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

**Veterans Benefits Administration September 24, 2015**

**Washington, DC 20420**

#### Key Changes

|  |  |
| --- | --- |
| 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 iv, “General Rating Process.”  ***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 * update obsolete terminology, where appropriate * reassign alphabetical designations to individual blocks, where necessary, to account for new and/or deleted blocks within a topic * clarify block labels and/or block text, and * bring the document into conformance with M21-1 standards. |

|  |  |
| --- | --- |
| Reason(s) for the Change | Citation |
| * To add a note that if an examiner states an opinion cannot be rendered and then identifies evidence that would make an opinion possible, then VA has a duty to assist in obtaining the additional evidence. * To add a reference to the relevant court case. | [M21-1, Part III, Subpart iv, Chapter 3, Section D, Topic 2, Block p (III.iv.3.D.2.p)](#Topic2p) |
| * To add a requirement for medical opinions to provide adequate supporting rationale. * To add a reference for weighing evidence. | [III.iv.3.D.3.a](#Topic3a) |
| * To add a new Block b providing guidance on the sufficiency of an exam that was erroneously ordered. * To add a reference to the relevant court case. | [III.iv.3.D.3.b](#Topic3b) |
| To clarify the role of Veterans Health Administration (VHA) examiners when a Veterans Benefits Administration (VBA)-contracted exam is insufficient. | [III.iv.3.D.3.e](#_de.__Returning) |

|  |  |
| --- | --- |
| Rescissions | None |

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

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

|  |  |
| --- | --- |
| Distribution | LOCAL REPRODUCTION AUTHORIZED |

## Section D. Examination Reports

#### Overview

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

|  |  |
| --- | --- |
| **Topic** | **Topic Title** |
| 1 | Locating Examination Reports |
| 2 | Examination Report Requirements |
| 3 | Handling Examinations Insufficient For Rating Purposes |
| 4 | Reviewing Examination Reports for Rating Criteria |

#### 1. Locating Examination Reports

|  |  |
| --- | --- |
| **Change Date** | July 22, 2015 |

|  |  |
| --- | --- |
| **a. Where to Find Examination Reports** | Examination reports completed by the Department of Veterans Affairs (VA) examination facilities are located in the Compensation and Pension Record Interchange (CAPRI). These are automatically uploaded into Veterans Business Management System (VBMS). Depending on the template used by the examination provider, a few examination reports still get uploaded into Virtual VA, which is accessible through VBMS.  Examination reports completed by a VA contract examiner are located in either VBMS or Virtual VA. They are also available in the vendor’s web site as follows   * For Quality, Timeliness, Customer (QTC) service, go to [QTC Exam Track](https://www.va.examtrak.com/). * For Veterans Evaluation Services (VES), go to [VES Exams](http://www.vesservices.com/).   ***Important***: Access to vendor web sites has to be requested by Regional Office (RO) management. A designated RO contract examination coordinator or liaison may be assigned to monitor contract examinations.  ***Notes***:   * Examinations contracted by the Veterans Health Administration (VHA) are located in a specific SharePoint site for VHA contracted C&P disability examinations. Due to limited access, each RO has designated individuals with access to the site. * Print examination reports on yellow paper when processing claims in the paper environment. |

#### 2. Examination Report Requirements

#### 

|  |  |
| --- | --- |
| Introduction | This topic contains information about reviewing examination reports, including   * who must sign examination reports * ensuring examiners are qualified * telehealth examinations * Disability Benefits Questionnaires (DBQs) completed by VA or non-VA health care providers * DBQs completed by Veterans who are physicians/health care providers * qualification requirements of examiners – initial mental disorder examinations * qualification requirements of examiners – review or increased evaluation mental disorder examinations * qualification requirements of examiners – Traumatic Brain Injury (TBI) examinations * qualification requirements of examiners – hearing loss and tinnitus * requirements for examination reports * requirements for Acceptable Clinical Evidence (ACE) examination reports * evaluating disability diagnoses * questions about competency and/or validity of examinations * handling unusual cases * accepting a fee-based examiner’s report, and * examiner statements that an opinion would be speculative. |

|  |  |
| --- | --- |
| Change Date | September 24, 2015 |

|  |  |
| --- | --- |
| a. Who Must Sign Examination Reports | All examination reports *must* be signed by the examining health care provider.  ***Note***: Examination reports transmitted electronically by either the VA medical center or by a contract examination provider must be digitally-signed. |

|  |  |
| --- | --- |
| b. Ensuring Examiners Are Qualified | VA medical facilities (or the medical examination contractor) are responsible for ensuring that examiners are adequately qualified.  Veterans Service Center (VSC) employees are *not* expected to routinely review the credentials of clinical personnel to determine the acceptability of their reports, unless there is contradictory evidence of record.  The examination provider's certification and signature block on the Disability Benefits Questionnaire (DBQ) or examination report received from a health care provider must contain the following   * signature * printed name and credentials * phone number and preferably a fax number * medical license number, and * address.   ***Notes***:   * The specialty of the exam provider must be indicated, if a specialist examination is required or requested, as in TBI examinations. * The SIGNATURE BLOCK should contain a legible signature and examiner’s credentials. * Health care providers participating in the Clinicians in Residence program at ROs must be registered and certified VHA clinicians.   ***Reference***: For more information on DBQs completed by VA or Non-VA health care providers, see M21-1, Part III, Subpart iv, 3.D.2.d. |

