

Chapter 4. Getting to Conditional Approval

Overview

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1. What Is Conditional Approval?

- Change Date** May 19, 2017, Change 2
- An important note was added to subtopic a regarding the property specific nature of conditional approval.
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a. Definition Conditional approval is a status based only upon the program’s disability, feasibility and suitability requirements, and prior use. The construction plans and minimum property requirements (MPRs) do not factor into conditional approval. Once the Veteran has conditional approval for his or her grant, the Secretary can authorize certain pre-construction costs.

Conditional approval is a necessary step in obtaining final grant approval.

Important: Conditional approval is property specific. This means if conditional approval is granted on a specific home or lot, and the Veteran decides to adapt a different home or build on a different lot, conditional approval must be sought again.

b. Where to Find More Information Information about conditional approval can be found in the Specially Adapted Housing (SAH) regulations, at 38 C.F.R. 36.4405.

2. Disability Requirements

Change Date May 19, 2017, Change 2

- Statutory reference has been updated.

a. Statutory Reference In order to obtain conditional approval, it must be determined by the Secretary that an individual meets the disability requirements pursuant to Title 38 United States Code, Chapter 21, §2101.

b. More Information For disability requirements to be met for the purposes of conditional approval, an individual must be rated eligible for the SAH or Special Housing Adaptation (SHA) grant pursuant to the relevant governing law.

3. Feasibility and Suitability Requirements

Change Date May 19, 2017, Change 2

- Subtopics b and c were updated to clarify feasibility and suitability for conditional approval when using the Temporary Residence Adaptation (TRA) grant.

a. Regulatory Reference In order to obtain conditional approval, it must be determined by the Secretary that an individual meets the feasibility and suitability requirements pursuant to 38 C.F.R. 36.4404(b).

b. Feasibility and Suitability for 2101(a) Grants (SAH) Feasibility under 2101(a), as described in 38 C.F.R. 36.4404, means that an individual's medical condition does not prevent him or her from living in the proposed housing unit and in the proposed locality, and that the individual's present and anticipated income and expenses bear a proper relation to the cost of the proposed housing unit. Suitability under 2101(a), as described in 38 C.F.R. 36.4404, means that the nature and condition of the proposed housing unit are suitable for the individual's residential living needs.

Note: Veterans using the TRA grant, who are eligible under 2101(a), must satisfy the medical feasibility and property suitability requirements in order to obtain conditional approval. It is not necessary to determine financial feasibility as the Veteran does not own the home.

c. Feasibility and Suitability for 2101(b) Grants (SHA) Feasibility and suitability under 2101(b), as described in 38 C.F.R. 36.4404, are based on residency and must be satisfied by the individual certifying in writing that he or she resides, and reasonably intends to continue to reside, in the proposed housing unit. The housing unit can be owned by the Veteran or a member of his/her family.

Note: Veterans using the TRA grant, who are eligible under 2101(b), must sign a certification as to the intent of his/her temporary occupancy of such residence. The Veteran's family member who has an ownership interest in the housing unit must also sign the certification. This document will also be used to satisfy the ownership requirements discussed in Chapter 5, Section 1.

4. Use and Dollar Limitations

Change Date February 12, 2014, Change 1

- This entire section has been updated.

a. Regulatory Reference In order to obtain conditional approval, it must be determined by the Secretary that an individual has not exceeded the use or dollar limitation prescribed by the governing law of the SAH Grant program. This requirement can be found in 38 C.F.R. 36.4405(a)(iii).

b. More Information It is important that Veterans have the correct information regarding their grant uses and dollar amounts remaining. Please contact VA Central Office (CO) with any questions or discrepancies regarding prior grant use.

5. Conditional Approval and Pre-Construction Costs

- Change Date** July 1, 2022, Change 3
- Subsection d has been updated to reflect the delegation of authority to the VO to concur on denial of Conditional Approval.
 - Subsection e has been updated to reflect the change to the maximum number of uses from three to six.
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a. Conditional Approval If the Secretary has determined that disability, feasibility and suitability requirements have been satisfied, and the eligible individual has not exceeded the usage or dollar limitations of the program, then the individual has satisfied the criteria for conditional approval. The SAH Agent must notify the Veteran in writing that he or she has been granted conditional approval.

