

VSO Meeting Agenda – Follow-up  
February 12, 2020

**Topics**

- [Delays in Claims](#)
- [Manual changes](#)
  - [Granting SC Burial Benefits without an application for DIC](#)
  - [Attendants - Hourly Rate/Number of Hours Requirement](#)
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***Important:*** The manual references and guidance found in this document are current as of February 12, 2020. Manual references and guidance are frequently subject to change. It is still the responsibility of each employee to stay current of all current manual changes for accurate claims processing.

**Questions on Delays in Claim Processing**

VA provides priority processing for pension claimants identified as meeting one of the following criteria: homeless, terminally ill, former prisoner of war (FPOW), Purple Heart recipient (original claims), and Medal of Honor recipients. Outside of these criteria, the pension workload is prioritized based on the date of receipt of claim -- addressing the oldest claims first.

The Milwaukee PMC is subject to routing rules established within the National Work Queue (NWQ) and can only process what is distributed by the NWQ. We attempt to accept and “call in” what we can for claimants that are experiencing hardships that do not qualify under the “priority” criteria listed above (*e.g. a 100-year-old Veteran waiting on a claim*), but our ability to do so is limited.

If you have claims you determine to be outliers in terms of not being worked, you can always email questions to [PMCVSO.VBAMIW@va.gov](mailto:PMCVSO.VBAMIW@va.gov) and we will be happy to try and help.

## **Manual Changes**

**References regarding SC burial allowance without a claim when DIC is granted:**

### **VII.1.B.2.a. General Eligibility for the SC Burial Allowance (updated January 2, 2020)**

A SC burial allowance is payable for Veterans

- who died as a result of SC disability or disabilities (including [38 U.S.C. 1151](#))
- who were rated totally disabled (100 percent) for an SC disability or disabilities at time of death (excluding IU), or
- when Dependency and Indemnity Compensation (DIC) is granted (including DIC granted under [38 U.S.C. 1318](#) or [38 U.S.C. 1151](#)).

**Note:** [Public Law 114-315](#) allows VBA to grant a SC burial allowance without a claim when Dependency and Indemnity Compensation (DIC) benefits are granted. The DIC award establishes entitlement and dependency. However, VBA may not grant a SC burial allowance if a previous SC burial claim was submitted by a different claimant based on [38 CFR 3.1702](#).

**Exception:** The SC burial allowance is *not* payable if the Veteran's remains are unclaimed. Do not send the claim to the rating activity.

**References:** For more information on

- SC burial allowance, see
  - [38 CFR 3.1704](#), and
  - [38 U.S.C. 2307](#)
- the priority of claimants, see [M21-1, Part VII, 1.A.3.b](#)
- when to send claim for SC death for rating decision, see [M21-1, Part VII, 1.B.2.c](#), and
- treatment of IU for SC burial allowance, see [M21-1, Part VII, 1.B.2.d](#).

### VII.1.A.3.b. Priority of Payments (updated February 6, 2020)

For all burial benefits not paid automatically to the eligible surviving spouse at the notice of death, VBA may pay the applicable burial benefit to the first person to file a claim for burial benefits from the list of eligible claimants

- Veteran's surviving spouse
- survivor of a legal union between the deceased Veteran and the claimant that
  - existed on the date of the Veteran's death
  - was recognized under the law of the State in which the couple formalized the relationship, and
  - was evidenced by the State's issuance of documentation memorializing the relationship
- Veteran's child, regardless of age
- Veteran's parent, or
- the executor or administrator of the Veteran's estate or a person acting for the executor or administrator of the estate of the deceased Veteran.

**Exceptions:** The provisions of priority of claimants do not apply

- to a State, or an agency or political subdivision of a State, when claiming plot or interment allowance for burial in a State Veterans cemetery or other cemetery, or
- for the burial of a Veteran whose remains are unclaimed.

