documents**, and
- photocopies of
- **documents that confirm military service**, and
- **service treatment records (STRs)**.

Change Date November 17, 2021

III.i.2.D.5.a. 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.

Examples:
- marriage certificates
- birth certificates, and
- death certificates

Important: VA may request a copy of the document certified over the signature and official seal of the person having custody of such record, if necessary.

Reference: For more information on the acceptability of photocopies of public documents to establish birth, death, marriage, or relationship, see **38 CFR 3.204(c)**.

III.i.2.D.5.b. Photocopies of Documents That Confirm Military Service

VA accepts photocopies of original documents that confirm a Veteran's military service if the Veteran's service department issued the original document and

- a public custodian of records certifies the photocopy is a true and exact copy of a document in their custody
- an accredited agent, attorney, or service organization representative who has successfully completed VA-prescribed training on military records certifies the authenticity of the photocopy by
- stamping the photocopy with the statement *I* [**name, title, organization**] *certify that I have completed the VA-prescribed training on certification of evidence for proof of service and that this is a true and exact copy of either an original document or of a copy issued by the service department or public custodian of records*, and
- signing and dating the statement, or
- the photocopy is submitted by the claimant or the claimant's representative and examination of the copy confirms it is
- genuine, and
- free from alteration.

Reference: For more information on service verification, see **M21-1, Part III, Subpart i, 1.B**.

III.i.2.D.5.c. Photocopies of STRs

Photocopies of service treatment records (STRs) are acceptable for rating purposes if examination of the copies confirms they are

- genuine, and
- free from alteration.

From <https://vaww.vrm.km.va.gov/system/templates/selfservice/va_kanew/help/agent/locale/en-US/portal/554400000001034/content/554400000033257/M21-1-Part-III-Subpart-i-Chapter-2-Section-D-Evidence-Requested-From-the-Claimant>

M21-1, Part III, Subpart i, Chapter 2, Section E - Relevance Determinations

Article ID: 554400000046269
Updated Dec 05, 2024
Topics
M21-1 Adjudication Procedures Manual >
Part 03 (Part III). The Development Process >
Subpart i. Verification of Service and Claims Development >
Chapter 02. Claims Development

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Overview

In This Section	This section contains the topic "**Determining Relevance of Records**."

1. Determining Relevance of Records

Introduction	This topic contains information on determining whether identified evidence is relevant for purposes of providing assistance under 38 U.S.C. 5103A, including • **definition of relevant records** • **relevance determined on case-by-case basis** • **importance of Golz decision in determining relevance of evidence** • **other examples when records are considered not relevant** • **clinical mental health records considered relevant**, and • **documenting the claims folder when identified evidence is not**

considered relevant.

Change Date December 5, 2024

III.i.2.E.1.a. Definition: Relevant Records

Relevant records for the purpose of the duty to assist 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.

For the purpose of 38 U.S.C. 5103A, the court held in *Golz v. Shinseki*, 590 F.3d 1317 (Fed. Cir. 2010) that not all medical records have a reasonable possibility of helping substantiate a pending claim and that the duty to assist applies only to ***relevant*** records.

Important: For purposes of determining relevance, the same principles apply to both private and Federal records.

The court further held in *Raugust v. Shinseki*, 23 Vet.App. 475 (2010), that the Department of Veterans Affairs (VA) has no duty to obtain records without a specific reason to believe that the records identified by the Veteran would contain necessary information to substantiate the claim.

Example: A Veteran files a claim for an increased evaluation for residuals of a service-connected (SC) left ankle fracture. He reports treatment at the Mayo Clinic for headaches.

Analysis: The information available on its face shows that the identified private records would *not* be relevant as they do not relate to the Veteran's SC disability nor do they have a reasonable possibility of substantiating the claim.