|  |  |
| --- | --- |
| c. Telehealth Examinations | When VHA elects to conduct a videoconference examination (*telehealth examination*)in lieu of an in-person examination, the Rating Veteran Service Representative (RVSR) or Decision Review Officer (DRO) must assess the report for sufficiency under the same standards applicable to in-person examinations.  ***Reference***: For more information on telehealth examinations, see [*the Office of Disability and Medical Assessment (DMA) Expansion of Telehealth for Compensation and Pension (C&P) Examinations Fact Sheet*](http://vaww.demo.va.gov/files/FactSheets/2013/DMAFactSheet13-008ExpansionofTelehealth.pdf). |

|  |  |
| --- | --- |
| d. DBQs Completed by VA or Non-VA Health Care Providers | Review DBQs which are completed by VA or non-VA health care providers to ensure   * the health care provider meets any specialty requirement for the examination conducted, and * the DBQ is sufficient for rating purposes.   If a Veteran submits a DBQ completed by a health care provider and it is insufficient for rating purposes, then the RVSR will determine if   * development is required to the health care provider (such as validation of results by the treatment provider, obtaining medical records), or * an additional VA examination or medical opinion is to be requested.   ***Notes***:   * If a Veteran submits a DBQ which is not approved for public use, review the report to determine if it is sufficient for rating purposes. If additional examination requirements are needed such as an Service Treatment Records (STRs) review, then ask a VA examiner to perform only those missing requirements. * DBQs completed by a licensed health care provider, to include a nurse practitioner or physician’s assistant, are acceptable for VA examinations.   ***References***: For more information on   * DBQs approved for public use, see [*DBQ Switchboard*](http://vbacodmoint1.vba.va.gov/bl/21/DBQ/default.asp) * requirements for examination reports, see M21-1, Part III, Subpart iv, 3.D.2.j * use and acceptance of DBQs for VA examinations and opinions, see M21-1, Part III, Subpart iv, 3.A.3.b * specialty requirements for mental examination providers, see M21-1, Part III, Subpart iv, 3.D.2.f and g * specialty requirements for traumatic brain injury (TBI) examinations, see M21-1, Part III, Subpart iv, 3.D.2.h, and * specialty requirements for audiology examinations, see M21-1, Part III, Subpart iv, 3.D.2.i. |

|  |  |
| --- | --- |
| e. DBQs Completed by Veterans Who are Physicians/Health Care Providers | VA cannot summarily discount otherwise competent medical evidence from a Veteran who is a physician or health care provider. The DBQ reports completed by these individuals will be reviewed under the same criteria for reviewing DBQs submitted by a health care provider.  In effect, VA claims adjudicators must subject the evidence of record to some degree of scrutiny to determine its probative worth. It is improper in VA practice to “exclude” evidence. Decision makers must weigh the probative value of the evidence and discuss its probative value in the decision narrative.  ***Note***: Exercise the same weighing of probative value for internal-use DBQs that are completed by an external non-VA provider.    ***Important***: Ensure the *Disability Benefits Questionnaire (DBQ) – Veteran Provided* DOCUMENT TYPE under VBMS UNSOLICITED EVIDENCE tab has been updated for DBQs submitted from non-VA providers.  ***References***: For more information on   * reviewing DBQs completed by health care providers, see M21-1, Part III, Subpart iv,3.D.2.d * evidentiary concepts, see M21-1, Part III, Subpart iv, 5.2 * competent medical evidence, see * [38 CRF 3.159(a)(1)](http://www.ecfr.gov/cgi-bin/text-idx?SID=6de064af50f8ab728b7ae802bf47c758&node=se38.1.3_1159&rgn=div8), and * M21-1, Part III, Subpart iv, 5.2.c * written testimony submitted by the claimant, see [38 CFR 3.200(b)](http://www.ecfr.gov/cgi-bin/text-idx?SID=1ed96c53624228506f142c2886dbcd1f&mc=true&node=se38.1.3_1200&rgn=div8), and * case law supporting adequacy of examination completed by a Veteran-health care provider, see * [*Pond v. West*](http://vbaw.vba.va.gov/bl/21/advisory/CAVCDAD.htm#bmp), 12 Vet. App. 341 (1999) and, * [*Pellerin v. Derwinski*](http://vbaw.vba.va.gov/bl/21/advisory/CAVCDAD.htm#bmp), 2 Vet.App. 450 (1992). |

|  |  |
| --- | --- |
| f. Qualification Requirements of Examiners – Initial Mental Disorder Examinations | Mental health professionals with the following credentials are qualified to perform initial compensation and pension (C&P) mental disorder examinations   * board-certified or board-eligible psychiatrists * licensed doctorate-level psychologists, or * the following other mental health professionals, under the close supervision of a board-certified or board-eligible psychiatrist or licensed doctorate-level psychologist * doctorate-level mental health providers * psychiatry residents, or * clinical or counseling psychologists completing a one-year internship or residency.   ***Note***: “Close supervision” means that the supervising psychiatrist or psychologist met with the Veteran and conferred with the examining mental health professional in providing the diagnosis and the final assessment. The supervising psychiatrist or psychologist must co-sign the examination report.  ***Important***: For a claim for posttraumatic stress disorder (PTSD) based upon a stressor related to the Veteran’s fear of hostile military or terrorist activity, [38 CFR 3.304(f)(3)](http://www.ecfr.gov/cgi-bin/text-idx?SID=9ee5933e8a0c378d93b510a36d90be92&mc=true&node=se38.1.3_1304&rgn=div8) directs that the examination must be conducted by a VA psychiatrist or psychologist, or a psychiatrist or psychologist with whom VA has contracted.  ***Reference***: For more information on the qualifications of examiners for specific examinations, to include initial mental disorders examinations, PTSD, and eating disorders, see the [*DBQ Switchboard*](http://vbacodmoint1.vba.va.gov/bl/21/DBQ/default.asp). |

