**Table of Contents**

**Chapter 4 - Original Decisions – NSLI**

|  |  |
| --- | --- |
| **Subsection** | **Name** |
| 4.01 | Overview |
| 4.02 | Evaluation of the Evidence |
| 4.03 | Waiver Decision 1565 -Decision Disability Insurance Benefits |
| 4.04 | Partial Denial |
| 4.05 | Amended Awards |
| 4.06 | Resumption of TDIP Payments |

**4.01 OVERVIEW**

a.  The decision on the Veteran's entitlement to waiver of premiums is made by the GS-9 or GS-11 Veterans Claims Examiner (VCE). This process consists of several actions which include:

1. Confirming the Veteran's basic information (DOB, SSN, current address) on the claim form.
2. Checking the date the Veteran alleges he/she became totally disabled.
3. Obtaining the necessary information or evidence (SSA disability reports, VA examinations and ratings, and medical records needed to determine if the Veteran is entitled to waiver of premiums).
4. Making a decision on the claim.
5. Informing the Veteran of the decision.

b.  Waiver decisions are processed through the completion of the Waiver Decision 1565 screen in the VA Insurance system and a letter is generated informing the Veteran of the approval, premature status, or denial of waiver.  The completed 1565 is forwarded to 293 to process.

c.  If the waiver is denied, the Veteran must be provided appeal rights.

**4.02 EVALUATION OF THE EVIDENCE**

a.   In all cases, it will be necessary for the Claims Examiner to evaluate the medical and employment evidence to determine how it affects the insured's ability to continuously follow a substantially gainful occupation. See M29-1, Part 1, Chapter 31.

b.  Claims Examiners should review medical evidence of the insured's complaints, symptoms, findings, diagnosis and prognosis. The decision should be based upon the analysis of the complete medical and employment evidence available.

c.   When a claim is filed subsequent to August 1, 1947, waiver of premiums becoming due more than one year prior to the receipt of claim by VA may not be granted in the absence of satisfactory evidence of circumstances beyond the insured's control which prevented his or her making timely claim, See M29-1, Part 1, Chapter 31 for additional information.

d.   In instances when failure to file a claim on time partially limits the award, the effective date of waiver will be computed by adding together the period of inability to work with the one-year period prior to receipt of claim plus the period of inability to work which continued before and up to the one-year period. The first premium becoming due on or after the beginning date of the one-year period plus the period of inability will be the effective date of waiver.

e.  The Senior Veterans Claims Examiner will adjudicate an insured’s claim for a waiver of premiums extension beyond the one-year period noted in c.

f.   Any competent insured who has not responded to two requests to submit evidence without adequate explanation within 30 days from the date of the second request letter, will be considered to have failed to cooperate. The finding of total disability will be based upon the evidence of record. If the evidence of record shows total disability for less than 6 months, the claim pended until the 6-month period has ended. At this time, the insured will be contacted to verify employment status.  If after two attempts, there is no response, the claim will be denied.  If there is no evidence to support a finding of total disability for any period, the claim will be denied.

g.  Timely applications filed by beneficiaries after the death of an insured for waiver of premiums becoming due more than one year prior to death may not be waived unless the insured's failure to timely file claim was due to circumstances beyond his or her control.  Some conditions may indicate the insured was prevented by circumstances beyond his or her control from filing a timely claim.  These may include mental or physical disability of such severe degree as to render the insured incapable of taking care of his or her affairs, or when there are other unusual and extenuating circumstances which are a reasonable cause of the insured's failure to make timely application. If any VA Insurance activity receives information in writing that discloses the existence of severe disabilities and potential entitlement to disability insurance benefits and fails to apprise the insured of his or her probable rights to the benefits, such failure is deemed an incomplete action by VA and, as such, constitutes extenuating circumstances that will excuse the failure to timely file claim. When circumstances beyond the control of the insured excusing the failure to file timely are found, waiver of premiums will be effective during the period of one year prior to the filing date plus the period during which he or she was prevented from filing.

h.  The appointment of a guardian has no impact on the timely filing of a claim. Even though the guardian may neglect for years to file a claim on behalf of the insured, the test remains whether or not the insured was prevented from filing claim on time due to circumstances beyond his or her control.  In this case, the insured had an agent appointed to act on their behalf.

**4.03 WAIVER DECISION 1565 -DECISION DISABILITY INSURANCE BENEFITS**

In the remainder of this chapter, the items will be discussed in the order in which the -1565 is to be completed.