Important: Only CO can grant conditional approval to Veterans entitled to SAH under the expanded disability criteria of Public Law 112-154, Section 202. Once the Veteran has satisfied the requirements of conditional approval and all supporting documents have been uploaded in the system, the Regional Loan Center (RLC) must submit a request for conditional approval to CO. SAH Agents must not notify the Veteran of conditional approval until CO authorization has been provided.

b. Documenting Conditional Approval Once all of the documents supporting feasibility and suitability have been uploaded (see Chapter 3) and the requirements for conditional approval have been satisfied (including CO approval, if applicable), the RLC must document conditional approval in the system. This is done by answering each applicable question on the conditional approval page in the affirmative and recording the conditional approval date.

c. Cases Requiring Additional Development It is important to note that some cases may require additional development to reach conditional approval, which is not the same as denying conditional approval. For example, an SAH eligible Veteran may have satisfied medical feasibility, but does not currently own a home. This means financial feasibility and property suitability require further development. For cases like this, the RLC should not answer the corresponding questions, but wait until these elements of conditional approval are satisfied.

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5. Conditional Approval and Pre-Construction Costs,

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d. Denying Conditional Approval

Because conditional approval is required to reach final approval, denying conditional approval is essentially denying the benefit, and the Veteran has appeal rights. Therefore, if any element of conditional approval cannot be satisfied and a question on the conditional approval page in the system is answered “no”, the Valuation Officer (VO) must concur with the determination. If both parties agree that conditional approval has not been met, the RLC must convey the decision to the Veteran via the system-generated letter within 3-business days of the determination and advise the Veteran of his/her appeal rights. RLC management may also change a “no” response to a blank response for additional case development or to a “yes” if the Veteran eventually satisfies the element.

e. What Does Conditional Approval Mean?

Conditional approval status becomes relevant if pre-construction costs are incurred, but the grant process is terminated for any reason, including the death of the Veteran.

The conditional approval process is a necessary step towards final grant approval. The SAH Agent and the Veteran will continue to work toward final grant approval, which is contingent upon satisfaction of the property requirements in 38 C.F.R. 36.4405(b), including proof of satisfactory ownership interest and verification that construction documents comply with the requirements of the program. Further discussion of final approval and subsequent steps can be found in Chapter 5 of this manual.

If the grant process is terminated after an individual meets the criteria for conditional approval, allowable pre-construction costs that were authorized in advance are payable and are deducted from the aggregate amount of assistance available to the individual and will count as one of the six grant uses under 38 C.F.R. 36.4403. Payments prior to reaching final approval can be made to various parties, depending on the situation.

f. What Does Conditional Approval Not Mean?

Conditional approval is not a final approval of a grant, and it does not incorporate the verification of satisfactory ownership. Conditional approval cannot be used to pay for construction plans or related costs in advance.

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5. Conditional Approval and Pre-Construction Costs, Continued

g. Pre-Construction Costs

A Veteran whose grant has reached conditional approval may be authorized to incur pre-construction costs. Pre-construction costs may not exceed 20 percent of the eligible individual's aggregate amount of assistance available, and may include the following items:

- architectural services employed for preparation of plans and specifications;
- land surveys;
- attorneys' and other legal fees; or
- other costs or fees necessary to plan for SAH grant use, as determined by the Secretary.

Note: As discussed above, conditional approval does not authorize VA to request any funds from the U.S. Treasury for a Veteran actively seeking final grant approval. Conditional approval cannot be used to pay for construction plans or related costs in advance. Conditional approval simply allows VA to reimburse a Veteran, third party (builder, architect, surveyor, legal representative), or estate if the grant process is terminated prior to final approval.

h. Veteran Notification and Authorization to Incur Costs

Once conditional approval has been granted and properly documented in the system, the SAH Agent must notify the Veteran using the corresponding conditional approval notification letter provided by CO: Conditional Approval 2101(a) or Conditional Approval 2101(b).

This letter provides the Veteran with an explanation of conditional approval and serves as written authorization to incur pre-construction costs based on the limitations in subtopic g above. This written authorization may be provided by mail or e-mail and must be uploaded into the system.