III.i.2.E.1.b. Relevance Determined on Case-by-Case Basis

Because each case presents unique circumstances, relevance of records shall be determined on a case-by-case basis. It is not possible to offer "one-size fits all" guidance on the issue of determining whether an identified piece of evidence is relevant to the issue being adjudicated.

Exercising common sense and sound judgment is critical in determining relevance. In addition to the two prongs of the standard in M21-1, Part III, Subpart i, 2.E.1.a, consider the following questions when making such determinations:

- ***Can I determine relevance without review of the actual records?***
- In nearly all cases, based on information supplied by the claimant, decision makers can determine relevance without reviewing the actual records.
- ***Can an earlier effective date be established by obtaining the identified records?***
- This is a critical question that must be answered when evaluating the evidence. If there is a chance of an earlier effective date, (for example, based on provisions of 38 CFR 3.114 regarding liberalizing changes), then records must be obtained.
- ***Can a higher evaluation be assigned?***
- Based on effective date rules, this question can generally be

answered without obtaining the identified records. However, if there is a doubt, then obtain the records if it means the claimant can potentially receive an earlier effective date. ***Reference***: For more information on relevant records, see **M21-1, Part I, Subpart i, 1.A.4.a**.

III.i.2.E.1.c. Importance of Golz Decision in Determining Relevance of Evidence

See the following example of a situation in which records would not be considered relevant. This example is modeled after ***Golz v. Shinseki***, 590 F.3d 1317 (Fed. Cir. 2010).

Example: A Veteran files a claim for service connection (SC) for posttraumatic stress disorder. He reports that he is in receipt of Social Security Administration (SSA) disability benefits and attaches a copy of an SSA decision that found him to be disabled due to back and leg pain from a 2001 injury. There is no mention of mental health symptoms or treatment in the SSA decision.

Analysis: The Federal Circuit, in ***Golz v. Shinseki***, 590 F.3d 1317 (Fed. Cir. 2010), held that if an SSA decision pertains to a completely unrelated medical condition and the Veteran makes no specific allegations that would give rise to a reasonable belief that the medical records may nonetheless pertain to the injury for which the Veteran seeks benefits, relevance is not established.

III.i.2.E.1.d. Other Examples When Records Are Considered Not Relevant

Example 1: A Veteran is SC for hypothyroidism evaluated at 30 percent since 1982, and submits a claim for increase in 2014. She indicates she was treated twice by a private physician for fatigue and constipation in 1984 but no treatment since then. No other rating decisions have been completed since the original award of SC in 1982. An examination is ordered without development for the 1984 records.

Analysis: Although the records from 1984 relate to the claimed issue, they do not present a reasonable possibility of substantiating the claim 30 years later for an increased evaluation. In other words, there is no *reasonable possibility* that an earlier effective date or higher evaluation will be assigned if these records are obtained. Therefore, the records are not relevant.

Example 2: A Veteran claims SC for low back disability. A review of the claims folder indicates the military dental treatment records are missing.

Analysis: Since those service treatment records (STRs) are not likely to relate to the back claim, it is reasonable to conclude that the dental records are not relevant to the claim for low back.

Example 3: Presumptive SC for Type 2 diabetes is awarded based on an original claim for SC. A current VA examination and private medical evidence showing treatment for diabetes over the last three years was considered. While the rating decision awaits promulgation, a signed release is received from the Veteran indicating diabetes treatment for a short period of time nine years ago. The individual who issued the decision determines that the evidence identified by the Veteran is not relevant.

Analysis: The records from nine years ago do in fact relate to the claimed condition. However, since the claim has already been substantiated and there is no reasonable possibility of establishing an earlier effective date or higher evaluation for diabetes, the records are considered not relevant and therefore do not need to be obtained.

Example 4: In Example 3, the Veteran passes away in June 2014 (no claim pending at death). The surviving spouse submits a *VA Form 21P-530, Application for Burial Benefits*, as well as a death certificate documenting diabetes was a contributing factor for the cause of death. She claims on the application that the Veteran's death was related to his military service. The spouse also submits a medical release form with the attached ***VA Form 21-4142a, General Release for Medical Provider Information to the Department of Veterans Affairs (VA)***, and a statement asking VA to obtain records related to the Veteran's diabetic treatment prior to death.

