



Office of Field
Operations
NCC

APPEALS MODERNIZATION

BACKGROUND INFORMATION, SCRIPT, PROCEDURAL GUIDANCE, & FAQs

ISSUED DATE: FEBRUARY 11, 2022

BACKGROUND INFORMATION

The *Veterans Appeals Improvement and Modernization Act of 2017* (AMA) was signed into law on August 23, 2017. The law is the result of collaborative efforts between VA, Congressional staff, and Veterans Service Organizations. Full implementation of the new legislation occurred on February 19, 2019. The review system applies to all claims for which a notice of decision is provided by the agency of original jurisdiction on or after that date. Claimants who received decisions prior to the effective date of the new system had the option to file an appeal under the legacy process.

The law modernized VA's claims and appeals process by:

- Providing review options for claimants who disagree with VA decisions
- Updating and improving the elements of notice for all VA decisions
- Mandating and protecting findings favorable to claimants
- Increasing protection for effective dates when a claim is continuously pursued

Decision Notices

Under AMA, decision notices must include all the following:

- identification of the issues adjudicated;
- a summary of the evidence considered by VA;
- a summary of applicable laws and regulations;

Disabilities determined by VA to be related to your military service can lead to monthly non-taxable compensation, enrollment in the VA health care system, a 10-point hiring preference for federal employment and other important benefits. Ask your VA representative or Veterans Service Organization representative about Disability Compensation, Pension, Health Care, Caregiver Program, Career Services, Educational Assistance, Home Loan Guaranty, Insurance and/or Dependents and Survivors' Benefits.



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- identification of findings favorable to the claimant;
- in the case of a denial, identification of elements not satisfied leading to the denial;
- an explanation of how to obtain or access evidence used in making the decision;
- if applicable, identification of the criteria that must be satisfied to grant the benefit sought; and
- an explanation of the three review options and identification of the required forms to pursue each lane.

Note: [VA Form 20-0998](#), *Your Right to Seek Further Review of Our Decision*, replaced VA Form 4107, *Your Rights to Appeal Our Decision*.

Options for Review

The AMA decision review framework features three clear lanes for a claimant to address a disagreement with a VA decision. See [flowchart](#) for visual representation of below information.

Higher-Level Review: *review of the same evidence by a higher-level adjudicator in the agency of original jurisdiction*

- This option allows no additional evidence to be submitted in support of the claim and no hearing requests.
- A Higher-Level Review consists of an entirely new review of the claim by an experienced adjudicator.
- Factual findings that are favorable to the claimant cannot be changed unless there is evidence to the contrary that is clear and unmistakable.
- VA cannot assist the claimant in developing additional evidence. However, if the Higher-Level Reviewer discovers an error in VA's duty to assist in the prior decision, the reviewer will return the claim for correction of the error (unless the Higher-Level Reviewer can grant the maximum benefit without correction of the error).
- The claimant or representative can request an optional one-time telephonic informal conference with the Higher-Level Reviewer to identify specific errors in the case.
- Required Form: [VA Form 20-0996](#), *Decision Review Request: Higher-Level Review*



Supplemental Claim: *submission of new and relevant evidence with a Supplemental Claim to the agency of original jurisdiction*

- This option allows for submission of additional evidence that is *new and relevant* to support the claim. New and relevant evidence must either accompany the Supplemental Claim or be identified at the time the Supplemental Claim is filed. The evidence may be secured while the Supplemental Claim is pending.
- Factual findings that are favorable to the claimant cannot be changed unless there is evidence to the contrary that is clear and unmistakable.
- VA will assist the claimant in gathering new and relevant evidence to support the claim that has been identified by the claimant in the Supplemental Claim submission.
- VA's review will include any new and relevant evidence submitted since VA last made a decision on the claim.
- Required Form: [VA Form 20-0995](#), *Decision Review Request: Supplemental Claim*

Appeal to the Board of Veterans Appeals: *review by a Veterans Law Judge at the Board of Veterans Appeals (the Board) by filing a Notice of Disagreement.*

- The appellant must elect a docket when submitting the Notice of Disagreement. The Board will maintain three separate dockets for handling the following categories of appeals:
 - (1) Appeals where the appellant has requested a hearing (Hearing Docket),
 - (2) appeals with no request for a hearing but where the appellant elects to submit other forms of evidence (Evidence Docket), and
 - (3) appeals where the appellant requests Board review on the same evidence that was before the agency of original jurisdiction (Direct Docket).
- A hearing before the Board may be conducted via electronic means or via an in-person hearing held at the Board's principal location in Washington, DC.
- Factual findings that are favorable to the claimant cannot be changed unless there is evidence to the contrary that is clear and unmistakable.
- The Board cannot assist the appellant in developing additional evidence. However, if the Board discovers an error in VA's duty to assist in the prior decision, it will return the appeal for



correction of the error (unless the Board determines VA can grant the maximum benefit without correction of the error).

