Department of Veterans Affairs **VHA NOTICE 2024-07**
Veterans Health Administration
Washington, DC 20420 **June 18, 2024**

THE APPEALS MODERNIZATION ACT IN THE VETERANS HEALTH ADMINISTRATION

1. By direction of the Office of the Under Secretary for Health, Veterans Health Administration (VHA), this VHA notice updates interim policy implementing the Veterans Appeals Improvement and Modernization Act of 2017 (AMA, P.L. 115-55) and other legal requirements related to administration of VHA benefits until a full directive is published.

2. The Department of Veterans Affairs (VA) provides various benefits to millions of eligible Veterans, their dependents and survivors, as well as certain caregivers and community providers (referred to as "Claimants" throughout this notice). VHA provides VA's health care and related benefits, both in VA medical facilities and in the community. As an agency of the Federal government, VHA is bound by the rules and regulations governing delivery of health care, as well as the statutes and regulations governing VA benefits, claims and appeals. ***NOTE:*** *Benefits decisions covered by this notice are distinct from medical determinations covered by VHA Directive 1041, Appeal of Veterans Health Administration Clinical Decisions, dated September 28, 2020.*

3. Benefits laws and regulations establish universal requirements that apply to all VA benefits claims, including VHA. Under these laws and regulations:

a. VHA employees have a duty to help Claimants complete the necessary applications. See VHA Directive 1134, Provision of Medical Statements and Completion of Forms by VA Health Care Providers, dated November 28, 2016.

b. Pursuant to 38 U.S.C. § 5103, VHA employees have a duty to notify Claimants of the evidence necessary to prove their claims.

c. Pursuant to 38 U.S.C. § 5103A, VHA employees have a duty to help Claimants gather relevant evidence from Federal and other sources.

d. VHA employees have a duty to decide Claimants' claims for benefits quickly and accurately and to provide Veterans, dependents, survivors, caregivers and their accredited representatives detailed notice explaining VA's decisions and the requirements for initiating reviews of these decision. See 38 U.S.C. § 5104.

4. AMA permits a dissatisfied Claimant three options when contesting a VA benefit decision: a Higher-Level Review; a Supplemental Claim; or an appeal to the Board of Veterans' Appeals (Board). The three options, also known as lanes, are independent of one another and do not have to be utilized in a specific order; however, an issue can reside in only one lane at a time. If a Claimant is dissatisfied with the outcome of a decision in a lane, the Claimant is generally free to pursue the issue through the other two lanes.

NOTE: *A Claimant on whose behalf a written (including electronic where available) post-decision review request is filed with VHA or the Board, depending on the lane selected, may utilize any or all of the three lanes of review, but may only elect one lane at a time for any discrete issue. A Claimant has 1 calendar year from the date on the notice of VHA's decision to submit a request for Higher-Level review or Board Appeal. A Supplemental Claim may be filed at any time following a VHA benefits decision. More information on the three lanes of review is in Appendix A, including certain exceptions that apply to pursuing an issue through another lane.*

a. **Higher-Level Review.** A Higher-Level Review is a second review of a claim by VHA. A Higher-Level Review is initiated by timely submission of a VA Form 20-0996 to the address listed within the decision notice letter and is performed by a higher-level, or more experienced or senior, adjudicator. VHA will not consider new evidence or allow a hearing but will hold an informal conference with a Claimant and representative, if requested. VA Form 20-0996, Decision Review Request: Higher-Level Review, is available at https://www.vba.va.gov/pubs/forms/VBA-20-0996-ARE.pdf. ***NOTE:*** *Timely is defined as 1 year from the date of the VHA decision for which the Claimant is seeking Higher-Level Review.*

b. **Supplemental Claim.** A Supplemental Claim is a written application for a benefit previously denied by VHA. New and relevant evidence must be provided or identified and a VA Form 20-0995 for VHA to reopen and re-adjudicate the claim. When the Claimant identifies additional evidence, VA's duty to assist the Claimant in gathering that evidence is triggered. If a Supplemental Claim is received without providing or identifying new and relevant evidence, the request may be denied based on the lack of new and relevant evidence. If new and relevant evidence is received or identified with a Supplemental Claim, the claim must be decided on the merits. VA Form 20-0995, Decision Review Request: Supplemental Claim, is available at https://www.vba.va.gov/pubs/forms/VBA-20-0995-ARE.pdf. ***NOTE:*** *A Claimant may file a Supplemental Claim for a benefit at any time after VHA issues a decision; however, to continuously pursue the claim, Claimants must submit the Supplemental Claim within 1 year from the date of the VHA decision.*

c. **Board Appeal.** A Board Appeal is initiated by a Claimant (then called an appellant), or their authorized representative, seeking review by a Veterans Law Judge of one or more issues previously denied by VHA. The appellant may elect one of three methods of review, or dockets, with the Board: request direct review by a Veterans Law Judge, submit new evidence, or request a hearing Submitting a Board Appeal requires the use of VA Form 10182, Decision Review Request: Board Appeal (Notice of Disagreement), available at: https://www.va.gov/VAFORMS/va/pdf/VA10182.pdf.