**Notes:**

- If either the *Executor/Administrator of Estate* or *Other* box is checked on the [VA Form 21P-530](#), or if no box is checked at all, and no executor or administrator of the estate has been appointed, a family member without documentation of executor or administrator of the estate will be considered the person acting for the estate. VBA may pay burial benefits based on a claim filed by a person acting for such estate who will distribute the burial benefits to the person or persons entitled to such distribution under the laws of the Veteran's last State of residence.
- Payment of the NSC burial allowance is authorized to funeral directors when a Veteran's remains are unclaimed.
- *Public Law 114-315* allows VBA to grant a SC burial allowance to a surviving spouse without a claim when Dependency and Indemnity Compensation (DIC) benefits are granted. In these situations, establish a burial end product (EP) and associated SC burial rating claim label with the same date of claim as the DIC claim. The DIC award establishes entitlement and dependency. However, VBA may not grant a SC burial allowance if a previous SC burial benefit was paid to a different claimant based on [38 CFR 3.1702](#).

**References:** For more information on

- general eligibility for the SC burial allowance, see [M21-1, Part VII, 1.B.2.a](#)
- death at a VA facility, see [M21-1, Part VII, 1.B.4](#)
- unclaimed remains, see [M21-1, Part VII, 1.B.7](#)
- plot or interment allowance for burial in a State Veterans cemetery, see [M21-1, Part VII, 1.B.5.c](#)
- plot or interment allowance for burial in in other than a State or national Veterans cemetery, see [M21-1, Part VII, 1.B.5.d](#)
- EPs, see [M21-4, Appendix B](#), and
- claim attributes, see [M21-4, Appendix C](#).

**IV.iii.1.B.6.e. SC Burial Allowance (updated February 6, 2020)**

*Public Law 114-315* allows the Veterans Benefits Administration (VBA) to grant a SC burial allowance to a surviving spouse without a claim when DIC benefits are granted. In these situations, establish an EP and associated SC burial rating claim label with the same date of claim as the DIC claim. The DIC award establishes entitlement and dependency. However, VBA may not grant a SC burial allowance if a previous SC burial allowance was paid to a different claimant based on [38 CFR 3.1702](#).

**References:** For more information on

- priority of claimants, see [M21-1, Part VII, 1.A.3.b](#)
- SC burial allowance, see [M21-1, Part VII, 1.B.2](#)
- EPs, see [M21-4, Appendix B](#), and
- claim attributes, see [M21-4, Appendix C](#).

## References regarding Attendants

### Hourly Rate/Number of Hours for In-Home Attendants (updated December 16, 2019)

[M21-1 V.iii.1.G.4.d.](#) outlines the information required for expenses related to in-home attendants. This was recently updated (December 16<sup>th</sup>, 2019) to discuss the requirement for the claimant to list the hourly rate/number of hours worked by their attendant(s).

V.iii.1.G.4.d. Use the table below to determine what the claimant must list for the itemization of expenses related to in-home attendant for medical purposes on a [VA Form 21P-8416](#)

Information  
Required on VA  
Form 21P-8416  
for Expenses  
Related to In-  
Home Attendant

If the claimant completes the following field ...	Then the claimant must list...
Name of Provider	the name of the provider to whom the claimant (or spouse) paid the expense.
Hourly Rate/Number of Hours	the hourly rate and number of hours worked by the attendant.
Amount Paid	the actual out-of-pocket amount that the claimant paid and for which no reimbursement is expected.
Date Paid (Month/Day/Year)	the year in which the expense was paid.  <b>Exception:</b> If there is an overlapping calendar year period, the day, month and year must be shown for the initial month of entitlement, and the month and year must be shown for the other months in the overlapping period.
For Whom Paid	self, spouse, child, etc.  <b>Note:</b> If the claimant does not have dependents, this field may be blank. (No change if the claimant has dependents.)

Attendant fees need to be reported as medical expenses on prescribed forms such as the 534EZ/527EZ/8416, in order to allow them as valid medical expenses.

## Hourly Rates in Excess of \$35 (updated January 16, 2020)

### V.iii.1.G.3.m. In-Home Attendants for a Disabled Person

Payments for assistance with ADL and IADLs by an in-home attendant are medical expenses as long as the attendant provides the disabled individual with health care or custodial care.