Analysis: Although the records relate to the claimed issue, the Veteran's death certificate is sufficient to link the cause of death to the Veteran's SC disability, therefore, the medical release form submitted with the claim is not relevant and records do not need to be obtained.

Example 5: A Veteran submits an original claim for pension. The Veteran served in the Navy from 1971-1974. The Veteran submits a report from his family physician for his back condition that is sufficient to grant pension. The Veteran also submits a separate ***VA Form 21-4142a*** and statement specifying treatment for the back, and they reveal treatment for the low back by a different physician two weeks after the date of treatment by his family physician.

Analysis: Because the current evidence is sufficient to substantiate the claim and grant pension, the records from the second physician are not considered relevant since obtaining such records would not likely result in a greater benefit or earlier effective date.

Example 6: A surviving spouse claims the Veteran's death (shown as liver failure) is related to his service. The Veteran was SC for bilateral hearing loss evaluated at 30 percent at the time of death. Review of the STRs is silent for any treatment or complaint of a liver condition in service. The surviving spouse submits a medical release form with the attached ***VA Form 21-4142a*** and a statement with her claim requesting we retrieve records surrounding the Veteran's liver failure in the year preceding his death.

Analysis: Since it is highly unlikely that retrieval of the records for liver failure would provide a nexus between the Veteran's hearing loss and his cause of death, nor likely to aid in substantiating the SC death claim, these records are not relevant *unless* the surviving spouse provides a specific reason why they are relevant.

III.i.2.E.1.e. Clinical Mental Health Records Considered Relevant

For the purposes of adjudicating claims for SC for mental disorders, all clinical records from military service are considered relevant and shall be obtained. See ***Moore v. Shinseki***, 555 F.3d 1369 (Fed. Cir. 2009).

Reference: For information on clinical records and guidance for requesting such records, see

- **M21-1, Part III, Subpart ii, 2.C**, and
- **M21-1, Part III, Subpart ii, 2.A.**.

III.i.2.E.1.f. Documenting the Claims Folder When Identified Evidence Is Not Considered Relevant

When it is determined that records identified by the claimant are *not* relevant, a formal documentation of this determination must be completed and made part of the claims folder.

Claims processors shall document the claimant's record when evidence identified by the claimant is not considered relevant and VA's duty to assist under **38 U.S.C. 5103A** does not require VA to obtain those records.

Follow the steps below when documenting the claimant's record.

If ...	Then ...
during development, the claims processor determines evidence is considered ***not relevant***	that claims processor shall • add the following note in the Veterans Benefits Management System (VBMS) using the note feature: *Records from* **[name of facility or physician]** *not requested because they are not relevant*, and • associate the note to the corresponding claim.
when rating the claim, the decision maker sees a note in VBMS indicating that certain identified records are ***not relevant***	• if that decision maker *agrees*, they shall insert the above statement into the INTRO/EVIDENCE tab under UPDATE EVIDENCE in FREE TEXT EVIDENCE, ***or*** • if that decision maker ***does not*** *agree*, they shall develop or direct development for the records.

Notes:

- It is imperative that decision makers, in addition to reviewing items under the DOCUMENTS tab in VBMS, also review all electronic notes prior to rating the case.
- When deciding legacy appeals, decision makers shall annotate the *Evidence* section of the statement of the case or supplemental statement of the case with the same note from the above table when evidence is not considered relevant.

