#### Department of Veterans Affairs M21-1, Part III, Subpart ii

**Veterans Benefits Administration January 22, 2016**

**Washington, DC 20420**

#### Key Changes

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| Changes Included in This Revision | The table below describes the changes included in this revision of Veterans Benefits Manual M21-1, Part III, “General Claims Process,” Subpart ii, “Initial Screening and Determining Veteran Status.”  ***Notes***:   * The term “regional office” (RO) also includes pension management center (PMC), where appropriate. * Unless otherwise noted, the term “claims folder” refers to the official, numbered, Department of Veterans Affairs (VA) repository – whether paper or electronic – for all documentation relating to claims that a Veteran and/or his/her survivors file with VA. * Minor editorial changes have also been made to * update incorrect or obsolete references * reassign alphabetical designations to individual blocks, where necessary, to account for new and/or deleted blocks within a topic, and * bring the document into conformance with M21-1 standards. |

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| Reason(s) for the Change | Citation |
| To add a reference note directing the reader to the *Claim Withdrawn Letter* template. | [M21-1 Part III, Subpart ii, Chapter 2, Section G, Topic 1, Block e](#Topic1Blocke)  [(III.ii.2.G.1.e)](#Topic1Blocke) |
| To remove a reference to the Letter Creator tool and add a reference to the *Untimely Claim Withdrawal Notification* letter template. | [III.ii.2.G.2.a](#Topic2Blocka) |
| To add new Block b with the *Untimely Claim Withdrawal Notification* letter template. | [III.ii.2.G.2.b](#Topic2Blockb) |
| To remove a reference to the Letter Creator tool and add a reference to the *Claim Withdrawn* lettertemplate. | [III.ii.2.G.3.c](#Topic3Blockc) |
| To add new Block d with the *Claim Withdrawn* lettertemplate. | [III.ii.2.G.3.d](#Topic3Blockd) |

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| Rescissions | None |

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| Authority | By Direction of the Under Secretary for Benefits |

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| Signature | Thomas J. Murphy, Director  Compensation Service |

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| Distribution | LOCAL REPRODUCTION AUTHORIZED |

### Section G. Withdrawal of Claims

#### Overview

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

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| Topic | Topic Name |
| 1 | General Information About Requests to Withdraw a Claim |
| 2 | Considering the Factors That Affect the Way the Department of Veterans Affairs (VA) Processes a Request for Withdrawal |
| 3 | Processing a Timely Received Request That VA Associates With the Claims Folder Before Issuing a Decision Notice |
| 4 | Processing a Retraction of a Request to Withdraw a Claim |

#### 1. General Information About Requests to Withdraw a Claim

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| Introduction | This topic contains general information about receiving a claimant’s request to withdraw a pending claim, including   * who may withdraw a claim and what types of claims may be withdrawn * acceptable means for requesting withdrawal of a claim * timeliness requirement for submitting a request to withdraw a claim * effect of the withdrawal of a claim * claimant’s right to retract a request to withdraw a claim, and * example of the effect that withdrawal of a claim has on a claim that VA ultimately grants. |

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| **a. Who May Withdraw a Claim and What Types of Claims May Be Withdrawn** | A claimant or a claimant’s authorized representative may withdraw any type of claim that is before the Department of Veterans Affairs (VA), to include a claim for   * disability compensation * Veterans Pension * additional benefits for dependents * survivors benefits, or * an apportionment of benefits.   ***References***: For more information about the withdrawal of   * claims, see * [*Hanson v. Brown*](http://vbaw.vba.va.gov/bl/21/advisory/CAVC/1996dec/Hanson.doc), and * [*Delisio v. Shinseki*](http://vbaw.vba.va.gov/bl/21/advisory/CAVCDAD.htm#bmd), and * appeals, see [38 CFR 20.204](http://www.ecfr.gov/cgi-bin/text-idx?SID=af05fcdb6536683393c335b2a0309dcb&mc=true&node=se38.2.20_1204&rgn=div8). |