|  |  |
| --- | --- |
| g. Qualification Requirements of Examiners – Review or Increased Evaluation Mental Disorder Examinations | Mental health professionals with the following credentials are qualified to perform C&P mental disorder review examinations or examinations in claims for increased evaluations of service-connected (SC) mental disorders   * mental health professionals qualified to perform initial mental disorder examinations per M21-1, Part III, Subpart iv, 3.D.1.f, or * other mental health professional under the close supervision of a board-certified or board-eligible psychiatrist or licensed doctorate-level psychologist, including * licensed clinical social workers * nurse practitioners * clinical nurse specialists, and * physician assistants.   ***Reference***: For more information on the qualifications of examiners for review examinations for PTSD, see the *PTSD DBQ* in the [*DBQ Switchboard*](http://vbacodmoint1.vba.va.gov/bl/21/DBQ/default.asp). |

|  |  |
| --- | --- |
| h.  Qualification Requirements of Examiners - TBI Examinations | The *initial* diagnosis of traumatic brain injury (TBI) must be made by one of the following specialists   * physiatrists, * psychiatrists, * neurosurgeons, or * neurologists.     ***Note***: A generalist clinician who has successfully completed the Disability Examination Management Office (DEMO) TBI training module may conduct a TBI examination, if a TBI diagnosis is of record and was established by one of the aforementioned specialty providers.  ***Reference***: For more information on qualifications of examiners for TBI examinations, see the *TBI DBQ* in the [*DBQ Switchboard*](http://vbacodmoint1.vba.va.gov/bl/21/DBQ/default.asp). |

|  |  |
| --- | --- |
| i. Qualification Requirements of Examiners – Hearing Loss and Tinnitus | Hearing loss examinations must be completed by an audiologist. A hearing loss examination is needed for an initial exam for tinnitus.  If only a tinnitus examination is being requested, the examination may be conducted by either an audiologist or non-audiologist clinician, if a hearing loss examination is of record.  ***References***: For more information on   * qualifications for examiners for hearing loss and tinnitus examinations, see the *Hearing Loss and Tinnitus DBQ* in the [*DBQ Switchboard*](http://vbacodmoint1.vba.va.gov/bl/21/DBQ/default.asp) * evaluating hearing loss and tinnitus, see * [38 CFR 4.85](http://www.ecfr.gov/cgi-bin/text-idx?SID=b91cb0136237b6da0fc7cd9624f3e993&mc=true&node=sg38.1.4_180_64_184.sg2&rgn=div7), and * M21-1, Part III, Subpart iv, 4.B.3. |

|  |  |
| --- | --- |
| j. Requirements for Examination Reports | VA examinations are to be conducted using DBQs which are disease and condition-specific, organized as a documentation tool to provide the precise medical evidence needed to rate specific disabilities. The examiner is   * asked to complete the form step by step * answer the questions posed, and * provide additional information as required by examination findings.   ***Note***: The report must have a definite and unambiguous description of the disability for each complaint or claimed condition.  Common features of DBQs include   * a diagnosis section * medical history * objective findings * results of diagnostic testing performed, and * a remarks section for any necessary explanation.   Additional sections may be found on some DBQs, depending on the specialty involved.  ***Reference***: For more information on DBQs, see the [*DBQ Switchboard*](http://vbacodmoint1.vba.va.gov/bl/21/DBQ/default.asp). |

|  |  |
| --- | --- |
| k. Requirements for ACE Examination Reports | When VHA uses Acceptable Clinical Evidence (ACE) in lieu of conducting an in-person examination, the RVSR or DRO must review the report for sufficiency. The report must   * note use of the ACE process * clearly identify the specific evidence material to the report findings or opinion, with as much detail as necessary, and * document the rationale for relying on ACE rather than an in-person examination.   ***Reference***: For more information on ACE exams, see M21-1, Part III, Subpart iv, 3.A.4. |

|  |  |
| --- | --- |
| l. Evaluating Disability Diagnoses | The precise cause of a disability is often difficult to determine. It is important that     * the same disability is not covered by more than one diagnosis, and * a definite and unambiguous diagnosis is made for each complaint or symptom having a medical cause.   The table below describes various examination scenarios and what is required for a sufficient diagnosis. |