- Required Form: [VA Form 10182](#), *Decision Review Request: Board Appeal (Notice of Disagreement)*

Effective Date Protections/Continuously Pursued Claim

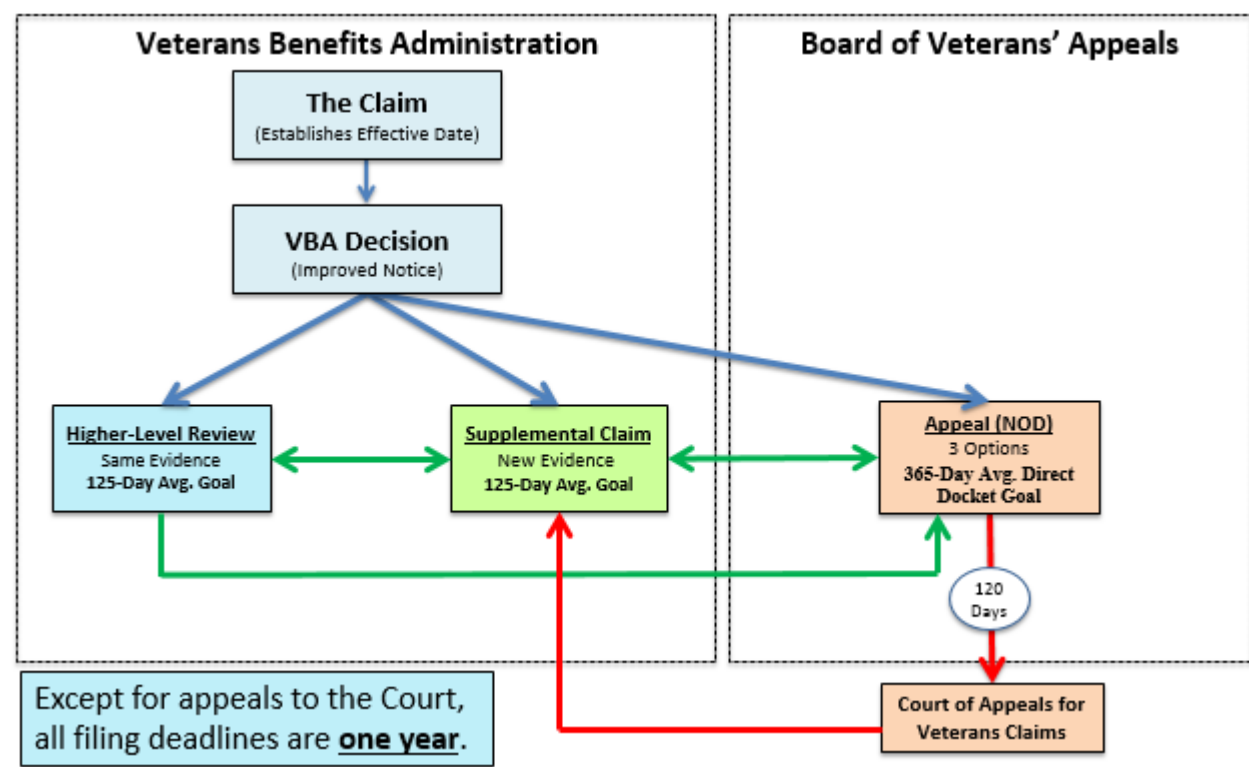
A claimant who is not fully satisfied with the result of any decision review lane has one year to seek further review to preserve an effective date for benefits based upon the original filing date of the claim.

Example: A claimant could go straight from an initial agency of original jurisdiction decision on a claim to an appeal to the Board. If the Board decision is not favorable, the claimant would have one year to submit new and relevant evidence to the agency of original jurisdiction in a Supplemental Claim without fearing loss of the effective date for choosing to go to the Board first.