From <https://vaww.vrm.km.va.gov/system/templates/selfservice/va_kanew/help/agent/locale/en-US/portal/554400000001034/content/554400000046269/M21-1-Part-III-Subpart-i-Chapter-2-Section-E-Relevance-Determinations>

M21-1, Part III, Subpart i, Chapter 2, Section F - Record Maintenance During the Development Process

Article ID: 554400000046277
Updated Dec 05, 2024
Topics
M21-1 Adjudication Procedures Manual >
Part 03 (Part III). The Development Process >
Subpart i. Verification of Service and Claims Development >
Chapter 02. Claims Development

<-- Previous Section Next Section -->

Overview

In This Section This section contains the following topics:

Topic	Topic Name
1	Routine Review of Electronic Claims Folder (eFolder) Documents and Corporate Flashes
2	Utilizing Contentions and Special Issue Indicators Associated With the Claimed Issues
3	Utilizing Tracked Items to Document Development
4	Updating Claim Status
5	Advancing Suspense or Diary Dates

1. Routine Review of eFolder Documents and Corporate Flashes

Introduction This topic contains information on the review of eFolder documents and adding flashes to a claimant record, including

- routine review of eFolder documents, and
- corporate flashes.

Change Date April 1, 2022

III.i.2.F.1.a. Routine Review of eFolder Documents During routine review of the electronic claims folder (eFolder), *all* claims processors *must* conduct eFolder maintenance to ensure

- end product (EP) controls are consistent with the claims

document, including use of the correct

- date of claim
- EP series, and
- claim label
- information regarding the Veteran's service dates and character of discharge in the Veterans Benefits Management System (VBMS) is consistent with the evidence in the eFolder
- the claims folder contains proper documentation of claimant representation, including system updates of
- Share, and
- VBMS
- any documents reviewed are indexed properly in accordance with **M21-1, Part II, Subpart ii, 2.A.1.d**, and
- any misfiled document(s) are removed and transferred to the proper claims folder(s) following the procedures outlined in **M21-1, Part II, Subpart ii, 2.A.2.a**.

Note: To manage the documents associated with the Veteran's eFolder in VBMS, click the DOCUMENT link on the VETERAN PROFILE screen.

References: For more information on

- other VBMS functionality available to maintain the eFolder, see **M21-1, Part II, Subpart ii, 2.A.1.h**
- EPs, see **M21-4, Appendix B**
- Veteran's service dates and character of discharge, see
- **M21-1, Part III, Subpart i, 1.A.1.e and g**, and
- **M21-1, Part III, Subpart i, 1.B.2 and 3**
- updating military service information, see **M21-1, Part II, Subpart iii, 3.B.3**, and
- power of attorney appointments, see **M21-1, Part I, Subpart i, 2.C.1**.

III.i.2.F.1.b. Corporate Flashes

Corporate flashes are claimant-specific indicators that represent an attribute, fact, or status that may occasionally change (such as former prisoner of war, blind Veteran, homeless, and so on). Regional offices (ROs) are responsible for

- identifying claimants' records that require flashes
- inputting the flashes when required, and
- removing the flash when it no longer applies.

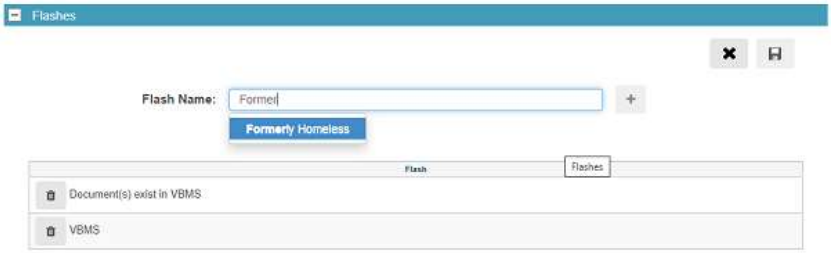
Most flashes are added by the end user, but some are generated by the system. Flashes will exist on a claimant's record until the flash is manually removed. Afterward, new scenarios may arise that necessitate the addition of a new flash. ROs are responsible for identifying and updating flashes when applicable.

