### Section A. Deciding Claims for Disability Compensation

#### Overview

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

|  |  |
| --- | --- |
| Topic | Topic Name |
| 1 | Issues to Consider When Deciding Claims for Disability Compensation |
| 2 | Actions to Take When Unassociated or Supplemental Service Treatment Records (STRs) Are Received From the Records Management Center (RMC) |

#### 1. Issues to Consider When Deciding Claims for Disability Compensation

|  |  |
| --- | --- |
| Introduction | This topic contains information on issues to consider when deciding claims for disability compensation, including   * disabilities for which service connection (SC) must be considered * the mere existence of medical records does not constitute a claim * claims mentioning exposure but not specifying a disability * abnormal laboratory findings discovered in STRs without a claim * fractures discovered in STRs without a claim * soliciting a claim for a chronic, unclaimed disability, and * references concerning the selection of effective dates. |

|  |  |
| --- | --- |
| Change Date | May 11, 2015 |

|  |  |
| --- | --- |
| a. Disabilities for Which SC Must Be Considered | When deciding an original claim for compensation, or when unassociated or supplemental service treatment records (STRs) are received following promulgation of an original rating decision, the rating activity must   * consider service connection (SC) for all claimed disabilities, based on a sympathetic reading of the claim, and * consider soliciting a claim for other chronic, unclaimed disabilities noted in the STRs.   ***References***: For more information on   * clarifying claims that are not substantially complete, see [38 CFR 3.159(a)(3)](http://www.ecfr.gov/cgi-bin/text-idx?SID=4ab11bba923e3373a10b49d5ebefd147&node=se38.1.3_1159&rgn=div8) * the definition of a substantially complete application, see M21-1, Part I, 1.A.3.f * criteria for substantially complete applications, see M21-1, Part I, 1.B.1.b * notification requirements for a complete application, see M21-1, Part I, 1.B.1.c * soliciting a claim for unclaimed disabilities, see [M21-1, Part IV, Subpart ii, 2.A.1.e](imi-internal:M21-1MRIV.ii.2.A.1.b) * actions to take when unassociated or supplemental STRs are received, see M21-1, Part IV, Subpart ii, 2.A.2, and * the types of issues that a compensation claim may involve, see [M21-1, Part III, Subpart iv, 6.B.2](imi-internal:M21-1MRIII.iv.6.B.2) |

|  |  |
| --- | --- |
| **b. The Mere Existence of Medical Records Does Not Constitute a Claim** | The mere existence of medical records does not constitute a claim. There must be some intent by the claimant to apply for a benefit.  ***Notes***:   * Claims for an increased rating were previously an exception to that rule under the historical provisions of [38 CFR 3.157(b)](http://www.gpo.gov/fdsys/pkg/CFR-2009-title38-vol1/xml/CFR-2009-title38-vol1-sec3-157.xml). * The Standard Claims and Appeals Form regulation eliminated section [3.157](http://www.gpo.gov/fdsys/pkg/CFR-2009-title38-vol1/xml/CFR-2009-title38-vol1-sec3-157.xml) and requires submission of claims on prescribed forms effective March 24, 2015. |

|  |  |
| --- | --- |
| **c. Claims Mentioning Exposure but Not Specifying a Disability** | A claim mentioning an exposure but not specifying a disability from the exposure is not substantially complete.  ***References***: For more information on claims that do not specify a disability but allege exposure to   * radiation, see M21-1, Part IV, Subpart ii, 1.B.2.d * environmental hazards, see M21-1, Part IV, Subpart ii, 1.E.1.a * mustard gas or Lewisite, see M21-1, Part IV, Subpart ii, 1.F.1.e * herbicide agents, see M21-1, Part IV, Subpart ii, 1.H.1.h, and * asbestos, see M21-1, Part IV, Subpart ii, 1.I.3.b. |

|  |  |
| --- | --- |
| **d. Abnormal Laboratory Findings Discovered in STRs Without a Claim** | Do not solicit a claim based merely on abnormal laboratory findings discovered in the STRs.  Abnormal laboratory findings, even if diagnosed, are *not* themselves disabilities for Department of Veterans Affairs (VA) purposes. Such findings include, but are not limited to,   * elevated blood sugar * hyperlipidemia * elevated triglycerides, or * elevated cholesterol.   Clarification may be necessary when there is a claim for a benefit based upon laboratory findings.  ***Example***: A claim for SC for “blood sugar” or “high blood sugar” may have been intended as a claim for diabetes. Development could substantiate that elevated blood sugar readings in service represented the onset of diabetes first diagnosed after service or that diabetes may have been diagnosed in a presumptive period. |

