### Section B. Failure to Report for Review Examination

#### Overview

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| In This Section | This section contains the following topics: |

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| Topic | Topic Name |
| 1 | General Information on Handling a Veteran’s Failure to Report for a Scheduled Review Examination |
| 2 | Protocol for Scheduling Exams Using Veterans Health Administration (VHA) RSVP Scheduling Program |
| 3  | Rating Activity Action After a Veteran Fails to Report for a Scheduled Review Examination |
| 4  | Award Action Taken After a Veteran Fails to Report for a Review Examination |

**1. General Information on Handling a Veteran’s Failure to Report for a Scheduled Review Examination**

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| **Introduction** | This topic contains information on handling a Veteran’s failure to report for a scheduled review examination. It includes information on the* required discontinuation or reduction of payments
* purpose and elements of a Department of Veterans Affairs (VA) disability examination
* initial review of returned mail, and
* action to take after attempting to locate a better address.
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| **Change Date** | January 25, 2016 |

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| **a. Required Discontinuation or Reduction of Payments** | When a current examination is needed to confirm a Veteran’s continued entitlement to disability benefits, and the Veteran, without adequate reason, fails to report for the examination, the VA is required under [38 CFR 3.655](http://www.ecfr.gov/cgi-bin/text-idx?SID=603bd113d9467e2ba28b4245353d970c&mc=true&node=se38.1.3_1655&rgn=div8) to* discontinue payment for the disability(ies) for which the examination was scheduled, or
* reduce payment for the disability(ies) for which the examination was scheduled to a
* minimum evaluation established under [38 CFR Part 4](http://vbaw.vba.va.gov/bl/21/publicat/Regs/Part4/index.htm), or
* lower protected evaluation under [38 CFR 3.951(b)](http://www.ecfr.gov/cgi-bin/text-idx?SID=603bd113d9467e2ba28b4245353d970c&mc=true&node=se38.1.3_1951&rgn=div8).

***Note***: Reduction or discontinuation of payments under [38 CFR 3.655(c)](http://www.ecfr.gov/cgi-bin/text-idx?SID=603bd113d9467e2ba28b4245353d970c&mc=true&node=se38.1.3_1655&rgn=div8) is *not* required if the evidence of record is sufficient to justify continuation of a current disability evaluation.***Reference***: For information on handling a Veteran’s failure to report for * a reexamination scheduled in connection with a running award, see
* [38 CFR 3.655(c)](http://www.ecfr.gov/cgi-bin/text-idx?SID=603bd113d9467e2ba28b4245353d970c&mc=true&node=se38.1.3_1655&rgn=div8),
* M21-1, Part I, 1.C.3.k-p, and
* M21-1, Part III, Subpart iv, 8.E.1, and
* an examination scheduled in connection with an original or reopened claim or a claim for increase, see
* [38 CFR 3.655(b)](http://www.ecfr.gov/cgi-bin/text-idx?SID=603bd113d9467e2ba28b4245353d970c&mc=true&node=se38.1.3_1655&rgn=div8), and
* M21-1, Part I, 1.C.3.k-p.
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| **b. Purpose and Elements of a VA Disability Examination** | A VA disability examination is necessary to determine whether or not a claimed disability actually exists and its functional effects on the Veteran.The examination report typically consists of a medical history, physical and/or mental assessment and laboratory tests to ascertain the state of health of the Veteran.***Note***: An examination may also include periods of hospital observation. |

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| **c. Review of Returned Mail Notifying the Veteran of a Scheduled Examination** | If a VA medical facility advises that mail notifying a Veteran of a scheduled VA examination has been returned because the Postal Service reported the letter was undeliverable at the address provided, review the claims folder and Share to determine whether* the mail was erroneously addressed
* a more recent address is of record, or
* a valid address is available from non-VA sources, such as the Internet or telephone directory assistance.