Payments must be commensurate with the number of hours that the provider attends to the disabled person. **Hourly rates in excess of \$35 require verification and documentation.**

The attendant must be a licensed health care provider unless

- the disabled individual is determined by rating to require A&A or housebound, or
- a physician, physician assistant, certified nurse practitioner, or clinical nurse specialist states in writing that, due to a physical, mental, developmental, or cognitive disorder, the individual requires the health care or custodial care that the in-home attendant provides.

#### **Notes:**

- Examples of medical and nursing services are physical therapy, administration of injections, placement of indwelling catheters, and the changing of sterile dressings.
- Examples of custodial care include assisting a person with ADL and may include assisting a person with IADL alone when the person has a physical, mental, developmental, or cognitive disorder.

**Example:** A Veteran is rated in need of A&A by VA. The Veteran pays an attendant to administer medication and provide for the Veteran's personal needs. The attendant also cooks the Veteran's meals and cleans house.

Allow the entire amount paid to the attendant as a deductible medical expense. It makes no difference whether the attendant is a licensed health care provider.

**References:** For more information on

- the definition of custodial care, see [M21-1, Part V, Subpart iii, 1.G.3.f.](#)
- persons eligible and ineligible to be rated for A&A or housebound, see [M21-1, Part V, Subpart iii, 1.G.3.h](#)
- verification of in-home attendant fees, see [M21-1, Part V, Subpart iii, 1.G.3.n](#)
- documentation of in-home attendant fees, see [M21-1, Part V, Subpart iii, 1.G.3.o](#)

- questionable medical expenses, see [M21-1, Part V, Subpart iii, 1.G.5.a](#), and
- in-home care, see [38 CFR 3.278\(d\)\(2\)](#).

### **Signature Issues - Reminder**

Appointed representatives such as VSOs may sign the new forms for decision review requests (VA Form 20-0995, 20-0996, or 10182), but they cannot sign a prescribed form for initial entitlement to benefits, such as a VA Form 527EZ or 534EZ, unless they would meet the requirements of an alternate signer. A fully complete [VA Form 21-0972, Alternate Signer Certification](#), allows VA to accept the signature of an alternate signer on behalf of certain claimants or beneficiaries without further development. The requirements for an alternate signer are found below.

**III.ii.1.C.3.b. Requirements for an Alternate Signer** [38 U.S.C. 5101](#) requires an *alternate signer* be at least one of the following:

- a court-appointed representative
- an individual responsible for the care of the claimant or beneficiary, including a spouse or other relative
- an attorney-in-fact or agent authorized to act on behalf of the claimant or beneficiary under a durable POA, or
- a manager or principal officer acting on behalf of an institution caring for the claimant or beneficiary.

**Note:** When the evidence of record includes documentation reflecting that a court or VA finding has been made concerning the claimant's competency status, accept a signature of any of the following on behalf of a claimant without following the procedures for alternate signers:

- a court appointed guardian
- a court appointed fiduciary (with an associated finding of incompetency), or
- a VA appointed fiduciary.

### **III.ii.1.C.3.a. Individuals Authorized to Sign on Behalf of a Claimant**

*Public Law (PL) 112-154*, Section 502, amended [38 U.S.C. 5101](#) to authorize VA to accept an alternate signature on behalf of claimants or beneficiaries who

- are under age 18
- lack the mental capacity to provide substantially accurate information needed to complete a form or to certify that the statements made on a form are true and complete, or
- are physically unable to sign a form.

**References:** For more information on

- requirements for alternate signers, see [M21-1, Part III, Subpart ii, 1.C.3.b](#), and
- actions to take upon receipt of a form or application with an alternate signature, see [M21-1, Part III, Subpart ii, 1.C.3.c](#).

## **Blue Water Update**

### **Blue Water References**

Please refer to [M21-1 IV.ii.1.H.1.a. - i.](#) for the updated manual references pertaining to the processing of herbicide claims under the new law.

[38 CFR 3.309 \(e\)](#) - Disease associated with exposure to certain herbicide agents.

Please also refer to [M21-1 IV.ii.2.C.3.k.](#) for a list of conditions determined to have NO positive association with herbicide exposure.