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| **b. Acceptable Means for Requesting Withdrawal of a Claim** | There is no prescribed form for withdrawing a claim. VA accepts requests for withdrawal of a claim that a claimant or authorized representative submits   * in writing (a signed statement) * orally (in person or by telephone), or * electronically (by e-mail or through eBenefits or the Stakeholder Enterprise Portal (SEP)).   The request must contain enough information to identify the claim at issue, including the name of the Veteran and claimant (if the claimant is not the Veteran) and the corresponding file number.  ***Important***: Follow the instructions in M21-1, Part III, Subpart iii, 1.B.1.e when accepting a request for withdrawal of a claim by telephone.  ***Reference***: For more information about   * eBenefits, see M21-1, Part III, Subpart i, 4.A.1, and * SEP, see M21-1, Part III, Subpart i, 4.B. |

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| **c. Timeliness Requirement for Submitting a Request to Withdraw a Claim** | A request to withdraw a claim is valid only if VA receives it ***before*** issuing a decision notice regarding the same claim.  If VA receives a request for withdrawal of a claim ***after*** issuing a decision notice, the claimant must either accept or renounce the benefits payable to him/her as a result of VA’s decision.  ***Note***: Upon receipt of a request for withdrawal of a claim *after* VA issues a decision notice, follow the instructions in Step 1 of the procedure described in M21-1, Part III, Subpart ii, 2.G.2.a.  ***Reference***: For information about the renouncement of benefits, see M21-1, Part III, Subpart ii, 2.H. |

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| **d. Effect of the Withdrawal of a Claim** | Effective the date VA receives a request to withdraw a claim,   * the claim ceases to exist * the adjudicatory process with respect to the claim stops, and * VA must treat the claim as if the claimant never filed it.   ***Important***: If a claimant withdraws a claim, later refiles the same claim, and VA ultimately grants entitlement to the claimed benefit, disregard the date of receipt of the claim that was withdrawn when determining the effective date of entitlement. |

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| **e. Claimant’s Right to Retract a Request to Withdraw a Claim** | A claimant or his/her authorized representative may ***retract*** a request to withdraw a pending claim. However, a request for retraction is valid only if VA receives it within 30 days of the date VA notified the claimant that it had acted on the claimant’s request for withdrawal of the claim.  ***Important***:   * The policy described in the above paragraph applies equally to situations in which VA cancels a claim after erroneously inferring from communication with a claimant that he/she wishes to withdraw his/her claim. * The policies and principles expressed in M21-1, Part III, Subpart ii, 2.G.1.b, which discusses requests to withdraw a claim, apply equally to the requests for retraction discussed in this block.   ***Reference***: For more information about   * the letter VA sends to claimants as notification that VA has acted on his/her request for withdrawal of a claim, see M21-1, Part III, Subpart ii, 2.G.3.c and d, and * processing a retraction of a request to withdraw a claim, see M21-1, Part III, Subpart ii, 2.G.4.a. |

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| **f. Example: Effect That Withdrawal of a Claim Has on a Claim That VA Ultimately Grants** | ***Scenario***:   * On February 3, 2014, VA receives a claim from a Veteran for service connection (SC) for a back disorder. * On March 14, 2014, before VA decides the Veteran’s claim, VA receives a statement from the Veteran indicating that he wishes to withdraw his claim. * On April 12, 2014, VA notifies the Veteran by letter that he has successfully withdrawn his claim. * On September 3, 2014, the Veteran submits another claim for SC for the same back disorder. * Claims development results in the collection of evidence warranting the establishment of SC for the claimed back disorder.   ***Result***: VA grants entitlement to SC for the claimed back disorder with an effective date of September 3, 2014.  ***Rationale***: Although VA ultimately granted the claim it first received from the Veteran on February 3, 2014, that claim ceased to exist when the Veteran withdrew it on March 14, 2014. The Veteran did not retract his request for withdrawal of the claim within 30 days after VA issued the April 12, 2014, letter. Accordingly, VA treated that claim as if the Veteran had never filed it. |

#### 2. Considering the Factors That Affect the Way the Department of Veterans Affairs (VA) Processes a Request for Withdrawal

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| **Introduction** | This topic contains instructions for   * considering the factors that affect the way VA processes a request for withdrawal, and * exhibit – untimely claim withdrawal notification. |

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| **a. Considering the Factors That Affect the Way VA Processes a Request for Withdrawal** | The actions VA takes when processing a request for withdrawal of a claim vary, depending on   * whether VA ***received*** the request *before* issuing a decision notice regarding the claim, and * whether the claimant wishes to withdraw *all* of the contentions associated with the claim.   Upon receipt of a request for withdrawal of a claim, first determine which of the above factors apply to the request. Then follow the instructions in the table below. |