|  |  |
| --- | --- |
| **e. Fractures Discovered in STRs Without a Claim** | Fractures constitute a chronic disability for the purposes of soliciting a claim.  If the Veteran has not claimed a fracture and STRs contain an x-ray or other objective evidence of a fracture in service, send the Veteran a letter to invite the claim.  ***Reference***: For more information on SC for fractures documented in service, see M21-1, Part III, Subpart iv, 4.A.12.a. |

|  |  |
| --- | --- |
| f. Soliciting a Claim for a Chronic, Unclaimed Disability | When soliciting a claim for SC for a chronic, unclaimed disability   * send a letter to the Veteran and his/her representative, if applicable, instructing them to submit a *VA Form 21-526EZ*, *Application For Disability Compensation And Related Compensation Benefits,* if they would like to file a claim for the identified condition(s), and * provide the Veteran and his/her representative, if applicable, information regarding how to obtain the appropriate form for claim submission.   Include the following language in the letter:  *“We have reviewed your records and they suggest you may be entitled to an additional benefit. If you want to file a claim for [insert chronic disability] please submit a completed VA Form 21-526EZ, Application For Disability Compensation And Related Compensation Benefits, to the appropriate address listed on the attached Where to Send Your Written Correspondence chart. You can download the form at* [*http://www.va.gov/vaforms*](http://www.va.gov/vaforms) *or you can call us at 1-800-827-1000. We recommend you return the form as soon as you can, in order to ensure the earliest possible payment date, if an award is authorized.”*  ***Notes***:   * Do not establish end product (EP) control or initiate development or duty-to-notify/assist procedures until the Veteran responds affirmatively to the letter. * When the Veteran responds affirmatively, the date of claim of the EP is the date the regional office (RO) received the claim. |

|  |  |
| --- | --- |
| g. References Concerning the Selection of Effective Dates | For information on the selection of appropriate effective dates when deciding claims for disability compensation, see   * [38 U.S.C. 5110](http://www.law.cornell.edu/uscode/html/uscode38/usc_sec_38_00005110----000-.html) * [38 CFR 3.156(c)(3)](http://www.ecfr.gov/cgi-bin/text-idx?SID=294b161fdf3bd0d4ab5a4619e0715dfd&node=se38.1.3_1156&rgn=div8) * [38 CFR 3.400](http://www.ecfr.gov/cgi-bin/text-idx?SID=294b161fdf3bd0d4ab5a4619e0715dfd&node=se38.1.3_1400&rgn=div8), and * [38 CFR 3.401](http://www.ecfr.gov/cgi-bin/text-idx?SID=294b161fdf3bd0d4ab5a4619e0715dfd&node=se38.1.3_1401&rgn=div8). |

**2. Action to Take When Unassociated or Supplemental STRs Are Received From the Records Management Center (RMC)**

|  |  |
| --- | --- |
| **Introduction** | This topic contains information on action to take when unassociated or supplemental STRs are received from the RMC, including   * initial review of unassociated or supplemental STRs by the Intake Processing Center (IPC) Veterans Service Representative (VSR) * consideration of unassociated or supplemental STRs by the rating activity, and * notifying the Veteran of rating decision based on unassociated or supplemental STRs. |

|  |  |
| --- | --- |
| Change Date | May 11, 2015 |

|  |  |
| --- | --- |
| a. Initial Review of Unassociated or Supplemental STRs by the IPC VSR | Upon receipt of unassociated or supplemental STRs from the Records Management Center (RMC), an Intake Processing Center (IPC) Veterans Service Representative (VSR) conducts an initial review of the documents with the claims folder to determine whether the records are duplicates.  ***Reference***: For more information on processing unassociated STRs in Veterans Benefits Management System (VBMS), see [*VBMS User Guide*](http://vbaw.vba.va.gov/VBMS/docs/VBMS_Release_8_1_UserGuide_UsersEdition.pdf).  Use the table below to determine the action to be taken by the IPC VSR after the initial review of the STRs. |