***Notes***:* VA is authorized to use an approved Internet address locator service to obtain contact information for claimants.
* The Director or Veteran Service Center Manager (VSCM) of a regional office (RO) will assign designated employees to have access to the approved address locator service.
* If the Veteran receives VA benefits via direct deposit/electronic funds transfer (DD/EFT), send a letter to the Veteran’s financial institution (FI) asking for a current mailing address.

***Reference***: For sample language for the letter to the FI, see M21-1, Part X, 8.5. |

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| **d. Action Taken After Attempting to Locate a Better Address** | Use the table below to determine the action to take after attempting to locate a better address. |

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| **If a better address is …** | **Then …** |
| identified | * provide the new address to the VA medical facility
* request that the VA medical facility
* reschedule the examination, and
* notify the Veteran at the new address of the pending examination, and
* update
* the pending issue file (PIF) (which also updates the corporate record in Share), and
* Modern Awards Processing-Development (MAP-D) or the Veterans Benefits Management System (VBMS).
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| not identified | take the action shown in * M21-1, Part IV, Subpart ii, 3.B.3.e, and
* M21-1, Part IV, Subpart ii, 3.B.3.f.
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**2. Protocol for Scheduling Exams Using Veteran’s Health Care Administration (VHA) RSVP Scheduling Program**

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| **Introduction** | This topic contains procedures the ROs are to follow when scheduling exams at VHA facilities that participate in the RSVP program, including * VHA RSVP scheduling program
* VHA RSVP examination cancellations, and
* steps to take when a Veteran has failed to RSVP.
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| **a. VHA RSVP Scheduling Program** | Based on historical data, when Veterans do not have the opportunity to participate in the scheduling process, there is a higher rate of a failure to report for the scheduled examination. This results in unused examination slots which could have been filled with appointments for other Veterans. Consequently, the Veterans Health Administration (VHA) established an RSVP program to help ensure Veterans attend their scheduled exams. This program entails VHA attempting to reach the Veteran by phone and through the mail in order to schedule an examination. ***Important***: VHA examining facilities are not required to participate in the RSVP scheduling program.  |

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| **b. VHA RSVP Examination Cancellations** | When VHA receives *VA Form 21-2507, Request for Physical Examination,* from an RO that includes the Veteran’s telephone number and address, they will make several attempts to contact the Veteran and schedule the examination. If a claimant fails to respond to the attempts to schedule the examination in the RSVP program, VHA will cancel the examination request. The cancellation notification will reflect that the cancellation was due to the claimant’s failure to respond to the RSVP scheduling process. The documented information indicating the Veteran failed to RSVP to schedule an examination at a mutually convenient time is considered the same as a failure to report for an examination for the purpose of claims processing. VHA is responsible for ensuring that all procedures and timelines required in the RSVP process were followed.***Reference***: For more information on the VHA RSVP scheduling procedure, see the Office of Disability and Medical Assessment (DMA) [Fact Sheet 15-0033-Revised](http://vaww.demo.va.gov/files/FactSheets/2015/DMA_FactSheet15-003-Revised.pdf). |

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| **c. Steps to Take When a Veteran has Failed to RSVP** | When VHA provides notification that the Veteran failed to RSVP, the RO and Appeals Management Center (AMC) must follow the instructions below. |

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| **If** **the Veteran has failed to RSVP ...** | **Then ...** |
| * verify the Veteran’s address and telephone numbers are current, and
* update the contact information in Share or VBMS, if there is a change
 | resubmit the examination request to the appropriate examination facility that includes the current address and/or phone number. |
| and there is no new address and/or phone number | refer the case to the rating activity so a decision can be made on the claim.  |

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| ***References***:For more information on * returned mail notifying the Veteran of a scheduled examination, see M21-1, Part III, Subpart ii, 3.B.1.b, and
* referring the case to rating activity, see M21-1, Part III, Subpart ii, 3.B.2.a.
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#### 3. Rating Activity Action After a Veteran Fails to Report for a Scheduled Review Examination