|  |  |
| --- | --- |
| **If ...** | **Then ...** |
| there are no findings on examination | a diagnosis of a disability should not be rendered by the examiner.  ***Example***: Examiner states “normal left knee” and examination shows normal range of motion (ROM), normal stability, and no complaints of pain or other symptoms. |
| there are findings on examination | a definitive diagnosis of a disability *should* be rendered by the examiner.  ***Example***: Examiner diagnoses “left knee patellofemoral syndrome” and examination shows limited range of motion with pain.  ***Important***: The following are not sufficient for rating purposes   * non-committal diagnoses, such as * rule-out, or * differential, and * assigning symptoms as a diagnosis, such as * pain * tenderness, or   weakness. |
| a disability exists but a definite name cannot be given | the examiner should describe the disability and indicate that it is of unknown etiology.  ***Example***: “Respiratory insufficiency of unknown etiology.” |
| the examiner states further studies, evaluations, or laboratory tests are needed | the additional studies, evaluations, or testing must be performed before the diagnosis on examination can be considered final. |
| a previously established diagnosis is changed by the examiner | the examiner must state whether the current diagnosis represents   * a new disability, or   a progression of the former disability. |

|  |
| --- |
| ***Reference***: For more information on handling examinations insufficient for rating purposes, see M21-1, Part III, Subpart iv, 3.D.3. |

|  |  |
| --- | --- |
| **m. Questions About Competency and/or Validity of Examinations** | Ensure that you consider concerns raised by the claimant or his recognized representative about a completed examination or opinion. Communications raising concerns may take the form of (but are not necessarily limited to):   * complaints about the examiner * requests for information about the examiner’s qualifications * assertions that records or other relevant information or evidence was not considered, or * requests for another examination or opinion.   The mere fact that such a communication is received *does not mean* that the examination is insufficient or in need of clarification or that there is a further duty to assist to obtain records or another examination. However consideration must be given to whether one or more of those remedies is appropriate.  The table below provides guidance on interpreting communications from claimants or representative raising concerns about examinations and what action to take as applicable. |

|  |  |
| --- | --- |
| If the substance of the communication is ... | Then ... |
| that the examiner was not qualified to perform the examination or issue the opinion | * review M21-1, Part III, Subpart iv, 3.D.2.b and additional blocks in this topic on qualifications for specific types of examinations, and * consider the guidance on competency of medical evidence in M21-1, Part III, subpart iv, 5.2.   When that review leads to a conclusion that the examiner *did not have* the appropriate qualifications, or otherwise that the conclusions of the examination or opinion were not competent, another examination is required.  However where an examiner is basically competent, matters like specialty, Board certification, experience and other related considerations will merely be considerations in determining probative value of the examination or opinion.  ***Note***: There is a presumption that a selected medical examiner is competent. |
| that the examination was not sufficient or requires clarification | review M21-1, Part III, Subpart iv, 3.D.3 and 4 and take any action required by those topics. |
| that additional material evidence must be obtained to substantiate the claim | review M21-1, Part I, 3.C on the duty to assist. |

|  |
| --- |
| ***Note***: VA’s compensation and pension claim adjudication system does not have a procedure for completion of interrogatories by VA personnel. ***Interrogatories*** are written questions that, in some court proceedings, must be answered under oath. If the claimant or representative submits a communication characterized as interrogatories   * ***do not*** * complete and return the document, and * do not refer it to the examiner, ***but*** * ***do*** * look at the substance of the communication as indicated above in this block, and * determine if it is raising questions about examiner competency, adequacy of the examination or satisfaction of the duty to assist.   ***References***: For more information on   * a claimant’s request for information, or complaints, about a VA examination or opinion, see[*Nohr v. McDonald*](http://www.uscourts.cavc.gov/documents/13-1321Nohr.pdf), 27 Vet.App. 124 (2014), and * challenging the expertise of a VA examiner, see [*Bastien v. Shinseki*](http://vbaw.vba.va.gov/bl/21/advisory/CAVCDAD.htm#bmb), 599 F.3d 1301,1307.(Fed.Cir.2010). |

|  |  |
| --- | --- |
| n. Handling Unusual Cases | If necessary, the VSCM or PMCM should discuss unusual cases with health care officials to ensure proper understanding of the issue or issues at hand. |

|  |  |
| --- | --- |
| o. Accepting a Fee-Based Examiner’s Report | There is no prohibition against acceptance of a VA examination for rating purposes from a fee-based medical examiner who has previously submitted a statement on the claimant’s behalf. |

|  |  |
| --- | --- |
| p. Examiner Statements that an Opinion Would be Speculative | Pay careful attention to any conclusion by the examiner that an opinion could not be provided without resorting to mere speculation (or any similar language to that effect).  Per [*Jones (Michael H.) v. Shinseki*](http://vbaw.vba.va.gov/bl/21/Advisory/CAVCDAD.htm#bmj)*,* 23 Vet.App. 382 (2010), VA may only accept a medical examiner’s conclusion that an opinion would be speculative if   * the examiner has explained the basis for such an opinion, identifying what facts cannot be determined, or * the basis for the opinion is otherwise apparent in VA’s review of the evidence.   If an examiner’s conclusion is not adequately justified, the report may be insufficient for rating purposes. Seek clarification of the conclusion.  *Note*: If the examiner specifically states that a medical opinion cannot be provided unless specific evidence is made available, VA’s duty to assist requires that VA determine whether that evidence may be reasonably obtained. If so, VA is to make efforts to obtain it and then seek an additional medical opinion which considers the relevant information.  *Reference*: For more information on speculative opinions, see *Daves v. Nicholson*, 21 Vet. App. 46 (2007). |