A claimant may continuously pursue a claim or an issue by timely and properly filing one of the following decision review options, as specified, after any decision by the agency of original jurisdiction, Board of Veterans' Appeals, or entry of judgment by the U.S. Court of Appeals for Veterans Claims (CAVC) (provided that any appeal to the CAVC is timely filed as determined by the court):

- (1) Following notice of a decision on a Supplemental Claim, the claimant may file another Supplemental Claim, request a Higher-Level Review, or appeal to the Board.
- (2) Following notice of a decision on a Higher-Level Review, the claimant may file a Supplemental Claim or appeal to the Board.
- (3) Following notice of a decision on an appeal to the Board, the claimant may file a Supplemental Claim or appeal the CAVC.
- (4) Following entry of judgment on an appeal to CAVC, the claimant may file a Supplemental Claim.





Withdrawal

A claimant/appellant, or authorized representative, may, in writing, withdraw a Supplemental Claim, a request for a Higher-Level Review, or a Notice of Disagreement at any time before VA renders a decision on the issue. A claimant may also change the decision review lane selected by withdrawing the request and filing the appropriate application form for the requested decision review lane within one year from the date on which VA issued notice of a decision on an issue.

Processing Decision Review Requests

Higher-Level Reviews are processed under End Product (EP) 030.

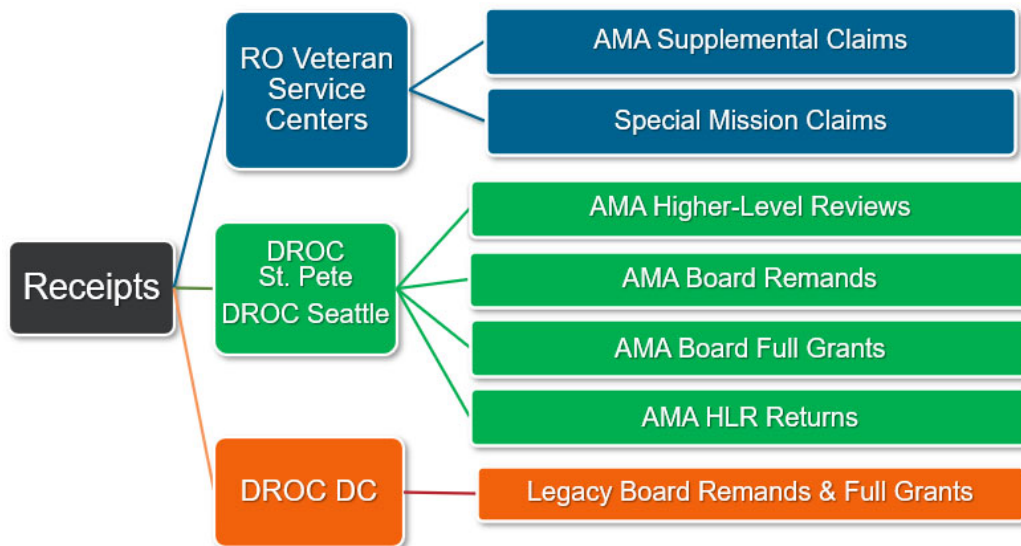
- Note: Certain 030 EPs are established when carrying out a Board decision. These specific 030s are not considered Higher-Level Reviews. Examples of these 030 series claims labels include:
 - Board Grant Rating
 - Board Grant Non-Rating

Supplemental Claims are processed under EP 040.

- Note: Certain 040 EPs are established when re-adjudication is necessary based on duty to assist (DTA) error noted by either the Board or a Higher-Level Reviewer. Examples of these 040 series claim labels include:
 - HLR DTA Error – Rating
 - HLR DTA Error – Non-Rating
 - Board DTA Error Rating
 - Board DTA Error Non-Rating
 - Board DTA Error – w/IMO

All existing priority processing rules apply to EPs 030 and 040.

The offices responsible for processing the decision review requests, legacy appeals, and RAMP claims are outlined in the following chart:



SUGGESTED SCRIPT FOR GENERAL INQUIRIES ABOUT AMA

“VA has redesigned and streamlined the appeals system. The new decision review process meets Veterans’ expectations; it is timely, transparent, fair, and is designed to provide Veterans greater choice for resolution of their disagreements with VA’s benefit decisions. Veterans should have confidence that if they disagree with a decision VA has made, they can have the decision reviewed

while receiving the highest quality of service. The new decision review system applies to all claims decided on or after February 19, 2019.”