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| **Step** | **Action** |
| 1 | Did VA ***receive*** the request *before* issuing a decision notice regarding the claim?   * If *yes*, proceed to the next step. * If *no*, * use the template found in M21-1III.ii.2.G.2.b to generate the *Untimely Claim Withdrawal Notification* letter, * send the letter to the claimant, * clear an end product (EP) 400, and * take no further action. |
| 2 | Does the claimant wish to withdraw the claim in its entirety (all contentions associated with the claim)?   * If *yes*, follow the instructions in M21-1, Part III, Subpart ii, 2.G.3.a. * If *no*, follow the instructions in M21-1, Part III, Subpart ii, 2.G.3.b. |

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| b. Exhibit – Untimely Claim Withdrawal Notification | See the example *Untimely Claim Withdrawal Notification* letter shown below: |

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| We are writing in response to the claim withdrawal request we received on **[insert date of withdrawal request]**.  We cannot accept your request as a claim withdrawal. In order to file a claim withdrawal, you must submit your claim withdrawal request any time after filing a claim and before we send the decision notification letter.  In your case, we received your claim on **[insert date of claim]** and we notified you of our decision on **[insert date of decision notice]**. Therefore, you had from **[insert date of claim]** to **[insert date of decision notice]** to submit your claim withdrawal request. We did not receive your claim withdrawal request until after we sent the decision notice associated with this claim.  **What This Means To You**  We are no longer able to withdraw your claim because we have already made a decision on the claim. We will take no further action on your claim withdrawal request.  The decision notice we sent on **[insert date of decision notice]** includes information on what to do if you have questions about our decision. The decision notice also includes instructions on what to do if you disagree with our decision.  **What is eBenefits?**  eBenefits provides electronic resources in a self-service environment to Servicemembers, Veterans, and their families. Use of these resources often helps us serve you faster! Through the eBenefits website you can:  **● Submit claims for benefits and/or upload documents directly to the VA**  **● Request to add or change your dependents**  **● Update your contact and direct deposit information and view payment history**  **● Request a Veterans Service Officer to represent you**  **● Track the status of your claim or appeal**  **● Obtain verification of military service, civil service preference, or VA benefits**  **● And much more!**  Enrolling in eBenefits is easy. Just visit [www.eBenefits.va.gov](http://www.eBenefits.va.gov) for more information. If you submit a claim in the future, consider filing through eBenefits. Filing electronically, especially if you participate in our fully developed claim program, may result in a faster decision than if you submit your claim through the mail.  **If You Have Questions or Need Assistance**  **[Foreign/Domestic Address Decision Point:]** [*If claimant address is Domestic-US/Puerto Rico/Alaska/Hawaii, use:*] If you have any questions or need assistance with this claim, you may contact us by telephone, e-mail, or letter.   |  |  | | --- | --- | | **If you** | **Here is what to do.** | | Telephone | Call us at 1-800-827-1000. If you use a Telecommunications Device for the Deaf (TDD), the Federal number is 711. | | Use the Internet | Send electronic inquiries through the Internet at <https://iris.va.gov>. | | Write | VA now uses a centralized mail system. For all written communications, put your full name and VA file number on the letter. Please mail or fax all written correspondence to the appropriate address listed on the attached *Where to Send Your Written Correspondence* chart. |   In all cases, be sure to refer to your VA file number [*File Number*].  If you are looking for general information about benefits and eligibility, you should visit our web site at <http://www.va.gov> or search the Frequently Asked Questions (FAQs) at <http://iris.va.gov>.  [*If* c*laimant address is outside the US, use:*]  If you have any questions or need assistance with this claim, you may contact us by telephone, e-mail, or letter.   |  |  | | --- | --- | | **If you** | **Here is what to do.** | | Telephone | Call or visit the nearest American Embassy or Consulate for assistance. In Canada, call or visit the local office of Veterans Affairs Canada. From Guam, call us by dialing toll free, 475-8387. From American Samoa and N. Marianas, call us at 1-800-844-7928. If you use a Telecommunications Device for the Deaf (TDD), the number is 1-800-829-4833. | | Use the Internet | Send electronic inquiries through the Internet at <https://iris.va.gov>. | | Write | VA now uses a centralized mail system. For all written communications, put your full name and VA file number on the letter. Please mail or fax all written correspondence to the appropriate address listed on the attached *Where to Send Your Written Correspondence* chart. |   In all cases, be sure to refer to your VA file number [*File Number*].  If you are looking for general information about benefits and eligibility, you should visit our web site at <http://www.va.gov> or search the Frequently Asked Questions (FAQs) at <http://iris.va.gov>.  **[VSO Decision Point:]**  [*If veteran has a VSO, use:*]  We sent a copy of this letter to **[***User Entry-Enter name of Service Org/POA***],** who you have appointed as your representative. If you have questions or need assistance, you can also contact your representative.  [*If no VSO, use:*]  We have no record of you appointing a service organization or representative to assist you with your claim. You can contact us for a listing of the recognized Veterans’ Service Organizations and/or representatives. Veterans’ Service Organizations, which are recognized or approved to provide services to the veteran community, can also help you with any questions.  Sincerely yours,  Regional Office Director  Enclosures: Where to Send Your Written Correspondence |