#### 3. Handling Examinations Insufficient for Rating Purposes

#### 

|  |  |
| --- | --- |
| Introduction | This topic contains information about returning insufficient examinations, including   * insufficient examination reports * handling insufficient exams erroneously requested * examination reports for clarification * resolving inconsistencies, and * returning examination reports. |

|  |  |
| --- | --- |
| Change Date | September 24, 2015 |

|  |  |
| --- | --- |
| **a. Insufficient Examination Reports** | A VA examination report submitted to the rating activity, must be as complete as possible.  Any missing required information on the report makes the examination insufficient for rating purposes. This can include, but is not limited to, the following instances   * The examination report is unsigned. * The examination report did not address all disabilities for which an examination was requested. * The required question(s) on the DBQ were left blank. * The required review of the claims folder was not accomplished. * Missing information on the report pertinent to the disability under review, such as failure to discuss the impact of musculoskeletal pain on the functional loss of an affected joint. * A medical opinion is not properly supported by a valid rationale and/or by the evidence of record. * A requested medical opinion was not furnished.   ***Note***: Examinations that are cancelled by VHA or a contractor, without a valid reason, should be returned as insufficient for rating purposes if the rating activity determines that the examination is warranted.  ***Example***: An examination for a requested knee pain claim was not completed because “the claimed condition was not documented and diagnosed in the service treatment records on examiner review”. If the rating activity determines that such examination is needed, return to the examining facility as insufficient for rating purposes.  ***Exception***: There are instances where missing information in an examination report does not make the examination itself insufficient. See M21-1, Part III, Subpart iv, 3.D.3.c for examples.  ***References***: For more information on   * inadequate examinations, see [38 CFR 4.70](http://www.ecfr.gov/cgi-bin/text-idx?SID=b13a025fff4723d82292b8b4507f0acd&mc=true&node=se38.1.4_170&rgn=div8) * when further development may be needed, see M 21-1, Part III, Subpart iv, 5.7 * weighing evidence, see M21-1, Part III, Subpart iv, 5.9 * resolving inconsistencies, see M21-1, Part III, Subpart iv.3.D.3.d, and * descriptions of pain affecting functional loss, see [*Floyd* *v. Brown*](http://vbaw.vba.va.gov/bl/21/Advisory/CAVCDAD.htm#bmf)*,* 9 Vet. App. 88 (1996). |

|  |  |
| --- | --- |
| **b. Handling Insufficient Exams Erroneously Requested** | In [*Barr v*. *Nicholson*](http://vbaw.vba.va.gov/bl/21/Advisory/CAVCDAD.htm#bmb), 21 Vet. App. 303 (2007), the Court held that if VA provides an examination when developing an SC claim, even if not statutorily obligated to do so   * the examination must be adequate, or * the Veteran must be notified as to why one will not or cannot be provided.   ***Exception***: If new and material evidence has not been presented and the claim is not considered reopened, then the issue of the adequacy of any new VA medical examination conducted pursuant to [38 U.S.C. 5103A(d)](https://www.law.cornell.edu/uscode/text/38/5103A) becomes moot, because readjudication of the merits of the claim is barred by statute if VA does not reopen the claim. See [*Woehlaert v. Nicholson*](http://vbaw.vba.va.gov/bl/21/Advisory/CAVCDAD.htm#bmw)*,* 21 Vet. App. 456 (2007). |

|  |  |
| --- | --- |
| c. Examination Reports for Clarification | An examination report which needs clarification must be discussed or returned to the examiner. Such instances include, but are not limited to, the following.   * The same disability is diagnosed differently by different examiners. * Conclusions or findings have been expressed in ambiguous or equivocal terms. * An examination report shows a change in the diagnosis or etiology for a disability previously recognized as SC. |

|  |  |
| --- | --- |
| d. Resolving Inconsistencies | Resolve any inconsistency or conflicting findings of various medical examiners by requesting a medical opinion by a different examiner.  ***References***: For more information on requesting   * independent medical opinions, see[38 CFR 3.328](http://www.ecfr.gov/cgi-bin/text-idx?SID=6395c44d4632aaa3c859e151740aa42e&node=se38.1.3_1328&rgn=div8), and * medical opinions and independent medical opinions, see M21-1 Part III, Subpart iv,3.A.7. |

|  |  |
| --- | --- |
| e. Returning Examination Reports | Return an examination report as *insufficient* for rating purposes to the health care provider or appropriate contractor through   * CAPRI - if the examination was requested through a VHA facility, or * Centralized Administration Accounting Transaction System (CAATS) – if the examination was requested from a VBA contractor.   ***Important***:   * Avoid using language that can be construed as adversarial when returning reports for clarification. Use the term “*insufficient for rating purposes*” rather than “*inadequate examination*.” * Describe clearly the issue(s) needing clarification or resolution.   Refer to the table below for returning examination reports to the provider. |