Examples:

- Add the *Foreign Claim* flash when the claimant resides in a foreign country and remove it when the scenario changes.
- Add the *Homeless* flash when the case involves a homeless Veteran and remove it when the scenario changes. The *Formerly Homeless* flash may then be applied, as indicated in **M27-2, Part I, 2.04.d**.

Corporate flashes may be reviewed, added, or removed on the VETERAN PROFILE screen in VBMS.

Example:



Reference: For more information on when to use corporate flashes, including the *Foreign Claim* flash, see **M21-4, Appendix E, 1.b**.

2. Utilizing Contentions and Special Issue Indicators Associated With the Claimed Issues

Introduction

This topic contains information on utilizing contentions and special issue indicators associated with claimed issues, including

- **identifying contentions**
- **verifying contentions**
- **additional fields for examination management**
- **relating contentions to specific classifications in the pension management center (PMC)**
- **associating claim types to contentions**
- **entering a claim-specific special issue**, and
- **properly applying special issues**.

Change Date October 11, 2022

III.i.2.F.2.a. Identifying Contentions

Enter issues as contentions when they are

- expressly claimed by the claimant/Veteran/authorized representative, and/or
- put at issue and require development.

Important:

- This information will be made available via Department of Veterans Affairs (VA) claims-submission service websites and should be easy to understand and in the claimant's own words, as appropriate.
- The use of contentions for each claim is mandatory; claims processors must enter them as they identify issues associated with a claim.
- Each issue, including non-rating issues, must be entered as a separate contention.
- Non-rating contentions must relate to the specific benefit being sought.
- Mandatory language and format must be used for dependency claims. An example of the mandatory language and format is presented below.

- A claim for total disability due to individual unemployability is treated as a claim for increase in the service-connected (SC) disabilities that the Veteran identifies as causing unemployability. Therefore, the identified SC disabilities must be entered as individual contentions.

Examples:

- A Veteran submits a claim for ringing in the ears. The contention should be entered as *ringing in the ears*.
- A Veteran submits a claim to add a spouse and a child to a running award. Create separate contentions for the spouse and child as follows:
- *Dependency claim for* **[*name of spouse*]**, and
- *Dependency claim for* **[*name of child*]**.
- VA receives a claim for "increase in diabetes mellitus to include heart, depression, and numbness in hands." The contentions should be entered as
- *diabetes mellitus*
- *heart condition*
- *depression*, and
- *numbness in hands*.
- A Claims Assistant establishes a claim for “bilateral knees.” A review of the corporate record indicates the Veteran is SC for right knee patellofemoral pain syndrome and was previously denied service connection (SC) for a left knee strain. The contentions should be entered as
- *right knee patellofemoral pain syndrome (claimed as bilateral knees)*, and
- *left knee strain (claimed as bilateral knees)*.

Reference: For more information on the Veteran’s responsibility to specify a disability or disabilities that cause unemployability, see **M21-1, Part VIII, Subpart iv, 3.B.1.e**.

III.i.2.F.2.b. Verifying Contentions

All contentions must be verified in order for them to be viewable in VA claims-submission service websites.

Contentions automatically entered by the system that are missing critical information, such as the contention classification, will be marked as unverified. The claims processor must update the missing/incorrect information and select the SAVE button. The contention will then be marked as verified and viewable in VA claims-submission service websites. All employees reviewing a claim are responsible for ensuring all contentions are correct and verified.

III.i.2.F.2.c. Additional Fields for Examination Management

The contention screen contains additional fields that assist with identification and exam management functionality in VBMS. The CLASSIFICATION and MEDICAL fields are required components when entering a contention. The ALTERNATE CONTENTION NAME field is required for Caseflow-managed end products (EPs) but can be used for other claims as well. The following table describes how to utilize each field.