5. EIGHT-POINT NOTICE

Any time VHA issues a decision regarding benefits, VHA must provide the Claimant an eight-point notice that:

a. Identifies the issues adjudicated.

b. Summarizes the evidence considered.

c. Summarizes the applicable laws and regulations.

d. Identifies findings favorable to the Claimant.

e. Identifies elements not satisfied leading to a denial of benefits.

f. Explains how to obtain or access evidence used in making the decision.

g. Explains the procedure for obtaining review of the decision.

h. If applicable, identifies the criteria that must be satisfied to grant service connection or the next higher level of compensation. ***NOTE:*** *This point does not generally apply to VHA.*

6. The VHA business lines who make determinations of law or fact that affect VHA benefits, and are so bound by the requirements in paragraphs 4 and 5 and the legal requirements of AMA, include:

NOTE: *Under each program office, the types of claims, decision review requests and appeals handled by that office are listed. This is not intended to be an exhaustive list.*

a. **Office of Member Services.**

(1) **Health Eligibility Center.**

(a) Eligibility and Enrollment.

(b) Income Verification Program.

(2) **Veterans Transportation Program.**

(a) Beneficiary Travel Claims.

(b) Beneficiary Travel Mileage Reimbursement.

(c) Special Mode Transportation Reimbursement.

b. **Office of Dentistry.** Dental Eligibility.

c. **Office of Prosthetics and Sensory Aids Services.**

(1) Clothing Allowance.

(2) The Home Improvement Structural (HISA) Program.

(3) Under 38 C.F.R. § 20.104(b), appellate jurisdiction extends to questions of eligibility for devices such as prostheses, canes, wheelchairs, back braces, orthopedic shoes and similar appliances.

d. **The Caregiver Support Program**. Options available for further review or appeal of Program of Comprehensive Assistance for Family Caregivers (PCAFC) decisions are described in VA Form 10-305, Your Rights to Seek Further Review of Program of Comprehensive Assistance for Family Caregivers (PCAFC) Decisions, available at: https://www.va.gov/find-forms/about-form-10-305/ . ***NOTE:*** *Decisions related to medical determinations are subject to clinical appeal upon request. For more information on review of clinical decisions (medical determinations), see VHA Directive 1041.*

e. **VHA Office of Finance.**

(1) **Payment Operations.** Under 38 U.S.C. §§ 1725 and 1728, VA is authorized to reimburse non-VA emergency care when applicable requirements are met. ***NOTE:*** *Non-VA emergency care claims and decision reviews are only covered if not handled by the Community Care National Contract (CCN). All CCN and Veterans Care Agreement (VCA) claims and disputes are excluded from AMA processes and procedures, the sole remedy for these is with their underlying contracts. See 38 C.F.R. § 17.4135 for more information on VCA disputes, and VHA Directive 1041 for more information on community care eligibility appeals, which are considered medical determinations.*

(2) **Revenue Operations.** Consolidated Patient Account Centers (CPAC).

f. **VHA Office of Integrated Veteran Care.** Veteran and Family Member Programs.

(1) Civilian Health and Medical Programs of the Department of Veterans Affairs (CHAMPVA).

(2) Foreign Medical Program.

(3) Camp Lejeune Family Member Programs.

(4) Spina Bifida Program.

(5) Children of Women Vietnam Veterans.

g. **VHA State Home Per Diem Program Office.**

h. **Office of Women's Services.**

(1) Infertility and Assisted Reproductive Technology, to include in vitro fertilization, as included in the medical benefits package at 38 C.F.R. § 17.38(c)(2) and governed by 38 C.F.R. § 17.380. ***NOTE:*** *For more information on eligibility see VHA Directive 1334(1), In Vitro Fertilization Counseling and Services Available to Certain Eligible Veterans and their Spouses, dated March 12, 2021, and for more information on review of clinical decisions (medical determinations), see VHA Directive 1041.*

(2) Adoption Reimbursement. Under 38 C.F.R. § 17.390, reimbursement for qualifying adoption expenses is available.