|  |  |  |
| --- | --- | --- |
| **If the examination report…** | **and the examiner is from a…** | **Then …** |
| is insufficient | VHA or a VHA-contracted provider | return the examination as *insufficient* thru CAPRI |
| VBA-contracted provider | return the examination as insufficient thru CAATS.  ***Important***: When a VBA-contracted exam is found to be insufficient, it should NOT be resolved by VHA examiners. VHA examiners can provide an addendum or clarification that is considered to be supplemental—not to remedy an insufficiency or inadequacy. Additionally, VHA examiners can provide medical opinions not previously requested of the contract examiner. |
| needs clarification | VHA or a VHA-contracted provider | * call or e-mail the examiner or point of contact at the examination facility, to try and resolve the issue(s) expeditiously, or * input a medical opinion DBQ request in CAPRI, if the issue(s) is complex or cannot be resolved by phone or e-mail. |
| VBA-contracted provider | return the examination as *insufficient* thru CAATS. |
| needs resolution of a conflicting opinion or diagnosis | VHA, a VHA-contracted provider, or a VBA-contracted provider | input a medical opinion DBQ request in either CAPRI or CAATS, whichever is applicable. |

|  |
| --- |
| ***Notes***:   * For VHA examinations, try to resolve any questions or clarifications with the RO resident clinician as much as possible, before calling the examination as insufficient. * For VBA-contracted examinations, the contractor has seven days to clarify any insufficiency, to avoid an insufficiency call. * When the best interest of the Veteran will be advanced by a personal conference or e-mail with the examiner, such venues should always be considered. |

#### 4. Reviewing Examination Reports for Rating Criteria

|  |  |
| --- | --- |
| Introduction | This topic contains information about   * bruxism examination report review * eye examination report review * headache examination report review * hearing loss and tinnitus examination report review * mental health examination report review * metabolic equivalents of task (METS) for heart conditions examination report review * musculoskeletal report review for functional loss, ROM, and X-rays * nerves examination report review * pulmonary function test (PFT) examination report review * post traumatic stress disorder (PTSD) examination review * skin and scars examination report review * sleep disorders examination report review * temporomandibular joint (TMJ) disorder examination report review, and * traumatic brain injury (TBI) examination report review. |

|  |  |
| --- | --- |
| **Change Date** | August 5, 2015 |

|  |  |
| --- | --- |
| a. Bruxism Examination Report Review | Bruxism is defined as excessive grinding of the teeth and/or excessive clenching of the jaw.  Bruxism may not be rated as a stand-alone SC disability. However, it may be considered on a secondary basis as a symptom of a SC disability, such as an anxiety disorder, TMJ dysfunction, or another disability for rating purposes.  If an examination report diagnoses bruxism, then the examiner has to provide the etiology of bruxism.  ***Reference***: For information on processing dental claims, see M21-1, Part III, Subpart v, 7.C. |

|  |  |
| --- | --- |
| b. Eye Examination Report Review | Examiners must perform visual field testing using either   * Goldmann kinetic perimetry * automated perimetry using Humphrey Model 750, Octopus Model 101, ***or*** * later versions of these perimetric devices with simulated kinetic Goldmann testing capability.   If the examination was not performed using the proper testing method or the results are not properly recorded on a standard Goldmann chart as specified in the regulation, then the exam should be returned as insufficient.  ***Reference***: For more information about eye conditions, see   * [38 CFR 4.76(b)(3)](http://www.ecfr.gov/cgi-bin/text-idx?SID=0c081585be7d308a26ba3a847fd3bd81&mc=true&node=se38.1.4_176&rgn=div8) * [38 CFR 4.77](http://www.ecfr.gov/cgi-bin/text-idx?SID=0c081585be7d308a26ba3a847fd3bd81&mc=true&node=se38.1.4_177&rgn=div8) * [38 CFR 4.79](http://www.ecfr.gov/cgi-bin/text-idx?SID=0c081585be7d308a26ba3a847fd3bd81&mc=true&node=se38.1.4_179&rgn=div8) , and * M21-1, Part III, Subpart iv, 4.B.1. |

|  |  |
| --- | --- |
| c. Headache Examination Report Review | A neurological headache examination report will be considered insufficient if the frequency of prostrating headaches and whether the headaches are migraine-type or non-migraine type are not adequately addressed. These examination reports require clear indication of the frequency of prostrating headaches and whether the headaches are migraine or non-migraine.  ***Reference***: For more information on rating migraines, see [38 CFR 4.124a](http://www.ecfr.gov/cgi-bin/text-idx?SID=b13a025fff4723d82292b8b4507f0acd&mc=true&node=se38.1.4_1124a&rgn=div8). |

|  |  |
| --- | --- |
| d. Hearing Loss and Tinnitus Examination Report Review | A hearing loss and tinnitus examination may be considered insufficient if an opinion was requested by the RO and it is not provided in the report.  Unusual circumstances may arise during the examination where the examiner will have to   * state if there are one or more frequency(ies) that could not be tested (CNT) and enter CNT in the box for frequency(ies) that could not be tested. Then explain why testing could not be done * provide an explanation of why the use of the speech discrimination score is not appropriate or not performed for the Veteran, and * state the functional impact of tinnitus.   ***Reference***: For more information on requesting audiometric examinations and medical opinions, see M21-1, Part III, Subpart iv, 4.B.3.d. |

|  |  |
| --- | --- |
| e. Mental Health Examination Report Review | Mental health examinations can be complex when there are psychological symptoms existing simultaneously with and usually independently of another medical condition, such as PTSD and TBI symptoms of memory loss.  An examination may be insufficient if   * there is more than one mental disorder diagnosed and the examiner does not address the criteria for all the diagnoses * there is a diagnosis of a mental disorder and TBI, and the examiner did not * differentiate and list which symptom(s) is/are attributable to each diagnosis, or * provide a reason that it is not possible to differentiate what portion of each symptom is attributable to each diagnosis, or * the occupational and social impairment field is not completed.   ***Reference***: For more information on considering a change in the diagnosis of a psychiatric disorder, see M21-1, Part III, Subpart iv, 4.H.1.c. |