Contention Field	Application
CLASSIFICATION	Use appropriate medical verbiage that corresponds to the claimed medical condition, instead of the claimant’s original language. The *Administrative* classification is only for non-rating issues, such as dependency

	and non-service-connected burial.
MEDICAL	Select *Yes* in the MEDICAL field if the contention may require an examination or medical opinion to make a determination. Otherwise, select *No.*
ALTERNATE CONTENTION NAME	Use when the contention name, as stated by the claimant or required for Caseflow-managed EPs, results in grammatically incorrect or confusing exam request language when the contention is listed in the standardized exam request paragraphs (e.g., the contention name states the prior decision). ***Result***: "*Entitlement to service connection for bilateral pes planus, to include as secondary to a service-connected right and/or left foot disability is remanded*" would utilize "bilateral pes planus" as an alternate contention name for use in the Exam Management System.

Exceptions:

- Individual unemployability as a contention must be identified by
- selecting *Unemployability* as a classification in order to complete necessary specific development actions in VBMS, and
- selecting *Yes* in the MEDICAL field.
- Specific contentions and classifications must be associated for issues being processed at a pension management center (PMC), as detailed in **M21-1, Part III, Subpart i, 2.F.2.d**.

III.i.2.F.2.d. Relating Contentions to Specific Classifications in the PMC

The table below lists the contentions used for tracking PMC claims and the associated classification that must be selected.

Contention	Classification
• *Dependency and Indemnity Compensation (DIC)*, or • *Service Connected Burial*	*Service Connected Death*
• *Veterans Pension*, or • *Survivors Pension*	*Pension*
Accrued	*Administrative*
Special Monthly Pension	*Pension – Aid and Attendance/Housebound*
Special Monthly DIC	*Service-Connected Death – A&A/HB* ***Note***: If special monthly benefits are being claimed for both Survivors Pension and DIC, use the *Service-Connected Death – A&A/HB* contention classification.

III.i.2.F.2.e. Associating Claim Types to Contentions

Each contention must have the correct claim type associated with it. When multiple claim types apply, base the contention type on the current theory of entitlement being asserted.

Examples:

- A Veteran claims an increase in their SC peripheral neuropathy of the left lower extremity. SC was previously granted on a secondary basis associated with the Veteran's SC diabetes mellitus, type II. Although SC was originally granted on a secondary basis, the current claim is for an increased evaluation. Therefore, the correct contention claim type is *Increase*.
- VA receives a claim for a right knee disability from an altered gait, due to the Veteran's SC left ankle fracture. The claim was previously denied on a direct basis because the evidence did not show the disability occurred in service. Although SC was originally claimed on a direct basis, the current claim is based on a secondary SC theory of entitlement and should be labeled *Secondary*.
- A Veteran is SC for migraines. An examiner indicates the condition is likely to improve. A diary date for a review examination is set. When the EP is established for the routine future examination, the contention type for migraines would be *RFE*.

References: For more information on

- claim types, see **M21-1, Part I, Subpart i, 1.A.4.i-k**
- theories of entitlement for SC, see **M21-1, Part V, Subpart ii, 2.A-E**, and
- routine future examinations, see **M21-1, Part IV, Subpart ii, 1.A** and **B**.

III.i.2.F.2.f. Entering a Claim-Specific Special Issue

The RO has a responsibility to identify any contention that may have a special issue associated with it. Once the RO identifies the contention as having a special issue, the RO must enter a claim-specific special issue indicator that provides additional details about the contention and claim.

Use of special issue indicators is mandatory when the claim meets the criteria for their application. ROs are responsible for identifying and inputting special issue indicators as required by **M21-4, Appendix E, 2**. If a special issue exists and applies to the claim, use of the corresponding indicator is required.

Example: The claimant files a claim for diabetes mellitus due to Agent Orange exposure while serving in Vietnam. Since Agent Orange is identified as a special issue, the diabetes mellitus contention must contain an *Agent Orange-Vietnam* special issue indicator.

