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**Chapter 7 – Procedures If a Veteran/Claimant Disagrees with a Benefit Decision**

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**7.01 GENERAL**

The Veterans Appeals Improvement & Modernization Act of 2017 (PL 115-55), also known as the Appeals Modernization Act, provides review options that Veteran/Claimants may use to request a Higher-Level Review of a decision made by Insurance Service, submit additional evidence (Supplemental Review) for consideration following an initial decision made by Insurance Service, or file an Appeal directly to the Board of Veterans Appeals for any original decision made on or after February 19, 2019.

VA is required to provide timely notification of decisions, including notification of options for Veteran/Claimants to request review of certain decisions. VA Insurance will use VA Form 20-0998, Your Rights to Seek Further Review of Our Decision to provide this notice, which includes an explanation of the procedure for obtaining review of a decision.

**7.02 DECISIONS SUBJECT TO THE REVIEW PROCESS**

The Code of Federal Regulations (38 CFR § 8.30) details the specific types of Insurance decisions that are subject to review. Notification to claimants on the following types of decisions must include a VA Form 20-0998, Your Rights to Seek Further Review of Our Decision. The following are the specific types of Insurance decisions subject to review.

1. Denials of applications for insurance
2. Denials of total disability income provision or reinstatement
3. Disallowance of claims for insurance benefits
4. Decisions holding fraud or imposing forfeiture

**7.03 NOTIFICATION LETTERS FOR DECISIONS SUBJECT TO REVIEW**

For Insurance decisions subject to review, as outlined in 7.02 above, Insurance is required to advise Veteran/Claimants of their right to request review or appeal our decisions. This notification must be in writing and the notification must include:

1. Identification of the issues decided
2. A summary of all the evidence we considered
3. Identification of any favorable findings we found in the decision
4. For denial of benefits, Insurance must specify the element that was not satisfied and led to the Insurance denial of benefits
5. An explanation of how to obtain or access the evidence used in making the decision
6. A summary of the applicable review options available for the Veteran/Claimant to seek further review of the decision

Each notification of decision as stated in Paragraph 7.02, will also include release of VA Form 20-0998, Your Rights to Seek Further Review of Our Decision.

**7.04 OPTIONS FOR VETERAN/CLAIMANTS WHO DISAGREE WITH THE DECISION THEY RECEIVED**

Veterans/Claimants have one year from the date of Insurance’s decision to request a review under the options outlined below. Veterans/Claimants who disagree with a decision as described in Section 7.02 may select one of the following review processes to resolve their disagreement.

A Veteran/Claimant may select different review options for each issue if there is more than one. However, they may not choose to have an individual issue reviewed concurrently under more than one option. Choosing one option does not preclude the Veteran/Claimant from using a different review or appeal option once a decision is rendered on the review.

1. **Supplemental Claim Review**. A Supplemental Claim and use of the Supplemental Claims Review Lane allows Veterans/Claimants to submit additional evidence that is new and relevant to support their claim. The Supplemental Claim Review will consider any new and relevant evidence submitted after the original decision on the same issue.

If the Claimant chooses a Supplemental Claim Review within one year of the original decision, the review is treated like a new decision. The new and relevant evidence will be considered to determine if a favorable decision can be made.

A Supplemental Claim, however, can be submitted at any time after a decision is made, but the effective date of the original decision will only be upheld if it is received within one year of the denial of the original decision at issue.

A Veteran/Claimant who disagrees with the Insurance decision after the Supplemental Claim is reviewed may submit another supplemental claim with new evidence, may request a review under the Higher-Level Review described in paragraph B, or file a Notice of Disagreement with the Board of Veterans Appeals.

1. **Higher-Level Review**. A Higher-Level review consists of an entirely new review of the claim by a more experienced/senior employee than the initial decision-maker. The review is conducted on a “closed” record, which means no submission of new evidence will be considered as part of the Higher-Level review. The review will be based solely on the evidence that was in the possession of Insurance at the time the original decision was made. The Veteran/Claimant will be restricted from adding new evidence during the Higher-Level review process. In addition, under a Higher-Level review, Insurance will not assist the Veteran/Claimant in developing additional evidence. The requirements under a Higher-Level review **do** require that correction of any errors discovered during the review be processed for correction.

The Veteran/Claimant can request an optional, one-time, informal telephone conference with the Higher-Level reviewer. The purpose of the call would be to identify specific issues about the claim.

A Veteran/Claimant who disagrees with the decision made after the Higher-Level review may submit new evidence to be considered under the supplemental claims process as described in Paragraph A, or file a Notice of Disagreement with the Board of Veterans Appeals. An election for further review must be submitted within one year of the date of the Higher-Level review decision.

1. **Appeals – Notice of Disagreement -** This option allows a claimant to appeal the Insurance decision directly with the Board of Veterans Appeals. The Insurance Service’s responsibility is to forward any formal Notice of Disagreements directly to the Board of Veterans Appeal and then to act on any remands where the Board has instructed Insurance to remedy a decision. Veterans/Claimants will use VA Form 10182, Board Appeal, Notice of Disagreement to request an appeal directly with the Board of Veterans Appeals.