7. REQUIRED SYSTEMS FOR AMA PROCESSING

a. VHA utilizes three different systems for processing AMA documents (Higher-Level Reviews, Supplemental Claims, and file requests related to Board Appeals).

(1) **The Centralized Mail Portal**. The Centralized Mail Portal (CMP) is the pathway through which VHA receives mail related to Higher-Level Reviews, Supplemental Claims and through which VHA receives file requests for Board Appeals . VHA utilizes the CMP to receive these packets and, in the case of file requests, return requested documents to the Board. ***NOTE:*** *The CMP may also be referred to as the Janesville mail portal or evidence intake center. Some file requests may come through email from VHABENEFITAPPEALS@va.gov before being routed to the appropriate business line. Non-benefits related mail may also be received through the CMP and routed to the appropriate business line for resolution.*

(2) **Caseflow.** Caseflow is a workload management system designed to support accurate and timely processing of decision reviews. VHA utilizes Caseflow to record received Higher-Level Reviews, Supplemental Claims and Board Appeals, and to track those documents to completion.

(3) **Veterans Benefit Management System.** Veterans Benefit Management System (VBMS) is VBA's system of record and is utilized by the Board to review evidence files for Board Appeals. VBMS often contains information relevant to a VHA claims and decision reviews, for example, information on whether a Veteran has an authorized representative. VHA staff responsible for work associated with VHA claims and decision reviews should be reviewing VBMS for additional information on every claim or decision review request that they work, as applicable.

b. VHA staff responsible for work associated with VHA claims and decision reviews at the VHA Central Office, VA program office, Veterans Integrated Service Network (VISN) and VA medical facility level must use the CMP, VBMS and Caseflow to process VHA claims, decision review requests, mail, and other relevant records as applicable. All VHA staff deciding or administering a VHA benefit, including at the VA medical facility or VISN level, must prioritize timely resolution of claims and decision review requests, to include prompt submission of evidence files for Board Appeals. ***NOTE:*** *Any questions about the above systems or requests for access should be submitted via the VHA Appeals Access Request/Issue Reporting SharePoint site at https://dvagov.sharepoint.com/sites/VACOVHACOS/10B4/ClaimsandAppealsModernization/SitePages/VHA-Appeals-Access-Requests-Issue-Reporting.aspx. This is an internal VA website that is not available to the public.*

8. The Claims and Appeals Modernization Office (CAMO) in 10BRAP is VHA's policy lead regarding AMA implementation. CAMO works with affected VHA program offices to draft policy and procedures establishing new benefits adjudication infrastructure, as well

as appropriate oversight and tracking to ensure that VHA benefits claims and decision reviews are processed efficiently and accurately. All VHA communication involving the Board of Veterans' Appeals must route through CAMO as VHA's appeals representative. Through FY 2024, CAMO is spearheading the AMA Implementation Integrated Project Team (IPT) to modernize VHA benefits policies, processes, systems, and tools across program areas affected by AMA. IPT membership is comprised of representatives from business lines administering VHA benefits. Recommendations will be made for future modernization initiatives, including an administration level approach for compliance and oversight with VHA benefits claims and decision reviews regulatory requirements.

9. CAMO is developing recommended training for individuals in all VHA business lines who make determinations of law or fact that affect VHA benefits. This includes individuals who process and adjudicate claims and decision reviews in the program offices listed in paragraph 6, as well as those at the VISN and VA medical facility level. This training will ensure that AMA's procedures and legal requirements are known throughout VHA. Generalized training produced by CAMO will include informational documents and a forthcoming nationally available Training Management System (TMS) module.

10. REFERENCES

a. P.L. 115-55.

b. 38 U.S.C. § 1725.

c. 38 U.S.C. § 1728.

d. 38 U.S.C. § 5103.

e. 38 U.S.C. § 5103A.

f. 38 U.S.C. § 5104.

g. 38 C.F.R. § 17.38(c)(2).

h. 38 C.F.R. § 17.380.

i. 38 C.F.R. § 17.390.

j. 38 C.F.R. § 17.4135.

k. 38 C.F.R. § 20.104(b).

l. VHA Directive 1041, Appeal of Veterans Health Administration Clinical Decisions, dated September 28, 2020.

m. VHA Directive 1134, Provision of Medical Statements and Completion of Forms by VA Health Care Providers, dated November 28, 2016.

n. VHA Directive 1334, In Vitro Fertilization Counseling and Services Available to Certain Eligible Veterans and their Spouses, dated March 12, 2021.