#### 3. Processing a Timely Received Request That VA Associates With the Claims Folder Before Issuing a Decision Notice

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| Introduction | This topic contains instructions for processing a timely received request for withdrawal of a claim that VA associates with the corresponding claims folder ***before*** issuing a decision notice, including   * processing a request for withdrawal of a claim in its entirety * processing a request for withdrawal of a claim when the request does not apply to all contentions, * notifying a claimant that VA has processed his/her request, and * exhibit – claim withdrawn letter. |

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| Change Date | January 22, 2016 |

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| **a. Processing a Request for Withdrawal of a Claim in Its Entirety** | Follow the instructions in the table below when   * a claimant requests withdrawal of a claim in its entirety (all contentions associated with the claim), and * VA associates the request with the claims folder ***before*** it generates a decision notice regarding the claim.   ***Important***: When a claimant requests withdrawal of a claim that involves multiple contentions, the claimant *should* specify which (if not all) of the individual contentions the request affects. If the claimant fails to do so, proceed as if the request applies to *all* contentions associated with the claim. |

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| Step | Action |
| 1 | Follow the instructions in M21-1, Part III, Subpart ii, 2.G.3.c for notifying the claimant that he/she has successfully withdrawn his/her claim. |
| 2 | Is VA controlling the claim with an EP indicative of an original claim, such as an EP 110, 010, 140, 180, or 190?   * If *yes*, proceed to the next step. * If *no*, proceed to Step 6. |
| 3 | Does the claimant already have a running award?   * If *yes*, * change the EP to one indicative of a *supplemental* claim, such as an EP 020 or 120 (an EP indicative of an *original* claim should ***not*** have been established if VA had already awarded benefits), and * proceed to Step 6. * If *no*, proceed to the next step.   ***Note***: If the actions described in the table below in Step 4 are taken while an award is running, they will have the effect of stopping that award. |
| 4 | Process the withdrawal through the claims-processing system, according to the instructions in the table below.   |  |  | | --- | --- | | **Step** | **Action** | | 1 | Click on the ADD button on the BASIC ELIGIBILIY screen. | | 2 | Select *Claim Withdrawn* from the drop-down box for the DECISION field. | | 3 | Enter the date VA received the request for withdrawal in the EVENT DATE field. | | 4 | Click on the ACCEPT button. | | 5 | Click on the OK button. | |
| 5 | Disregard the remaining step in this table. |
| 6 | Clear the EP associated with the withdrawn claim.  ***Important***: Select *Claim Withdrawn* as the reason for clearing the EP. |

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| ***References***: For more information about   * processing a request to withdraw a claim in * the Veterans Benefits Management System (VBMS), see the [*VBMS-Awards User Guide*](http://vbaw.vba.va.gov/VBMS/Resources_Technical_Information.asp), or * the Veterans Service Network (VETSNET), see the [*VETSNET Awards User Guide*](http://vbaw.vba.va.gov/VetsNet/Awards_Docs/Awards%20User%20Guide.pdf), and * clearing an EP in Share, see the [*Share User’s Guide*](http://css.vba.va.gov/SHARE/). |