|  |  |
| --- | --- |
| If the STRs are … | Then the IPC VSR … |
| Duplicates | * sends the duplicate STRs to the Veteran with a cover letter * annotates *Duplicate STRs reviewed, NAN (no action needed)*, and * clears (PCLR) an EP 699.   ***Note***: For paper records,   * include the IPC VSR’s initials and the date in the annotation, and * do *not* annotate the original STR jacket sent from the Department of Defense (DoD). |
| not duplicates | * establishes a future EP 699 with a 60-day suspense diary, and * forwards the claims folder to the IPC Rating Veterans Service Representative (RVSR) for rating action.   ***Note***: If the RO does not have an IPC RVSR, the RO should follow locally-established procedures for IPC cases. |

|  |  |
| --- | --- |
| b. Consideration of Unassociated or Supplemental STRs From the RMC by the RO | Use the table below to determine which action to take when an RO receives unassociated or supplemental STRs from the RMC: |

|  |  |  |
| --- | --- | --- |
| If the rating activity determines the STRs contain … | Then the … | And the … |
| new and material evidence warranting an award of a previously-denied claim, the rating activity returns the claims folder to the IPC VSR  ***Note***: Previously-denied claims may include claims for SC burial benefits and Dependency and Indemnity Compensation (DIC), if the STRs pertain to a deceased Veteran. | IPC VSR   * cancels (PCANs) EP 699 * establishes (CESTs) EP 020 with the ‘Reconsideration’ claim label, and * returns the claims folder to the rating activity.   ***Note***: The date of claim for the EP 020 is the date the rating activity determines a rating is necessary. | rating activity prepares a rating decision awarding the previously-denied claim.  ***Note***: If necessary, the rating activity will request a VA examination to determine the Veteran’s current level of disability.  ***Reference***: For information on the appropriate effective date to use, see [38 CFR 3.156(c)(3)](http://www.ecfr.gov/cgi-bin/text-idx?SID=031509136c4175df811fdbe6205e59b2&node=se38.1.3_1156&rgn=div8). |
| evidence that clearly warrants an increase in a service-connected condition, the rating activity returns the claims folder to the IPC VSR | IPC VSR   * PCANs EP 699 * CESTs EP 020 with the ‘Reconsideration’ claim label, and * returns the claims folder to the rating activity.   ***Note***: The date of claim for the EP 020 is the date the rating activity determines a rating is necessary. | rating activity prepares a rating decision increasing the evaluation based on the evidence in the claims folder.  ***Reference***: For information on the appropriate effective date to use, see [38 CFR 3.156(c)(3)](http://www.ecfr.gov/cgi-bin/text-idx?SID=031509136c4175df811fdbe6205e59b2&node=se38.1.3_1156&rgn=div8). |
| evidence of a chronic condition incurred during active duty, with no claim previously filed for the condition  ***Note***: Examples of chronic conditions include diabetes mellitus and cancer. | rating activity returns the claims folder to the IPC VSR | VSR   * PCLRs EP 699, and * solicits a claim from the Veteran.   ***Reference***: For more information on soliciting claims, see M21-1, Part IV, Subpart ii, 2.A.1.f. |
| evidence related to a service-connected disability that does not warrant an increased evaluation | rating activity   * annotates *Additional STRs reviewed, NAN,* and * returns the claims folder to the IPC VSR. | VSR   * PCLRs EP 699 * files unassociated or supplemental STRs in a separate STR jacket, and * returns the claims folder to files. |
| duplicate evidence | rating activity   * annotates *Additional STRs reviewed, NAN,* and * returns the claims folder to the IPC VSR. | VSR   * PCLRs EP 699, and * sends the Veteran the duplicate STRs with a cover letter. |
| new evidence, but none that   * indicates an increase in a service-connected disability * relates to a previously-denied claim, or * shows a chronic, unclaimed condition incurred during active duty | rating activity   * annotates *Additional STRs reviewed, NAN,* and * returns the claims folder to the IPC VSR. | VSR   * PCLRs EP 699 * files the unassociated or supplemental STRs in a separate STR jacket, and * returns the claims folder to the files. |

|  |
| --- |
| ***Note***: When it is necessary to PCLR an EP 699 that is still pending as a future diary, the VSR will   * change (PCHG) the EP 699 diary to EP 930 * PCAN the EP 930, and * PCLR a new EP 699 using that day as the date of claim. |

|  |  |
| --- | --- |
| c. Notifying the Veteran of Rating Decision Based on Unassociated or Supplemental STRs | All rating decisions awarding SC, an increased disability evaluation, or death benefits based on unassociated or supplemental STRs will contain the following language:  *“VA has received additional service treatment records that were previously unavailable. The following decision is based on the additional medical evidence.”* |