11. This notice serves as interim VHA policy on VHA benefits claims and decision reviews until the full directive can be drafted and published. This notice supersedes all conflicting VHA policy.

12. Additional information on AMA can be found at https://dvagov.sharepoint.com/sites/VACOVHACOS/10B4/ClaimsAndAppealsModernization/SitePages/ProjectHome.aspx. ***NOTE:*** *This is an internal VA website that is not available to the public.*

13. All inquiries concerning this action should be addressed to VHABENEFITAPPEALS@va.gov.

14. This VHA notice will expire and be archived as of June 30, 2025.

BY DIRECTION OF THE OFFICE OF THE UNDER SECRETARY FOR HEALTH:

/s/ Ryung Suh, M.D.
VHA Chief of Staff

DISTRIBUTION: Emailed to the VHA Publications Distribution List on June 18, 2024.

VHA BENEFITS MODERNIZATION

The Appeals Modernization Act (AMA) provides more thorough notice of decisions and allows Veterans; their dependents and survivors; certain caregivers; and community providers to seek faster resolution of their disagreement with a Department of Veterans Affairs (VA) decision. If a Veteran receives an initial claim decision on or after February 19, 2019, and disagrees, they can choose one of three lanes to have their disagreement reviewed: a Supplemental Claim, a Higher-Level Review, or appeal to the Board of Veterans' Appeals (Board).

1. WHICH LANE IS MOST APPROPRIATE FOR THE VETERAN?

a. **Higher-Level Review Lane.**

(1) A Higher-Level Review consists of an entirely new review of a claim by a new, more experienced or senior claim decisionmaker.

(2) Claimants should select this option if they have no additional evidence to submit, but believe the benefit was denied in error.

(3) Veterans Health Administration (VHA) cannot assist a Claimant in gathering new evidence, but if the adjudicator discovers a duty to assist error in VHA's prior decision, the claim must be returned to the original decisionmaker to correct the error and issue a new decision.

(4) A Claimant or their representative can request an optional, one-time informal telephone conference with the decisionmaker to identify specific errors in the decision.

b. **Supplemental Claim Lane.**

(1) Claimants should select this option if they can provide or identify new and relevant evidence to support their VHA benefits claim.

(2) Appropriate VHA staff members have a duty to assist the Claimant in gathering any identified evidence. The duty to assist requires that reasonable efforts be made to obtain this evidence before issuing a decision.

(3) If no new and relevant evidence is provided or identified, VHA may deny the Supplemental Claim on that basis.

(4) If new and relevant evidence is provided or identified, VHA's review will include any new and relevant evidence obtained since the claim was last decided.

c. **Board Appeal.**

(1) A Board Appeal is accomplished by completing VA Form 10182, Decision Review Request: Board Appeal (Notice of Disagreement), and submitting it according to the instructions on the form.

(2) Claimants should select this option if they want review by a Veterans Law Judge (VLJ).

(3) There are three options, or “dockets”, that an appellant may select with a Board appeal:

(a) Direct Review docket: The fastest way to receive a decision when a Veteran or appellant believes everything needed to approve their claim is already in the file. The Board will not consider any new evidence, and the VLJ will decide their case based on the evidence in the record at the time of the decision they are appealing.

(b) Evidence Submission docket: Some appellants know they want or need to add additional evidence into their file for consideration by a VLJ. In that case, the Evidence Submission docket allows for additional evidence to be submitted by the appellant or their representative within 90 days of appealing to the Board.

(c) Hearing docket: This option is best if an appellant wants to appear personally before a VLJ. In most cases, this is done virtually.

2. WHAT IF A CLAIMANT STILL DISAGREES WITH A DECISION?

a. If a Claimant disagrees with a decision from the Higher-Level Review lane, they may choose to submit a Supplemental Claim or Board Appeal.

b. If a Claimant disagrees with a decision from Supplemental Claim lane, they may choose to submit another Supplemental Claim with new and relevant evidence, or elect either Higher-Level Review or Board Appeal.

c. If a Claimant disagrees with a decision by the Board, they may either submit a Supplemental Claim with new and relevant evidence, file a motion for reconsideration with the Board, or appeal to the U.S. Court of Appeals for Veterans Claims.

d. A discrete issue can only occupy one review lane at a time. For example, a Claimant filing a Supplemental Claim with new and relevant evidence following denial of enrollment must either wait until they receive a decision on that Supplemental Claim or withdraw the Supplemental Claim before submitting a request for a Higher-Level Review or Board Appeal regarding that denial.