SUGGESTED SCRIPT FOR DISAGREEMENT PROCESS (NOT APPLICABLE TO SIMULTANEOUSLY CONTESTED CLAIMS)

“For decisions made on or after February 19, 2019, if you do not agree with our decision, you have one year from the date of your notification letter to select from three possible decision review options, or “lanes,” to protect the earliest effective date. You must file your request on the required application form for the desired decision review lane. Decision review lanes include a Higher-Level Review, which is a review of the same evidence by a higher-level adjudicator in the agency of original jurisdiction; a Supplemental Claim, which includes submission of new and relevant evidence to the agency of original jurisdiction; or an Appeal to the Board of Veterans Appeals, which is a review by a Veterans Law Judge at the Board of Veterans Appeals (the Board) by filing a Notice of Disagreement. Additional information about each lane and required forms may be found in the VA Form [20-0998](#), *Your Right To Seek Review Of Our Decision*, attached to your decision notice or I may answer any questions for you.”

PROCEDURAL GUIDANCE

Public Contact Representatives (PCRs) are responsible for responding to inquiries about:

- The decision review process and available lanes
 - PCRs must not provide recommendations on lane selection. VA personnel should encourage claimants to speak with their representative about which choices are best for their individual situation.
- Decision notices
- Instruction on obtaining required forms and timeframes for submission
 - PCRs must offer all available options to obtain VA forms (mail/fax/email/download) and provide instruction on returning the form within the applicable time limit.
- Status of decision reviews



- For claimants requesting the status of a Higher-Level Review or Supplemental Claims, PCRs must utilize existing status of claim scripts. PCRs must not provide the estimated timeframe for completion from CRM/UD-O claim status scripts. PCRs must provide the average/goal timeframe of 125 days for completion.
- For appellants requesting the status of an appeal to the Board, PCRs must provide status using [Board status of appeal scripts](#).
- If a claimant indicates he/she missed a call from VA regarding an informal conference under the Higher-Level Review process, PCRs must review the system of record to locate the requested information entered by VA personnel and document the claimant's response on VA Form 27-0820, *Report of General Information*.
 - All [Priority Processing requirements](#) apply to the decision reviews.
 - [Claim and Appeal Processing Referrals](#) apply to the decision reviews.

FREQUENTLY ASKED QUESTIONS

Q1. WHAT IS THE DIFFERENCE BETWEEN AN “INITIAL CLAIM” AND A “SUPPLEMENTAL CLAIM”?

A1: An “initial claim” is a claim for a benefit other than a Supplemental Claim, including the first filing by a claimant (original claim) and a subsequent claim filed by a claimant for an increase in a disability evaluation, a new benefit, or a new disability. A “Supplemental Claim” is a claim for benefits filed by a claimant who had previously filed a claim for the same or similar benefits on the same or similar basis. VA is required to readjudicate the claim if new and relevant evidence is presented or secured with respect to a Supplemental Claim.

Q2. DOES THE EVIDENTIARY RECORD CLOSE WHEN AN INITIAL CLAIM IS DECIDED?

A2: The evidentiary record for a claim before the agency of original jurisdiction closes when VA issues notice of a decision on said claim. A claimant may reopen the evidentiary record by submitting a Supplemental Claim or claim for an increase on the prescribed application form. Submission of a substantially complete initial or Supplemental Claim also triggers VA's duty to assist in the gathering of evidence under §3.159. The evidentiary record also reopens when a claim must be readjudicated due to identification of a duty to assist error on Higher-Level Review or by the Board. Whenever the



record reopens, evidence submitted to the agency of original jurisdiction while the record was closed will become part of the record to be considered for a subsequent adjudication.

Q3. DOES THE REQUIREMENT TO “PROTECT FINDINGS FAVORABLE TO A CLAIMANT” MEAN AN AWARD CANNOT BE REDUCED OR DISCONTINUED?

A3: No. The “favorable finding” rule protects findings relating to a disability evaluation for a particular period of time but does not preclude a subsequent finding that the disability thereafter improved. Changes in the underlying facts that led to the original award may warrant a discontinuance or reduction of a running award.

Q4. CAN I CHOOSE MULTIPLE REVIEW OPTIONS IF MY CLAIM INCLUDED MULTIPLE ISSUES?