A Veteran/Claimant who disagrees with the decision made by the Board of Veterans Appeals may submit new evidence to be considered under the supplemental claims process as described in Paragraph A.

In addition, Veteran/Claimants may file a complaint with a United States District Court in the District of Columbia or within a district in which they reside within six years from the date of the decision. Insurance Service may be contacted to provide subject matter assistance if this occurs.

**7.05 VETERANS/CLAIMANTS WITH APPEALS PENDING IN THE CURRENT LEGACY APPEALS PROCESS**

Veteran/Claimants who currently have an appeal pending in the legacy appeals process may elect to have their decision reviewed under the new Supplemental Claims review or the Higher-Level review process or choose to continue with the legacy appeals process.

Veterans/Claimants with an appeal pending in the legacy process, will be notified of the option to elect the review process by letter. Any Veterans/Claimants who “opt-in” to the new process will permanently withdraw from the legacy appeals process. Their claim will proceed through the requested review method and their date of claim will be preserved.

Veteran/Claimants may opt-in to the modernized appeals system for any appeal currently in the legacy appeals process if they have received a SOC/SSOC dated before, on or after February 19, 2019.

**7.06 PROCESSING REQUESTS FOR SUPPLEMENTAL CLAIM REVIEWS, HIGHER- LEVEL REVIEWS AND APPEALS**

A request for a Supplemental Claims Review and/or Higher- Level Review will be received as an image through established incoming mail procedures. Clerical Support will assign any Supplemental Claim or Higher-Level Review request to the appropriate employee through workflow. Any request accompanied by a Notice of Disagreement VA Form 10182 would signify a request for appeal to the Board of Veterans Appeals and will be sent to the Board of Veterans Appeals by Clerical Support. For individual cases where there is a question whether correspondence is an appeal, Section Chief 295 will review the correspondence and make that determination.

In all cases of requests for a Supplemental Claim Review or a Higher-Level Review, the Veterans Claims Examiner assigned the review will record the claim in CASEFLOW.

Information that should be recorded is:

* Regional office selector
  + Philadelphia Insurance Center, PA – RO80
* Which form are you processing?
  + Decision Review Request: Higher-Level Review – VA Form 20-0996
  + Decision Review Request: Supplemental Claim – VA Form 20-0995
  + Decision Review Request: Board Appeal – VA Form 10182
* Enter the Veteran’s ID or SSN
* What is the Benefit Type?
  + Insurance
* What is the Receipt Date of this form?
  + Enter the date appeal was received
* Was an informal conference requested?
  + Choose No or Yes
* Was an interview by the same office requested?
  + Choose No or Yes
* Is the claimant someone other than the Veteran?
  + Choose No or Yes
* Did they agree to withdraw their issues from the legacy system?
  + Choose N/A or Yes
* Add/Remove Issues
* Click on Add Issue
  + Does issue 1 match any of these categories?
  + Issue category
    - Choose the issue on appeal, example - RH(1922(a) S-DVI Timely application
* Decision date
  + Enter decision date
* Issue decision
  + Enter description, example - S-DVI denied due to untimely submitted application
* Does issue 1 match any of these VACOLS issues?
  + Choose Medically qualified or None of these match
* Click on Add this issue
* Add/Remove Issues
  + Add another issue to applicable
* Establish the High-Level Review, Supplemental Claim or Board Appeal

If the review requested is a Supplemental Claims Review, as evidenced by the Veteran/Claimant including a Decision Review Request Supplemental Claim, VAF 20-0995, the review of the claim will be assigned by digit assignment.

If the Veteran/Claimants request a Higher-Level Review, they may submit a Decision Review Request Higher-Level Review VAF 20-0996. In the case of a request for a Higher-Level Review, care and caution should be taken to be sure a “new” reviewer with more experience than the original decision maker be utilized to review the claim. In cases where a higher-level review is assigned to the same reviewer who made the original decision, the reviewer assigned should inform their supervisor, so the review may be reassigned.

If a Higher-Level Review or Supplemental Claim is received without a VAF 20-0995 or 20-0996, or if the received form is substantially incomplete, the Veterans Claims Examiner will develop for the necessary information by forwarding the Veteran/Claimant the appropriate form, identifying what information is required for VA to proceed, requesting they return the completed form and/or evidence as needed. A Supplemental Claim must be substantially complete and must at least identify or include potentially new evidence for consideration by Insurance Service.

If a complete request is submitted by the Veteran/Claimant within 60 days of the date of the VA notification of such incomplete request or prior to the expiration of the one-year filing period, VA will consider it filed as of the date VA received the incomplete form that did not meet the standards of a complete request. This is only pertinent in terms of the one-year deadline to file a Higher-Level Review or to preserve the date for a Supplemental Claim Review.

**7.07 FAVORABLE FINDINGS WILL NOT BE REVERSED**

Any finding favorable to a Veteran/Claimant is binding on all subsequent Insurance and Board of Veterans Appeals decision makers, unless there is evidence rebutted by clear and convincing evidence to the contrary.