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| Introduction | This topic contains information on rating activity action after a Veteran fails to report for a scheduled review examination, including* referring cases to rating activity
* the preparation of a “Failure to Report” rating
* definition of a static disability
* the general action taken when a Veteran fails to report for an examination
* notifying the Veteran of a “Failure to Report” rating without static disabilities or protected evaluations
* the notice of proposed adverse action when the Veteran has non-static and static disabilities or protected evaluations
* action to take when the Veteran is ready to report for an examination
* the action to take if a Veteran requests a hearing
* the action to take if the Veteran fails to respond to a “Failure to Report” rating proposing termination of compensation payments, and
* the action to take when the Veteran fails to respond to a “Failure to Report” rating proposing a reduction in compensation.
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| Change Date | August 26, 2015 |

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| a. Referring Cases to Rating Activity | Promptly refer any notice that a Veteran failed to report for a scheduled examination to the rating activity *except* when a better address is found, as described in M21-1 Part IV, Subpart ii, 3.B.1.d.Based on the evidence of record, the rating activity will either * prepare a rating proposing to reduce the evaluation, or
* make a formal final decision on this issue.
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| b. Preparation of a “Failure to Report” Rating | The rating activity prepares a “Failure to Report” rating if a Veteran fails to report for a scheduled Department of Veterans Affairs (VA) examination without good cause.VA’s precise course of action depends on the nature of the remaining disabilities.No remaining static disabilities = proposal to terminate.Remaining static disabilities = proposal to reduce.***Notes***: * If the Veteran has no static disabilities or protected evaluations, then the rating will propose reduction of the evaluation assigned to the disability(ies) for which the review examination was scheduled to the minimum or noncompensable level. In the *Reasons for Decision* section of the rating decision, state that “*The Veteran failed to report for a review examination and there are no static disabilities*.”
* If the Veteran has other static disabilities or protected evaluations, then reduce the evaluation of the disability(ies) for which the review examination was scheduled and pay compensation based on the combined evaluation of all disabilities.
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| c. Definition: Static Disability | A ***static disability*** is a disability that is considered permanent by its nature, history and severity. It is assigned a permanent evaluation without the need for future examinations to determine whether or not the disability has improved. |

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| d. General Action Taken When a Veteran Fails to Report for an Examination | If the rating activity determines that the evidence of record is insufficient to justify continuation of a current disability evaluation because a Veteran failed to report for an examination* the rating activity prepares a rating proposing a reduced evaluation, possibly to a noncompensable level, and
* the authorization activity
* clears (PCLR) an end product (EP) 310, using the date that the examination request was issued as the date of claim
* establishes EP 600 with a suspense date 65 days from the date notice of the proposed reduction is sent to the Veteran
* sends the Veteran a notice of proposed adverse action under [38 CFR 3.103(b)](http://www.ecfr.gov/cgi-bin/text-idx?SID=214b6f2e98b988d7733cfa07e64068ba&node=se38.1.3_1103&rgn=div8), and
* continues current payments.
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| e. Notification of a “Failure to Report” Rating Without Static Disabilities or Protected Evaluations  | If the rating activity prepares a “Failure to Report” rating and there are no static disabilities or protected evaluations, send the Veteran a notice of proposed adverse action * advising that VA must discontinue compensation payments because he/she did not report for the scheduled examination and the evidence of record is not sufficient to justify continued entitlement
* including the proposed discontinue date, which is no earlier than the first day of the month 60 days after the Veteran is notified of the proposed adverse action
* furnishing due process rights, and
* asking the Veteran to respond promptly if he/she is now ready to report for the examination.
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| f. Notice of Proposed Adverse Action When the Veteran Has Non-Static and Static Disabilities or Protected Evaluations | If a rating proposes a reduced evaluation for one or more non-static disabilities, but the Veteran also has one or more static disabilities or protected evaluations, send a notice of proposed adverse action to the Veteran* advising that VA intends to reduce compensation payments to the rate payable for the static or protected disabilities because he/she failed to report for the scheduled examination of non-static disabilities
* listing the non-static disabilities and each static disability or disability with a protected evaluation with the corresponding evaluation and the proposed new combined evaluation
* providing the proposed effective date of reduction, which is no earlier than the first day of the month, 60 days after the Veteran is notified of the proposed adverse action
* including information about due process rights, and
* asking the Veteran respond promptly if he/she is now ready to report for the examination.