A4: A claimant may request one of the three decision review lanes (Higher-Level Review, Supplemental Claim, appeal to the Board) for each issue decided by VA. A claimant is not limited to choosing the same decision review lane for a decision that adjudicated multiple issues. An issue for this purpose is an adjudication of a specific entitlement. With respect to service-connected disability compensation, an issue would be entitlement to compensation for a particular disability (and any ancillary benefits). For example, a claimant seeks disability compensation for a knee disability and for a mental disorder. Once the claimant receives an initial decision on both, it is permissible for the claimant to elect to place the knee issue and the mental disorder issue in separate lanes under the new decision review process. The claimant may not, however, challenge the effective date assigned for the knee in one lane, and simultaneously challenge the assigned degree of disability for the knee in another lane.

Q5. DO INTENT TO FILE OR REQUEST FOR APPLICATION RULES APPLY TO THE THREE DECISION REVIEW LANES?

A5: Intent to file (ITF) does not apply to requests for Higher-Level Reviews or appeals to the Board of Veterans’ Appeals. ITF does apply to Supplemental Claims pending or received on or after July 30, 2021.

A claimant can maintain the effective date of a potential benefits award by submitting a request for review under any of the three new lanes within one year of the date of the decision on any specific issue.

Request for Application (RFA) applies to Higher-Level Reviews (VAF 20-0996).

Note: ITFs continue to apply to all variants of initial claims under the modernized decision review process.

Q6. DOES VA'S DUTY TO ASSIST APPLY TO SUPPLEMENTAL CLAIMS?

A6: 38 U.S.C. 5103(a) requires VA to provide notice to a claimant of the information or evidence necessary to substantiate the individual's claim for benefits. This notice requirement applies to initial and Supplemental Claims; however, VA is not required to provide that notice with respect to a Supplemental Claim filed within one year of an agency of original jurisdiction or Board decision on an issue. VA's duty to assist applies when a substantially complete initial claim or Supplemental Claim is filed or when a claim is returned to correct a "duty to assist" error in a prior decision.

Q7. CAN A CLAIMANT SWITCH TO A DIFFERENT REVIEW LANE?

A7: Claimants may switch between the different decision review lanes. A claimant or the claimant's duly appointed representative may, for example, withdraw a request for Higher-Level Review or a Supplemental Claim at any time prior to VA issuing notice of decision. If the withdrawal takes place within the one-year period following notice of the decision being reviewed, a claimant may timely elect another review option to continuously pursue the claim and preserve potential entitlement to benefits effective as of the date of the initial claim.

Q8. WHAT DECISION REVIEW LANES ARE AVAILABLE FOR SIMULTANEOUSLY CONTESTED CLAIMS?

A8: Parties in a simultaneously contested claim are limited to filing a Notice of Disagreement with the Board within 60 days of issuance of the decision of the agency of original jurisdiction.

The notice to contesting parties upon receipt of a Notice of Disagreement will indicate the type of review requested by the party who initially filed the Notice of Disagreement, including whether a



hearing was requested. A party to a simultaneously contested claim may file a brief, argument, or request for a different type of review in answer to a Notice of Disagreement filed by another contesting party.

If any party requests a hearing before the Board, the appeal will be placed on the hearing docket and a hearing will be scheduled. If neither party requests a hearing, but any party requests an opportunity to submit additional evidence, the appeal will be placed on the evidence docket. VA will notify both parties when an appeal is placed on any docket. If the appeal is placed on the evidence docket, the parties will have 90 days from the date of such notice in which to submit additional evidence.

Q9. CAN AN APPELLANT CHANGE THE DOCKET ELECTION ORIGINALLY SUBMITTED ON THE NOTICE OF DISAGREEMENT?

A9: An appellant may modify the Notice of Disagreement for the purpose of selecting a different evidentiary record option. The request to modify must be made within one year of the agency of original jurisdiction decision on appeal, or 60 days after the Notice of Disagreement is received by the Board, whichever is later. The request will be denied if the appellant has already submitted evidence or testimony. If approved, the Board will move the appeal to the appropriate docket, retaining the original docket date.

Q10. CAN AN APPELLANT ADD ISSUES TO A NOTICE OF DISAGREEMENT AFTER IT IS FILED WITH THE BOARD?