Special issues indicators may need to be updated throughout the life of a claim. It is important that claims processors are vigilant in identifying when the circumstances of the claim require the addition, removal, or editing of special issue indicators.

Example: The claimant submits a fully developed claim (FDC), and the claims processor properly applies the FDC special issue indicator to one of the contentions associated with the claim. The claim is later excluded from the FDC Program based on evidence received after claims establishment, so the claims processor changes the FDC special issue indicator from *Fully Developed*

Claim to *FDC Excluded – Evidence Received After FDC CEST*.

Reference: For more information on how to add or remove a special issue indicator in VBMS, see the *VBMS Core User Guide*.

III.i.2.F.2.g. Properly Applying Special Issues

Special issue indicators must be applied or updated after a special issue is identified. Use the table below to determine how to apply special issue indicators to contentions.

If the special issue applies to ...	Then apply the special issue indicator to ...
the claim	one contention. ***Examples***: • *Character of Discharge* • *Fully Developed Claim* • *FDC Excluded – Needs Non-Fed Evidence Development*
a contention	each applicable contention. ***Examples***: • *Agent Orange – Vietnam* • *Asbestos* • *Burn Pit Exposure*

References: For more information on

- inputting special issue indicators into VBMS, see the *VBMS Core User Guide*, and
- appropriate use of special issue indicators, see **M21-4, Appendix E.2**.

3. Utilizing Tracked Items to Document Development

Introduction

This topic contains general information on utilizing tracked items to document development, including

- **purpose of tracked items**
- **creation of tracked items**
- **tracked item dispositions**
- **tracked item automation**
- **accuracy of tracked items**, and
- **determining that a claim is ready for a decision**.

Change Date December 5, 2024

III.i.2.F.3.a. Purpose of Tracked Items

The purpose of tracked items is to control receipt or non-receipt of information/evidence requested from the claimant, beneficiary, or other information/evidence provider. The status of individual tracked items will be visible through VA claims-submission service websites.

III.i.2.F.3.b. Creation of Tracked

Tracked items are established automatically for corresponding development actions when creating and finalizing development letters. Separate from the process of creating development actions

Items

through correspondence, custom tracked items may be manually established by the claims processor, subject to corresponding claims-processing system functionality and limitations. ***However***, custom tracked items may not be used if a standard tracked item for the claim action already exists.

References: For more information on

- available standard tracked items, see **M21-4, Appendix D, 1.b**, and
- creating tracked items in VBMS, see the *VBMS Core User Guide*.

III.i.2.F.3.c. Tracked Item Dispositions

Tracked items must be updated with the appropriate date and disposition to reflect the status of the corresponding request or development action. Use the table below to determine the appropriate date and disposition to use when updating tracked items.

Tracked Item Disposition	Description
Received	Use this when requested information/evidence is received or a negative response from the information/evidence provider is received. For a negative response, create a system note to communicate this information.
Closed	Use this to administratively close a tracked item for non-receipt. Generally, the earliest date an item can be closed is upon determining that the suspense date has expired and the timeframe given for a response has elapsed. This includes any necessary follow-ups. ***Note***: If a tracked item is closed due to non-receipt but the evidence is received later, while the claim is still pending, the new "received" date will supersede the prior "closed" date.
In Error	Use this to administratively close tracked items that were erroneously created or evidence that was requested in error.
Follow Up 1 or *Follow Up*	Use this to track the date evidence was requested for a second time.
Follow Up 2 or *2ndFlwUp*	Use this to track the date evidence was requested for a third time.

References: For more information on

- managing tracked item dispositions in VBMS, see the *VBMS Core User Guide*, and
- processing solicited and unsolicited mail, see **M21-1, Part II, Subpart i, 2.A.1.d**.

III.i.2.F.3.d. Tracked Item Automation

If the suspense date for an open, non-actionable tracked item has expired, and no response, either positive or negative, was received in reply to the request, VBMS will automatically close the tracked item by entering the suspense date into the *Closed* disposition. A tracked item is considered non-actionable if no action is required at the expiration of the suspense date.

