



**DEPARTMENT OF VETERANS AFFAIRS**  
**Veterans Benefits Administration**  
**Washington, D.C. 20420**

September 24, 2013

Director (00/21)  
All VBA Regional Offices and Centers

In Reply Refer To: 212B  
Fast Letter 13-23

ATTN: All Veterans Service Center and Pension Management Center Personnel

SUBJ: Implementation of Recommendations of the Veterans Benefits Administration (VBA)  
Appeals Design Team

## **Purpose**

The purpose of this fast letter (FL) is to provide guidance to VA regional offices (ROs) on the implementation of several of the recommendations proven effective by the VBA Appeals Design Team.

Use this fast letter and the enclosures to process NODs for compensation claims only. Pension and Fiduciary (P&F) Service is separately developing standardized NOD forms, checklists, and other guidance for the benefit programs it administers. Until further notice from P&F Service, process NODs for these benefit claims (i.e., pension, dependency and indemnity compensation, accrued, and burial benefits) according to the guidance in [M21-1MR Part I, Chapter 5](#).

## **Background**

As part of VBA's Transformation, the Under Secretary for Benefits established an Appeals Design Team with membership from the Board of Veterans' Appeals (BVA), the Office of General Counsel, VBA leadership, and Veterans Service Organizations. The Design Team identified several changes which could be made to the appeals process at the Regional Office level and piloted these changes at the Houston VA Regional Office.

Because the pilot demonstrated the success of several of these changes, VBA is implementing the following recommendations for compensation claims:

- Use of [VA Form 21-0958, Notice of Disagreement](#) (NOD Form)
- Use of an Appeals In-Process Review Checklist
- Use of an Appeals Certification to BVA Checklist

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## **Procedures**

### **Notice of Disagreement Form/Telephone Contact**

The Appeals Design Team developed a standard Notice of Disagreement (NOD) form that was shown to be useful in several respects. First, it improved the control time for entering an appeal into the Veterans Appeals Control and Locator System (VACOLS) because the written submission from a claimant was easily identified as an NOD. Second, its “fill-in-the-blank” format provided appellants the opportunity to state their disagreement with an underlying decision in a clear manner, while also allowing the appellant to indicate the disability evaluation sought. Third, the NOD form provided appellants an opportunity to discuss their NOD over the phone with a Decision Review Officer (DRO) or other designated employee (hereinafter referred to as ‘appeals team representative’). The aforementioned individual will be identified at the discretion of the Veterans Service Center Manager (VSCM). This telephone contact promoted early involvement with an appeals team representative in the appeals process and afforded the opportunity for the appeals team representative to explain the appeal process to the appellant, which led to the resolution of appeals in many cases.

It is important to note that appellants still have a right to a review under 38 CFR 3.2600. The NOD form does not serve as an election notice. During the phone call, if requested, appellants can verbally express their choice between the traditional appeals process and a de novo review.

Effective immediately, the new appeals paragraph containing the link to the NOD form should be included with all final award notification letters. For award letters generated in the Personal Computer Generated Letters (PCGL) application, changes will be needed under the paragraph heading “What You Should Do If You Disagree With Our Decision.” The autotexts for each available appeal paragraph are included in Enclosure A and will be used in all notification letters generated by ROs.

VA will continue to accept disagreements from appellants who do not use VA Form 21-0958 (NOD form) until the regulation is amended to require the use of the form. NODs not submitted on VA Form 21-0958 will be processed according to guidance provided in [M21-1MR Part I, Chapter 5](#).

Note: Guidelines for appeals on claims worked in the Veterans Benefits Management System (VBMS) can be found in the [Transformation and Initiative Pilot \(TIP\) Sheet titled ‘Processing Appeals in VBMS’](#).

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*Processing the NOD form and making phone calls*

1. When the NOD is received, the designated employee (determined at the discretion of the VSCM) will place it under control in VACOLS and associate it with the Veteran's record.
2. The designated employee will review the form to determine if the appellant requested a phone call regarding his/her NOD. If a phone call was requested, the employee will notify the appeals team representative.
3. Phone calls (if requested):
  - a. If contact is made, the appeals team representative will document the conversation on [VA Form 27-0820, Report of General Information](#). A copy of this documentation will be provided to the appellant's Power of Attorney (POA) and associated with the Veteran's record.
  - b. The appeals team representative will make at least two attempts to contact the appellant at the time he/she requested. If contact cannot be made with the claimant, the negative contact must be documented on VA Form 27-0820, a copy provided to his/her POA, and associated with the Veteran's record.
  - c. The appeals team representative reserves the right to determine not to call the appellant when circumstances indicate that such a call would not prove to be productive (due to a service-connected condition, for example). In such cases, the appeals team coach will be notified, as well as the appellant's POA.

See Enclosure B for a suggested telephone script.

**Appeals In-process Review Checklist and Appeals Certification to BVA Checklist**

The checklists for In-Process Reviews and BVA Certification are tools used to improve the quality of the appeal process and reduce avoidable remands. Effective immediately, both will be used in every appeal. As noted previously, guidelines for appeals on claims worked in VBMS can be found in the [TIP Sheet titled 'Processing Appeals in VBMS'](#).

*Use of the Appeals In-Process Review Checklist and Appeals Certification to BVA Checklist:*

1. The Appeals In-Process Review Checklist, Enclosure C, is to be used throughout the entire appeals process. Each employee who works on an appeal must initial at each stage of the process, certifying compliance with every action taken on the appeal.

For appeals in VBMS, the checklist will be followed, but a hard copy will not be uploaded at this time. If the answer on the checklist is 'Yes' or 'N/A', the reviewer

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will input a note on the claim screen that the checklist was followed. If the answer on the checklist is 'No', the reviewer will provide details of items that are missing. There is a character limit for notes; therefore, it's important that notes are succinct.

If directed development is needed, the reviewer will utilize [VA Form 21-6789, \*Deferred Rating Decision\*](#). This form will be uploaded in the Veteran's e-folder. For paper claim files, the reviewer will use Enclosure C and maintain it with the file until resolution of the appeal.

2. The next employee working the case will review that the actions certified as previously completed were, in fact, completed correctly.
3. The Appeals Certification to BVA Checklist, Enclosure D, is to be used for all cases certified to BVA. The checklist will be completed by the appeals team representative certifying the case to BVA. Another appeals team representative (determined at the VSCM's discretion) will provide a second-signature review.

For appeals in VBMS, the checklist will be followed, but a hard copy will not be uploaded at this time. If the answer on the checklist is 'Yes' or 'N/A', the reviewer will input a note on the claim screen that the checklist was followed. If the answer on the checklist is 'No', the reviewer will provide details of items that are missing. There is a character limit for notes; therefore, it's important that notes are succinct. For paper claim files, the reviewer will use Enclosure D and maintain it with the file until resolution of the appeal.

## Questions

Direct all questions concerning this letter to VAVBAWAS/CO/212A.

/S/

Thomas J. Murphy  
Director  
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/S/

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Enclosures