A10: If an appellant wants to add additional issues not initially included on the Notice of Disagreement, the appellant is free to submit an additional Notice of Disagreement identifying these issues, as long as this additional Notice of Disagreement is timely submitted.

Q11. HOW WILL THE BOARD HANDLE UNCLEAR OR DEFICIENT NOTICES OF DISAGREEMENT?

A11: When the Board receives an unclear or deficient Notice of Disagreement, the Board will notify the appellant and request clarification. The appellant must respond with the requested clarification within one year after the agency of original jurisdiction decision, or 60 days after the date of the Board's clarification request, whichever is later. If the appellant does not provide a timely response, the previous statement from the appellant will not be considered a Notice of Disagreement.



When an unclear Notice of Disagreement is properly clarified, the Notice of Disagreement will be considered to have been properly filed on the date of clarification. This means that the docket date will be based upon the date of the clarification, and if the appellant requests to submit evidence, the 90-day window for evidence submission will begin on the date of clarification.

Q12. IF I WITHDRAW MY BOARD HEARING REQUEST OR CAN NO LONGER ATTEND A HEARING, WILL I STILL BE ABLE TO SUBMIT EVIDENCE?

A12: Appellants who requested a hearing on the Notice of Disagreement, but ultimately do not appear for a hearing will retain the opportunity to submit additional evidence within a 90-day window.

Q13. WILL A BOARD REMAND BE RETURNED TO THE BOARD FOLLOWING A DECISION BY THE AGENCY OF ORIGINAL JURISDICTION?

A13: A case will not be returned to the Board following the agency of original jurisdiction's readjudication of an appeal previously remanded by the Board. A claimant's options for further review of the agency of original jurisdiction's decision include filing a new Notice of Disagreement. Where a new Notice of Disagreement is filed following readjudication by the agency of original jurisdiction, the case will be docketed in the order in which the most recent Notice of Disagreement was received.

Q14. I CURRENTLY HAVE AN APPEAL IN THE LEGACY APPEAL PROCESS; CAN I OPT-IN TO THE NEW SYSTEM?

A14: Yes. Upon receipt of a Statement of the Case (SOC) or Supplemental Statement of the Case (SSOC) in the legacy appeals system dated on or after February 19, 2019, you may elect to continue your appeal by seeking review in the modernized decision review process.

By electing to participate in the modernized decision review process, you are withdrawing all eligible appeal issues listed on the election in their entirety, and any associated hearing requests, from the legacy appeals system to seek review of those issues in VA's modernized decision review process. You can choose to have your appeal reviewed under one of the modernized decision review process lanes by ensuring the SOC/SSOC Opt-in box on the appropriate form(s) is checked **and** completing the appropriate form for the decision review lane you choose to participate in, as there is a separate



form for each lane. If you choose to participate in the modernized decision review process, you must submit your completed application form(s) within 60 days from the date of your SOC/SSOC or within the one-year appeal period, whichever is later. Once you opt-in to a decision review lane, you may not return to the legacy appeal process.

If you choose to continue the appeal and wish to remain in the legacy appeals system, you must respond to the SOC within 60 days, or within one year of the date of the decision notice with which you disagree, by submitting a VA Form 9, *Appeal to the Board of Veterans' Appeals*. Doing so will move your appeal from the Veterans Benefits Administration to the Board of Veteran's Appeals. Failing to timely submit a Form 9 will result in VA closing your appeal.

Q15. WHAT ARE MY OPTIONS IF THE DECISION ON MY CLAIM WAS MADE BEFORE 2/19/19, I AM PAST ONE YEAR SINCE THE DECISION, AND I DO NOT HAVE A LEGACY APPEAL PENDING?

A15: A Supplemental Claim may be filed at any time with new and relevant information; however, the original effective date will not be protected as the claim was not continuously prosecuted. You also have the option to file a request for revision of the decision based on a clear and unmistakable error.

Q16. WHAT HAPPENS IF A CLAIMANT SUBMITS A CONTENTION THAT HAS PREVIOUSLY BEEN RATED AND DENIED (SUPPLEMENTAL) ON A 21-526EZ ALONG WITH NEW CONTENTIONS?

A16: Under the Appeals Modernization Act (AMA), a Supplemental Claim must be submitted on the prescribed Supplemental Claim form, *VA Form 20-0995, Decision Review Request: Supplemental Claim*. This includes claims previously denied before February 19, 2019. Therefore, if VA receives a Supplemental Claim on another form, such as a *VA Form 21-526EZ*, this submission should be handled as a Request for Application (RFA) for benefits.