|  |  |
| --- | --- |
| **Waiver Decision 1565 Completion** | |
| **General Instructions** | |
| In establishing waiver of premium, always check the date of birth. Make sure the Veteran is under the age of 65 or found totally disabled prior to his 65th birthday. | |
| A Veteran must always have six consecutive months of total disability. (The Social Security date should be used if information matches with service-connected conditions and dates). | |
| When a Veteran has been totally disabled for over 20 years, the Severity Code will be "0". He will be considered as "statutory by time" in Remarks. | |
| If statutory by a disability (ies), the Severity Code will be "0". | |
| If a case is not a new RH, before approving waiver of premiums, you must first verify all information in imaging history that would indicate that the Veteran was totally disabled prior to receipt of the claim. | |
| A Veteran must be found totally disabled prior to their 65th birthday. | |
| **System Generated Items** | **Explanation** |
| Insurance File Number | Veteran's Insurance File Number |
| Policy Number | Veteran's Insurance Policy Number |
| Veteran's Name | Veteran's First and Last Names |
| Received Date | For New RH Applications:  Postmark Date for Paper Applications and Image Date for Web Applications.  For Existing Policies with New Waiver Applications:  Postmark Date or Date of Intent, whichever is earlier. |
| Claim Number | VA Claim Number |
| Date of Birth | Veteran's Date of Birth |
| How Paid | How paid codes: 0- Paid Up 1- Inactive 2- Reduced Paid-Up 3- Deduction from benefits 4- Extended Insurance 5- Disability Waiver 6 - Allotment 8 - VAMATIC PADS 9 - Direct Pay |
| Amount of Insurance | Veteran's Amount of Insurance; only change if amount is not $10,000 |
| Insurance Effective Date | Date the Insurance Went Inforce |
| Plan of Insurance | One of the following Type of Plan codes below: 1 - Ordinary Life 2 - 20 Payment Life 3 - 30 Payment Life 4 - 20 Year Endowment 5 - Endowment at Age 60 6 - Endowment at Age 65 7- 5- Year Level Premium Term  8 - Modified Life at Age 65  Q - Modified Life at Age 70 9-  Reduced Modified Life at Age 65 R - Reduced Modified Life at Age 70 10 - Special Ordinary Life |
| Age | Insurance Age of Veteran (age within 6 months of DOB) as of the effective date of the policy |
| Monthly Premium | Dollar Amount of Monthly Premium |
| Next Premium | Dollar Amount of Next Monthly Premium |
| Secondary Disability Classification | Always 0000 |
| Decision | Sentence already inserted which indicates the Veteran has been found totally disabled and the Veteran's date of total disability. If statutory, also inserted will be "It is also held that the insured is statutory and totally disabled under 38 U.S.C. 1914) |
| Authorized by: | The name of the employee making the TD determination. |
| Fraud found | Automatically set to "No", only change to "Yes", if appropriate |
| Authorized Date: | The date the 1565 is saved. |
| Insured Incompetent | Automatically set to "No", only change to "Yes", if appropriate |
| **Manually Inserted Items** |  |
| Claim Filed By | Enter the role of the person completing the waiver request e.g. Insured, Spouse, VSO, Guardian, etc. |
| Total Disability Found | Earliest date that medical evidence shows Veteran to be totally disabled |
| Follow-up date | The severity code will determine this date. It is manually entered.  Refer to Severity Code explanation for the correct entry date. Most waivers that have a severity code of 7 will have a follow-up date that is two years from the date of the 1565 being processed. |
| Disallowance based on a Decision | Select N/A, unless disapproval, then select Yes |
| Premiums Waived | Date first premium will be waived |
| Life Fund | 3 is already inserted for RH insurance |
| Action Code | Codes 1 - The system will release refund and letter to Veteran 4- If no refund is due and you will release the letter. (Typical selection)  5- The system will release refund and you will release the letter |
| Months not due | Leave blank |
| Severity Code | Depends on age, length, severity of condition(s) and occupation.   One of the following Severity codes below: 0 - No review (Statutory) 3 - Interim review in 6 months - usually for premature waiver  5 - Interim review in 1 year 7 - Interim review released every 2 years 8 - No review required |
| Extra Hazard Pending: | Leave blank or "N" for V policies only |
| Disability Classification | Enter VA disability rating code for "Primary" field;  Note:  There is not a code for every disability; use one closest to the disability. |
| Review date | Date should always be 20 years from the total disability date, unless it is a Statutory case (no review) |
| Insured Representative | POA, DAV, VFW, etc.  Leave blank if none. |
| Remarks | Enter "38 U.S.C. 1922 (a)" if disability is before effective date (only new RH); Note: This law states you cannot be totally disabled at the effective date of the policy.  The exception to this rule is for RH where total disability can occur prior to the effective date.  Enter "Statutory Total Disability - U.S.C. 1914" if a statutory case |
| Principal Occupation | Last job Veteran worked |
| Education | Highest educational level Veteran completed |
| Proof Due | Leave blank |
| Remarks | In this section the VCE would explain any gaps of time related to employment or a qualifying service-connected disability being granted. The VCE should also make a note in this area if the Veteran is statutory by time or any additional circumstance that is not commonly processed. |
| Statutory Requirements Met | Date Veteran became statutory Note:  May be same date as the TD date or later date. |
| Failure to File | Enter N/A for new RHs or "No" when the Veteran does not apply or come in within a year of additional evidence being requested to make the waiver eligibility decision. |
| Total Disability Alleged | Date Veteran indicates total disability began or date last worked Note:  If month & year, but not day are given, use last date of the month provided. |
| Premature Waiver | Select premature waiver when total disability (TD) has been found but the time required of six months has not been met when the claim for waiver is processed. |

**4.04 PARTIAL DENIAL**

A partial denial, like a full denial, is subject to appellate review, if it denies at least 1 month's benefits either at the beginning or at the end of the period of total disability to which the insured or his or her representative alleged entitlement.  A partial denial occurs when the Live Claims Section determines they do not have evidence to support the full period of total disability alleged, up to the one-year limit.  The premium refund, in such cases, will encompass the months from the claim date to the date in which supporting evidence of total disability has been found.

**4.05 AMENDED AWARDS**

a.  When an amended award must be made in order to change the period of the award, it will be necessary to complete a new 1565.  However, the 1565 will be completed in the same fashion as the original award, with the exception that the “Amend” button will be checked.

b.  When the amended award reopens a previously closed award, the new 1565 will show in the award item "Amend: Prev.: Awd Term (date)"; the date shown will be the ending date of the previous award.

c.   When the amended award is to change the beginning, or ending dates of total disability, the new 1565 will show "Amend: (date)"; the date of amendment will be the date of the previous award which is being adjusted.

d.  When it is necessary to correct an award, which has previously been authorized under an incorrect insurance number, it will be necessary to prepare a stop waiver terminating the award as of the effective date on the erroneously issued insurance.

**4.06 RESUMPTION OF TDIP PAYMENTS**

Resumption of TDIP awards will be processed through VA Insurance Systems and authorized by Internal Control.