***Note***:If the Veteran does not respond within the 60-day timeframe, send the claim to the rating activity for a final rating, see M21-1, Part IV, Subpart ii, 3.B.4.b.  |

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| g. Action to Take When the Veteran Is Ready to Report for an Examination | If notice is received that the Veteran is willing to report for an examination before the award is reduced or suspended* continue the EP 600
* defer adjustment of the award
* refer the case for preparation of a new examination request, and
* notify the Veteran that
* the examination will be rescheduled, and
* if he/she again fails to report for the examination, benefit payments will be reduced or suspended immediately.

If the Veteran fails to report for the rescheduled examination* suspend the Veteran’s award if there are no static disabilities and/or protected evaluations, or
* reduce to the rate payable for the static evaluations, and
* furnish contemporaneous notice of the action taken to the Veteran.

***References***: For information on * contemporaneous notices, see M21-1, Part I, 2.D, and
* considering good cause when a Veteran fails to report, see M21-1, Part I, 1.C.3.k.
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| h. Action to Take if a Veteran Requests a Hearing | Upon request, the Veteran is entitled to a hearing to introduce, in person, any available evidence which he/she considers a pertinent argument in connection with the proposed adverse action.If the Veteran’s request for a hearing is received within 30 days of the date of the notice of proposed adverse action* continue the end product, and
* do *not* adjust the Veteran’s award until either
* the hearing is held, any evidence requested as a result of the hearing is received or deemed unobtainable, and a final decision is made, or
* the Veteran fails to appear for the hearing without good cause.

***Reference***: For information on what action to take when a hearing is requested, see M21-1, Part I, 2.C.3. |

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| i. Action to Take If the Veteran Fails to Respond to a “Failure to Report” Rating Proposing Termination of Compensation Payments | Use the information below to determine the action to take if the Veteran fails to respond to notification of a “Failure to Report” rating, proposing termination of compensation payments because no static disabilities or disabilities with protected evaluations exist. |

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| If … | Then … |
| the Veteran has not responded within 60 days of the date he/she was notified of the proposed adverse action | * discontinue the award using the “*Failed to Furnish Requested Evidence*” basic eligibility decision, and
* send final notice to the Veteran that includes procedural and appellate rights as well as a copy of *VA Form 21-0958*, *Notice of Disagreement*.

***Reference***: Unless there is justification for resuming benefits, discontinue the award per M21-1 Part IV, Subpart ii, 3.B.3.d. |
| the notice of proposed adverse action is returned because* the Postal Service reports the mail cannot be delivered, and
* a better address cannot be obtained
 | * take action as described above, and
* send the final notice to the last known address.
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| the notice of proposed adverse action is returned, but the correct address is subsequently identified | * send another notice of proposed adverse action to the new address
* cancel the pending EP 600, and
* establish an EP 601 using the date of the notice as the new date of claim.

***Reference***: For more information on determining where to send the notice of proposed adverse action, see M21-1 Part I, 2.B.3.b. |

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| j. Action to Take When the Veteran Fails to Respond to a “Failure to Report” Rating Proposing a Reduction in Compensation Payments | Use the information below to determine the action to take if the Veteran fails to respond to a “Failure to Report” rating, proposing a reduction of compensation payments because static disabilities and/or disabilities with protected evaluations exist. |

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| If the … | Then … |
| Veteran has not responded within 60 days of the date he/she was notified of the proposed adverse action | reduce the award effective the date indicated in the notice of proposed adverse action, or the date of last payment, whichever is later under [38 CFR 3.655(c)(2)](http://www.ecfr.gov/cgi-bin/text-idx?SID=647d97f63b1517bc970739d0227f0241&node=se38.1.3_1655&rgn=div8). |
| notice of proposed adverse action is returned because* the Postal Service reports that the mail cannot be delivered, and
* the correct address cannot be obtained
 | * take action as described above, and
* send final notification to the last known address.
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| the notice of proposed adverse action is returned, but the correct address is subsequently identified | * send another notice of proposed adverse action to the new address
* cancel the pending EP 600, and
* establish an EP 601 using the date of the notice as the new date of claim.