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| **b. Processing a Request for Withdrawal of a Claim When the Request Does Not Apply to All Contentions** | Follow the instructions in the table below when   * a claimant requests withdrawal of a claim with multiple contentions * the claimant is ***not*** withdrawing the claim in its entirety and has differentiated between which contentions are still active and which contentions he/she wishes to withdraw, and * VA associates the request with the claims folder ***before*** it generates a decision notice regarding the claim. |

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| Step | Action |
| 1 | Is VA processing the claim in a paperless environment?   * If *yes*, proceed to the next step. * If *no*, proceed to Step 4. |
| 2 | Add the following text to the name of each contention listed in VBMS that the claimant withdrew: *(withdrawn* [Enter the month, day, and year VA received the request for withdrawal.]*)*  *Example*: back condition (withdrawn 05/22/2015)  ***Reference***: For more information about editing contentions in VBMS, see the [*VBMS User Guide*](http://vbaw.vba.va.gov/VBMS/Resources_Technical_Information.asp). |
| 3 | Proceed to Step 5. |
| 4 | Leave an annotation in the claims folder that reflects   * the date VA received the request for withdrawal, and * the contentions to which the request for withdrawal apply. |
| 5 | Notify the claimant of the action taken by following the instructions in M21-1, Part III, Subpart ii, 2.G.3.c. |
| 6 | Complete all development actions that are necessary to make a decision on the contentions the claimant did ***not*** withdraw. |
| 7 | Make a decision on the contentions the claimant did ***not*** withdraw.  ***Important***: If a rating decision is required,   * do ***not*** include the withdrawn contentions as issues in the rating decision * ensure the withdrawn contentions do not appear on the *Codesheet* of the rating decision as deferred issues, and * leave a note in the *Special Notation* box of the rating decision that * provides the date VA received the request for withdrawal, and * lists the contentions the claimant withdrew. |
| 8 | Follow the instructions in M21-1, Part III, Subpart v, 2.B for notifying the claimant of the decision. |

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| **c. Notifying a Claimant That VA Has Processed His/Her Request** | After following the instructions contained in M21-1, Part III, Subpart ii, 2.G.3.a or b,   * use the template found in M21-1III.ii.2.G.3.dto generate the *Claim Withdrawn* letter, and * send the letter to the claimant as notification that * VA has acted on the claimant’s request by cancelling his/her claim, and * VA may reverse the action it took only if the claimant asks VA to do so within 30 days.   ***Important***:   * If the claim involved multiple contentions, and the claimant differentiated between the contentions to which the request applies and the contentions to which the request does *not* apply, list the contentions to which the request applies in the *Claim Withdrawn* letter. * There is no requirement (or need) to inform a claimant of his/her appeal rights in a *Claim Withdrawn* letter. |

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| d. Exhibit – Claim Withdrawn Letter | See the example *Claim Withdrawn* letter shown below: |