|  |  |
| --- | --- |
| f. METS for Heart Conditions Examination Report Review | The metabolic equivalents of task (METS) score for heart conditions can be provided as an estimate as indicated on the DBQs. If the Veteran has co-morbid conditions that prevents the examiner from estimating the METS, then the   * examiner must indicate why a METS could not be performed, and * the RVSR or DRO will evaluate the condition based on the examination results.   ***Reference***: For information on rating heart conditions, see M21-1, Part III, Subpart iv, 4.E.1. |

|  |  |
| --- | --- |
| g. Musculoskeletal Report Review for Functional Loss, ROM, and X-rays | Musculoskeletal joint examinations must address range of motion (ROM) criteria for repetitive motion and flare-ups.  Following the initial assessment of ROM, the examiner must perform repetitive use testing. After the initial measurement, the examiner must reassess ROM after 3 repetitions and report the post-test measurements. The examination is insufficient if the examiner does not repeat ROM testing during the exam and fails to report additional functional loss.  The examiner must address additional functional limitation or limitation of motion (LOM) during flares-ups or repeated use over time, based on the Veteran’s history and the examiner’s clinical judgment.  The examination report must address whether functional ability of a joint is significantly limited during flare-ups (to address the Court’s interpretation of VA’s regulation in *DeLuca*) or when the joint is used repeatedly over a period of time (to address the Court’s interpretation of VA’s regulation in *Mitchel*l) because of   * pain * weakness * fatigability * incoordination   If such opinion is not feasible, then the examiner must state so and provide an explanation as to why the opinion cannot be rendered.  ***Example***: John Smith reports severe knee pain with repeated use over time when walking back and forth to the store several times a day.  During those flare ups, the ability to flex the knee is demonstrated/reported to be 0-110 degrees.  If the clinician is unable to opine based on the claimant’s reported history and knowledge gained by the examination, then an explanation as to why functional loss cannot be determined must be given on the examination report.  The following terms in an examination report may lead to an insufficient examination request   * unaffected gait but walks with a cane * surgery to joint but scar not addressed * no arthritis but x-ray states degenerative joint disease (DJD) * limited ROM but no diagnosis provided. * If the ROM is decreased for the affected joint but the ROM is the same on the unaffected joint then this is now the Veteran’s new “Normal” and must be documented as such. Otherwise there is no explanation for decreased ROM. * pain of joint with exam or movement but diagnosis is “normal joint”. * inconsistent statement and the examiner must provide an explanation in remarks section. * stress fractures: resolved, and * stress fractures with residual limited ROM, pain.   During review of musculoskeletal exam reports, check to ensure that x-rays were obtained when necessary.  A diagnosis of arthritis must be confirmed by x-ray or other radiographic testing before SC may be established.  Where there is a claim of *non-specific joint pain* in a joint or multiple joints, x-rays will not be provided prior to the Veteran being seen by the examiner. The examiner will determine if x-rays are needed in order to provide a diagnosis consistent with the history and symptomatology. If there is a diagnosis other than arthritis or a diagnosis of no disability, do not return the examination as insufficient merely because x-rays were not provided.  However, if arthritis is *claimed* or *diagnosed*, the examination did not include x-rays and there are no x-rays of the joint at issue, then return the examination as insufficient.  ***Note***: Once arthritic changes are shown in a joint, no further x-rays will ever be required for that joint *to support a diagnosis of arthritis*.  ***Reference***: For more information on musculoskeletal conditions, see M21-1, Part III, Subpart iv, 4.A. |

|  |  |
| --- | --- |
| h. Nerves Examination Report Review | Examiners must identify the nerve that best correlates to the area affected even though the condition is a spinal cord nerve condition.  This information will allow the rating decision to address the functional impairment of the area affected.  ***Reference***: For more information on diseases of the peripheral nerves, see   * [38 CFR 4.120](http://www.ecfr.gov/cgi-bin/text-idx?SID=b13a025fff4723d82292b8b4507f0acd&mc=true&node=sg38.1.4_1119.sg12&rgn=div7), and * M21-1, Part III, Subpart iv, 4.G.4. |

|  |  |
| --- | --- |
| i. PFT Examination Report Review | Pulmonary function tests (PFTs) are required for most pulmonary conditions unless   * there is a recent study in the Veteran’s records that accurately reflects the Veteran’s current condition, or * the examiner provides an explanation on the special exceptions listed in [38 CFR 4.96(d)(i) through (iv)](http://www.ecfr.gov/cgi-bin/text-idx?SID=886e35dac5b6820d645ed5daa8f1db4a&mc=true&node=se38.1.4_196&rgn=div8).   Obtaining and reporting the PFT is only half of the requirement. The other half of the requirement is for the examiner to interpret the PFT in relation to the claimed condition.  ***References***: For more information on   * when PFTs are required, see M21-1, Part III, Subpart iv, 4.D.1.i, and * assigning disability evaluations based on the results of PFTs, see M21-1, Part III, Subpart iv, 4.D.1.j. |