***Reference***: For more information on determining where to send the notice of proposed adverse action, see M21-1, Part I, 2.B.3.b. |

#### 4. Award Action Taken After a Veteran Fails to Report for a Review Examination

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| Introduction | This topic contains information on award action to take after a Veteran fails to report for a review examination. It includes information on * when to adjust payments
* when to refer the claims folder to the rating activity
* handling
* reductions in the combined evaluation
* military retired pay cases
* abandoned claims, and
* other special situations.
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| Change Date | August 26, 2015 |

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| a. When to Adjust Payments | Make all adjustments that are required because of a Veteran’s failure to report for a scheduled examination, effective on a future date. This rule applies even if the RO loses control of the issue and payments are continued beyond the normal due process period. ***Important***: Do *not* create an overpayment solely because a Veteran failed to report for a scheduled examination.  |

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| b. When to Refer the Claims Folder to the Rating Activity | If the Veteran does not respond to the proposed reduction within a 60-day period, send the claims folder to the rating activity for the preparation of a final rating that lists all disabilities with their new, continuing, and combined evaluations. ***Note****:** After the final rating is complete, refer the decision to the authorization activity for action.
* The authorization activity should ensure the corporate record is updated to reflect the new rating information.
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| c. Handling Reductions in the Combined Evaluation | Normally, the new combined evaluation is the same as that shown in the initial “Failure to Report” rating. However, if the rating activity proposes to reduce the combined evaluation lower than the level originally proposed, send another notice of proposed adverse action before reducing the award based on the new combined evaluation. In this case,* reduce the award as indicated in the original notice of proposed adverse action, and
* send another notice of proposed adverse actioninforming the Veteran of the proposed additional reduction.
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| d. Handling Military Retired Pay Cases | If the Veteran receives military retired pay, action to suspend or discontinue compensation payments generates a notice to the appropriate service department retired pay center. The service department adjusts the Veteran’s military retired pay accordingly. If the Veteran later reports for the examination and compensation payments are resumed or increased, follow the procedures in M21-1, Part III, Subpart v, 5.B concerning awards involving military retired pay. |

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| e. Handling Abandoned Claims | Under [38 CFR 3.158(b),](http://www.ecfr.gov/cgi-bin/text-idx?SID=cb4e5e48d68674e2f6571ecde3459811&node=se38.1.3_1158&rgn=div8) a Veteran who, without adequate reason, fails to report for a scheduled examination within one year of the date he/she was notified of the request gives up the right to benefits based on the claim involved.Use the table below to determine how to handle different situations involving potential abandoned claims. |

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| If the Veteran … | Then … |
| indicated a willingness to report for a rescheduled examination but did *not* report | consider the claim abandoned one year from the date of the rescheduled examination. |
| does *not* indicate a willingness to report for a rescheduled examination | consider the claim abandoned one year from the date the original examination was to have been conducted. |
| abandons his/her claim, based on a failure to report for an examination, then subsequently submits a new claim and reports for an examination | under [38 CFR 3.655(f),](http://www.ecfr.gov/cgi-bin/text-idx?SID=071c2c17fdab6a336fea4288de7f6bed&node=se38.1.3_1655&rgn=div8) award benefits (if entitlement is found) from the date of receipt of the new claim, if the Veteran reports for the newly scheduled examination within one year of the date of notice to report. |

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| f. Handling Other Special Situations | For information on handling the failure of * a claimant to furnish requested evidence, see M21 -1, Part III, Subpart v, 2.A.4, and
* an incompetent Veteran to report for an examination, see M21-1, Part III, Subpart v, 9.B.1.b.
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