

HEALTH BENEFIT APPEALS PROCESSING

- 1. REASON FOR ISSUE:** This Veterans Health Administration (VHA) Directive provides policy guidance regarding Health Benefit Appeals and certification of these appeals to the Board of Veterans' Appeals (BVA).
- 2. SUMMARY OF CONTENT:** This VHA Directive identifies timelines, policy, and guidance when completing a Health Benefit Appeal and certification of such appeal to the BVA.
- 3. RELATED ISSUES:** None.
- 4. RESPONSIBLE OFFICE:** The Chief Business Office (10NB) is responsible for the content of this Directive. Questions may be referred to VHACBOAdminAppeals@va.gov.
- 5. RESCISSION:** VHA Directive 2008-039, dated July 31, 2008, is rescinded.
- 6. RECERTIFICATION:** This document is scheduled for recertification on or before the last working day of August 2018.

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HEALTH BENEFIT APPEALS PROCESSING

1. PURPOSE: This Veterans Health Administration (VHA) Directive provides policy guidance regarding Health Benefit Appeals and certification of such appeals to the Board of Veterans' Appeals (BVA). **AUTHORITY:** 38 U.S.C. § 7105(d); 38 CFR 17.133; 38 CFR 17.276; 38 CFR 17.904; 38 CFR Parts 19 and 20.

2. BACKGROUND: In accordance with Title 38 Code of Federal Regulation (CFR) Part 20, when the Department of Veterans Affairs (VA) makes a determination regarding benefits, the Veteran may file a "Notice of Disagreement" (NOD), which is a written communication expressing dissatisfaction or disagreement with a decision rendered by VA and a desire to contest the result. For non-Veteran beneficiaries, a description of their appeals processes is available at 38 CFR 17.276 and 17.904. VA must review the initial decision when a NOD is filed and must develop the case into a formal appeal, which can be submitted to BVA for a final decision. This Directive outlines VHA policy for processing health benefit appeals at the facility level and the submission of appeal records to the Chief Business Office (CBO) (10NB6) for certification to BVA. Health benefit appeals are also known as medical appeals. Health benefits appeals include questions of eligibility for hospitalization, outpatient treatment, and nursing home and domiciliary care; for sensori-neural aids such as eyeglasses and hearing aids; and for other benefits administered by VHA. Health benefits appeals do not include medical determinations, such as the need for and appropriateness of specific types of medical care and treatment for an individual. **NOTE:** *For more information, consult 38 CFR 20.101(b).*

3. POLICY: It is VHA policy that when a Veteran expresses a disagreement with a VA determination regarding benefits, the Veteran must be advised of the Veteran's right to appeal that decision, and the correct process for initiating such an appeal.

4. RESPONSIBILITIES

a. **Facility Director.** The facility Director or designee is responsible for:

(1) Ensuring claimants who disagree with a VA determination are afforded due process by providing:

(a) A Veterans Claims Assistance Act Notice (VCAA);

(b) VA Form 4107VHA, Your Rights to Appeal Our Decision;

(c) VA Form 21-22, Appointment of Veterans Service Organization as Claimant's Representative; and

(d) VA Form 21-22a, Appointment of Attorney as Claimant's Representative.

(2) Ensuring administrative staff adheres to established timeframes for processing appeals.

(3) Ensuring staff use the Reconsideration Process defined in 38 CFR 17.133.

(4) Ensuring a Health Benefit Appeal record is established for Veterans appealing VA's decision. This record must contain copies of the following information in sequential order and properly secured in a brown, 2-prong folder:

(a) A record of the Veteran applying for benefits or requesting services; for example: application for care, request for payment of non-VA medical services, request for a sensori-neural aid, request for beneficiary travel, and request for dental services.

(b) A Hospital Inquiry (HINQ).

(c) The VCAA notice or VCAA memorandum provided to the Veteran as required by paragraph 4a(1)(a) above.

(d) The decision dated with the original date of determination.

(e) The NOD. **NOTE:** *The Veteran, or authorized representative, must express dissatisfaction or disagreement with the decision and a desire to contest the decision.*

(f) The Statement of the Case, as described in 38 CFR 19.29.

(g) The signed and dated VA Form 9, Appeal to Board of Veterans' Appeals.

(h) The VA Form 8, Certification of Appeal.

(i) The Form Letter (FL) 1-26, Notice to Claimant of Transmittal of Appeal to BVA. **NOTE:** *FL 1-26 can be found at: <http://vaww4.va.gov/vaforms/>. This is an internal VA Web site and is not available to the public.*

(5) Ensuring the health care facility submits the complete and certified (as required by 38 CFR 19.35) case record to VHA CBO within 60 days from the date of the VA Form 9, Appeal to Board of Veterans' Appeals. The facility must also forward all appeal files directly to the CBO at the following address:

VHA Chief Business Office (10NB6)
Appeals Team
810 Vermont Avenue, NW
Washington, DC 20420

(6) Providing to VHA CBO (10NB6), within 7 days of discovery, any information identified by VHA CBO (10NB6) as missing from the appeal folder, or requesting an extension of time if this deadline cannot be met.

(7) Processing appeals remanded by BVA according to the Appeals Procedure Guide located at: <http://vaww1.va.gov/CBO/apps/policyguides/index.asp> within 60 days from the date of the remand. VHA must fully comply with BVA's remand request. **NOTE:** *This is an internal VA Web site and is not available to the public.*

(8) Ensuring that staff at the facility interact with the VHA CBO Appeals Team (10NB6) regarding appeals that originate at their facility.

(9) Complying with any orders or final decisions by BVA.

b. **VHA CBO (10NB6)**. The VHA CBO (10NB6) is responsible for:

(1) Ensuring all appeals received are reviewed for completeness;

(2) Ensuring the health care facility is contacted for any appeal determined to be incomplete, and requesting corrective action or information for the appeal;

(3) Entering appeals information into the Veterans Appeals Control and Locator System to be placed on BVA's docket;

(4) Scheduling videoconference hearings, Travel Board hearings, and coordinating with BVA's hearing office to schedule central office hearings when requested;

(5) Obtaining Veteran's claims folder from the Veterans Benefits Administration facility when available;

(6) Transferring Health Benefit Appeals records to BVA for the final decision making process; and

(7) Receiving and transmitting remands and decisions from BVA and to the appropriate health care facility for action.

5. REFERENCES

a. Title 38 CFR Parts 17, 19, 20

b. Title 38 U.S.C. Sections 5904, 7104(a), 7105(d)(3), 7304

c. Appeals Procedure Guide, found at:

http://vaww1.va.gov/cbo/apps/policyguides/contents.asp?address=VHA_PG_1601G.

NOTE: This is an internal VA Web site and is not available to the public.