If the last remaining tracked item is manually updated by adding a

date in the *Closed*, *Received*, or *In Error* disposition, VBMS automatically sets the status and claim-level suspense reason to

- *Ready for Decision* for rating claims, and
- *Ready to Work* for non-rating claims.

III.i.2.F.3.e. Accuracy of Tracked Items

It is the responsibility of the claims processor reviewing or taking action on a claim to ensure that

- the necessary tracked items have been generated
- all suspense dates are accurate, and
- the disposition of all tracked items have been accurately managed, to include any automated tracked item actions.

Important:

- The accuracy of the claim-level suspense reason and date is dependent on properly generated and managed tracked items.
- If a request submitted through the Personnel Information Exchange System (PIES) is subsequently deemed unnecessary,
- close the tracked item associated with the unnecessary development action, and
- cancel the pending PIES request.

III.i.2.F.3.f. Determining That a Claim Is Ready for a Decision

The receipt of requested information/evidence or closing of all tracked items does not necessarily mean that the claim is ready for a decision. This determination must be based on an analysis of the evidence of record. A claim is considered ready for a decision after all the requested evidence has been received or otherwise accounted for, ensuring VA's obligations to assist the claimant have been met.

4. Updating Claim Status

Introduction

This topic contains information on updating the status of a claim, including

- **claim status**, and
- **claim-level suspense**.

Change Date December 30, 2020

III.i.2.F.4.a. Claim Status

Claim status is used to determine actions that are pending on a claim and provide more accurate customer service. Claims processors are responsible for updating claim status to indicate the approximate stage at which a claim is in the claims process.
Use the table below to determine the appropriate claim status.

Claim Status	Definition
Open	Default status for claims not in any other status. Claims typically stay in this status during claims development.

Ready for Decision	Signifies that the claim is ready for a rating decision.
Ready to Work	Signifies that the claim is ready for a non-rating decision.
Rating Decision Complete	Signifies that a rating decision has been completed and is awaiting promulgation.
Rating Correction	Signifies that a rating decision correction is needed.
Rating Incomplete	Signifies that a rating decision was returned to corporate from the work pending column.
Closed	The claim is complete with no further action possible.
Cancelled	The claim is cancelled with no further action possible.

Reference: For more information on updating the claim status in VBMS, see the *VBMS Core User Guide*.

III.i.2.F.4.b. Claim-Level Suspense

The claim-level suspense reason and date will automatically update based on tracked items when a claim is in *Open* status. Each tracked item will automatically map to a claim-level suspense reason.

When the claim status is a status other than *Open*, and a tracked item is added or reopened, the system will automatically set the claim status to *Open* and update the claim-level suspense reason and date based on the opened tracked item(s).

The claim-level suspense reason and date will be updated by the claim status when the claim status is anything other than *Open*.

5. Advancing Suspense or Diary Dates

Change Date September 17, 2018

III.i.2.F.5.a. Managing Suspense and Diary Dates Through the Claims Process

The Veterans Benefits Administration's mission is to serve Veterans and their eligible dependents and survivors in the most timely and accurate manner possible. It is only appropriate to extend suspense or diary dates if it is necessary for a specific adjudicative action.

Suspense dates must always correspond with specific actions and may not be arbitrarily extended under any circumstance.

Important: When employees handle a claim, they are expected to take the most full and complete action possible on a claim every time – including development, rating, and promulgation actions – to move a claim forward to accurate

completion in the claims process. Every effort must be made to move the claim to the next processing cycle each time it is handled.

From <https://vaww.vrm.km.va.gov/system/templates/selfservice/va_kanew/help/agent/locale/en-US/portal/554400000001034/content/554400000046277/M21-1-Part-III-Subpart-i-Chapter-2-Section-F-Record-Maintenance-During-the-Development-Process>