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| We have discontinued action on your claim for the following condition(s)/issue(s):   * **[insert condition/issue]**   We based our decision on your request dated **[insert date of withdrawal]**. If you did not intend to withdraw your claim for the condition(s)/issue(s) listed above, you have 30 days from the date of this letter to provide us with that information. If you notify us within 30 days, we will consider your claim filed as of the date that it was previously submitted. If you notify us after the 30 days has elapsed, you must resubmit your claim on the appropriate form, and your claim will be considered received as of the date of receipt of your complete claim.  If you are submitting a claim for compensation benefits, you must complete, sign, and return a VA Form 21-526EZ, *Application for Disability Compensation and Related Compensation Benefits*. You may also submit your claim through eBenefits. For more information regarding eBenefits, please see below.  To locate the appropriate form(s), please visit the following website: [www.va.gov/vaforms](http://www.va.gov/vaforms).  **What is eBenefits?**  eBenefits provides electronic resources in a self-service environment to Service members, Veterans, and their families. Use of these resources often helps us serve you faster! Through the eBenefits website you can:   * **Submit claims for benefits and/or upload documents directly to the VA** * **Request to add or change your dependents** * **Update your contact and direct deposit information and view payment history** * **Request a Veterans Service Officer to represent you** * **Track the status of your claim or appeal** * **Obtain verification of military service, civil service preference, or VA benefits** * **And much more!**   Enrolling in eBenefits is easy. Just visit [www.eBenefits.va.gov](http://www.eBenefits.va.gov) for more information. If you submit a claim in the future, consider filing through eBenefits. Filing electronically, especially if you participate in our fully developed claim program, may result in a faster decision than if you submit your claim through the mail.  **Do You Have Questions Or Need Assistance?**  **[Foreign/Domestic Address Decision Point:]** [If claimant address is Domestic-US/Puerto Rico/Alaska/Hawaii, use:] If you have any questions or need assistance with this claim, you may contact us by telephone, e-mail, or letter.   |  |  | | --- | --- | | **If you** | **Here is what to do.** | | Telephone | Call us at 1-800-827-1000. If you use a Telecommunications Device for the Deaf (TDD), the Federal number is 711. | | Use the Internet | Send electronic inquiries through the Internet at <https://iris.va.gov>. | | Write | VA now uses a centralized mail system. For all written communications, put your full name and VA file number on the letter. Please mail or fax all written correspondence to the appropriate address listed on the attached *Where to Send Your Written Correspondence* chart. |   In all cases, be sure to refer to your VA file number [*File Number*].  If you are looking for general information about benefits and eligibility, you should visit our web site at <http://www.va.gov> or search the Frequently Asked Questions (FAQs) at <http://iris.va.gov>.  [*If* c*laimant address is outside the US, use:*]  If you have any questions or need assistance with this claim, you may contact us by telephone, e-mail, or letter.   |  |  | | --- | --- | | **If you** | **Here is what to do.** | | Telephone | Call or visit the nearest American Embassy or Consulate for assistance. In Canada, call or visit the local office of Veterans Affairs Canada. From Guam, call us by dialing toll free, 475-8387. From American Samoa and N. Marianas, call us at 1-800-844-7928. If you use a Telecommunications Device for the Deaf (TDD), the number is 1-800-829-4833. | | Use the Internet | Send electronic inquiries through the Internet at <https://iris.va.gov>. | | Write | VA now uses a centralized mail system. For all written communications, put your full name and VA file number on the letter. Please mail or fax all written correspondence to the appropriate address listed on the attached *Where to Send Your Written Correspondence* chart. |   In all cases, be sure to refer to your VA file number [*File Number*].  If you are looking for general information about benefits and eligibility, you should visit our web site at <http://www.va.gov> or search the Frequently Asked Questions (FAQs) at <http://iris.va.gov>.  **[VSO Decision Point:]**  [*If veteran has a VSO, use:*]  We sent a copy of this letter to **[***User Entry-Enter name of Service Org/POA***],** who you have appointed as your representative. If you have questions or need assistance, you can also contact your representative.  [*If no VSO, use:*]  We have no record of you appointing a service organization or representative to assist you with your claim. You can contact us for a listing of the recognized Veterans’ Service Organizations and/or representatives. Veterans’ Service Organizations, which are recognized or approved to provide services to the veteran community, can also help you with any questions.  Sincerely yours,  Regional Office Director  Enclosures: Where to Send Your Written Correspondence |

#### 4. Processing a Retraction of a Request to Withdraw a Claim

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| **Change Date** | November 30, 2015 |

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| **a. Processing a Retraction of a Request to Withdraw a Claim** | Follow the instructions in the table below upon receipt of a retraction of a request to withdraw a claim. |

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| **Step** | **Action** |
| 1 | Did VA receive the retraction within 30 days of the date VA notified the claimant that it had acted on the claimant’s request to withdraw his/her claim?   * If *yes*, proceed to the next step. * If *no*, * notify the claimant that VA could not execute the retraction because the claimant submitted it after the 30-day time limit referenced in this step, and * take no further action. |
| 2 | Did VA withdraw the claim based on a misinterpretation of communication from the claimant?   * If *yes*, * reestablish the claim in the claims processing system, using EP 930, and * proceed to Step 4. * If *no*, proceed to the next step. |
| 3 | Re-establish the claim in the claims-processing system, using the appropriate EP.  ***Important***: Do not establish an EP that is indicative of an original claim, such as an EP 110, 010, 140, 180, or 190, even if the claim that the claimant withdrew was an original claim.  ***Reference***: For more information about selecting an appropriate EP, see M21-4, Appendix B. |
| 4 | Complete any outstanding development actions. |
| 5 | Make a decision on the claim. |
| 6 | Follow the instructions in M21-1, Part III, Subpart v, 2.B for notifying the claimant of the decision. |