Q17. CAN A CLAIM FOR INCREASE BE FILED ON VA FORM 20-0995?

A17: VA cannot accept a claim for increase on a 20-0995. The claim for increase must be submitted on a 21-526ez or other prescribed form. If the claim is not on the appropriate form, it is considered an RFA. Although an increase cannot be accepted on a 20-0955, a disagreement with a previously assigned evaluation can.

Q18. IF VA RECEIVES AN ACCEPTABLE SUPPLEMENTAL CLAIM (A DECISION REVIEW OF A PREVIOUSLY ASSIGNED EVALUATION FOR A SERVICE CONNECTED CONDITION WITH ADDITIONAL EVIDENCE) AND SUBSEQUENTLY, WHILE THE EP 040 IS PENDING, RECEIVES A VALID 21-526EZ CLAIM FOR INCREASE OF THE SAME CONDITION, CAN VA ACCEPT AND WORK THE CLAIM FOR INCREASE WHILE THE 040 FOR THE PREVIOUSLY ASSIGNED EVALUATION OF THE SAME CONDITION IS PENDING?

A18: VA cannot process both concurrently. The claimant may follow the proper requirements to withdraw either claim. If the claimant fails to respond appropriately, then the claim first received (Supplemental Claim in this case) would continue unless withdrawn, and VA would not consider the later claim for increased evaluation.

Q19. IS A SUPPLEMENTAL CLAIM FOR DEPENDENCY FILED ON VA FORM 20-0995? FOR EXAMPLE, IF THE CLAIMANT FAILED TO PROVIDE AN SSN AND IS NOW PROVIDING IT.

A19: Yes, a request for review of a prior decision to deny dependency benefits should be filed on the 20-0995 and would warrant an EP 040. However, a claim for dependency can be claimed on a 21-686c or any permitted prescribed form. Those filings (on a form different than the 20-0995) wouldn't guarantee or safeguard the effective date that may have been assigned in connection with the prior claim. The 20-0995 would enable the benefit to be granted with the effective date of the original claim that is being disputed, whereas the new 21-686c would be considered a new claim.

Q20. IF VA LOCATES OR RECEIVES EVIDENCE AFTER A CLAIM DECISION IS MADE AND THE EP CLEARED, WHAT IS THE PROPER PROCEDURE?

A20: If the evidence was received prior to the decision and the clearing of the EP, VA will establish EP 930 and readdress the claim with the evidence considered. If we did not receive the evidence until after a decision was rendered and the EP was cleared, the evidentiary record is closed. The Veteran should then be sent an RFA letter and encouraged to file a Supplemental Claim to have the evidence reconsidered.



Q21. WHEN IS A CLAIM CONSIDERED A REQUEST FOR APPLICATION AND WHEN IS IT CONSIDERED AN INCOMPLETE CLAIM?

A21: The claim is a Request for Application when it is not presented on the prescribed form. The claim is considered incomplete if it did come in on the correct form but does not have the new and relevant information to begin the development process or does not meet the other required elements of a substantially complete claim.

EFFECTIVE DATE FOR QUALITY REVIEW PURPOSES	CHANGE
4/1/22	<ul style="list-style-type: none"> ITF applies to Supplemental Claims
12/1/2021	<ul style="list-style-type: none"> Replaced link for VAI Business Rules with Claim and Appeal Processing Referrals
9/1/2021	<ul style="list-style-type: none"> Added flowchart for visual representation of lanes Removed FAQs 1,2,3,18 and renumbered accordingly
5/1/2021	<ul style="list-style-type: none"> Removed reference to BVA Queue Removed AMA Remand Script and linked to Board Scripts Clarified RFA applies to HLR and Supp Claim Removed FAQ25 as claim submission has transitioned to VA.gov and renumbered FAQs accordingly
9/1/2019	<ul style="list-style-type: none"> Clarified ITF still applies to initial claims Provided additional information on opting into new appeal system Added FAQ #18-26
7/1/2019	<ul style="list-style-type: none"> Added AMA information Updated Suggested Script Added procedural guidance section Added FAQ #4-17
12/1/2017	<ul style="list-style-type: none"> Added link to RAMP guidance
11/1/2017	<ul style="list-style-type: none"> Original Document Issued