|  |  |
| --- | --- |
| j. PTSD Examination Review | Reasons that a PTSD examination report may be insufficient for VA purposes are detailed in M21-1, Part III, Subpart iv, 4.H.5.c. |

|  |  |
| --- | --- |
| k. Skin and Scars Examination Report Review | To ensure a skin or scar examination is not considered insufficient, the sections regarding body surface areas on the skin DBQ would need to be completed. Specifically, the affected areas need   * to be measured to include the length and width of the affected area * a description of the quality of the skin condition or scar, and * a description of the percentage of total body surface and exposed body surface affected.   ***Note***: Do not return the skin or scar examination as insufficient to request color photographs if they are not included with the examination report. However, if photographs are included then consider the evidence when evaluating the criteria.  ***Reference***: For more information on rating skin and scars, see   * [38 CFR 4.118](http://www.ecfr.gov/cgi-bin/text-idx?SID=b13a025fff4723d82292b8b4507f0acd&mc=true&node=se38.1.4_1118&rgn=div8), and * M21-1, Part III, Subpart iv, 4.J. |

|  |  |
| --- | --- |
| l. Sleep Disorders Examination Review | Sleep apnea must be diagnosed with a sleep study. Review the sleep study to ensure the condition is interpreted in relationship to the claimed condition.  If there is a co-morbid SC condition to the sleep apnea which requires a PFT, like asthma, ensure that such testing was completed.  Sleep disturbances including insomnia may be claimed as a secondary condition, but not inclusively to,   * mental health disorders * pain experienced from a SC disability, and/or * signs or symptoms of undiagnosed illness and medically unexplained chronic multisymptom illnesses.   ***Note***: When the sleep apnea DBQ is negative for a diagnosis of sleep apnea, but the examiner provides information about sleep disturbances, then review the report to determine if an additional secondary medical opinion DBQ is required.  ***References***: For more information on   * sleep apnea and sleep studies, see M21-1, Part III, Subpart iv, 4.D.1.m * signs or symptoms of undiagnosed illness and medically unexplained chronic multisymptom illnesses, see [38 CFR 3.317(b)(9)](http://www.ecfr.gov/cgi-bin/text-idx?SID=88fdaba43584bee8a0580297be7a729e&mc=true&node=se38.1.3_1317&rgn=div8) * sleep apnea schedule of ratings, see [38 CFR 4.97, diagnostic code 6847](http://www.ecfr.gov/cgi-bin/text-idx?SID=88fdaba43584bee8a0580297be7a729e&mc=true&node=se38.1.4_197&rgn=div8) * when PFTs are required, see M21-1, Part III, Subpart iv, 4.D.1.i, and * examination DBQ, see [*VA Form 21-0960L-2 Sleep Apnea Disability Benefits Questionnaire*](http://www.vba.va.gov/pubs/forms/VBA-21-0960L-2-ARE.pdf). |

|  |  |
| --- | --- |
| m. TMJ Examination Report Review | There is no need to return a TMJ examination to VHA simply because a dentist did not perform the examination. TMJ is musculoskeletal in nature.  ***Important***: As part of the musculoskeletal requirements, the TMJ DBQ requires the examiner to address   * flare-ups that impact the function of the temporomandibular joint * initial ROM measurements * ROM measurement after repetitive use testing * functional loss and additional limitation in ROM, and * pain (pain on palpation) and crepitus.   ***References***: For more information about   * rating TMJ, see [38 CFR 4.150](http://www.ecfr.gov/cgi-bin/text-idx?SID=b13a025fff4723d82292b8b4507f0acd&mc=true&node=se38.1.4_1150&rgn=div8), and * the TMJ DBQ, see [*VA Form 21-0960M-15, Temporomandibular Joint (TMJ) Conditions Disability Benefits Questionnaire*](http://www.vba.va.gov/pubs/forms/VBA-21-0960M-15-ARE.pdf). |

|  |  |
| --- | --- |
| n. TBI Examination Report Review | Ensure the initial TBI diagnosis is conducted by a qualified examiner.  The examiner must address   * all the of facets of the TBI diagnosis, and * if any facets are left blank, it must be indicated in the remarks section of the DBQ that the symptoms are related to a non-TBI condition, and * provide an explanation * any additional residuals, other findings, diagnostic testing, and functional impact of the diagnosis, and an explanation regarding conflicting diagnoses from medical vs. mental health clinicians must be provided * other pertinent physical findings, scars, complications, conditions, signs and/or symptoms such as mental, physical or neurological conditions or residuals attributable to a TBI (such as migraine headaches or Meniere’s disease), and * the functional impact on the Veteran’s ability to work.   A mental health evaluation alone is not sufficient in addressing TBI. TBI examination completed by a medical clinician with input from a mental health examiner need to be completed when attributable signs and symptoms co-exist.  Objective evidence and neuropsychiatric testing may be required when cognitive impairment symptoms are identified. Some examples of cognitive impairment symptomology include   * memory loss, and * reduced attention, concentration, and executive functioning.   ***References***: For more information on   * TBI examiner qualifications, see M21-1, Part III, Subpart iv, 3.D.2.h, and * evaluating TBI, see * [38 CFR 4.124a](http://www.ecfr.gov/cgi-bin/text-idx?SID=b13a025fff4723d82292b8b4507f0acd&mc=true&node=se38.1.4_1124a&rgn=div8), and * M21-1, Part III, Subpart iv, 4.G.2. |