



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

TL 09-04 is rescinded due to issuance of this FL

May 20, 2013

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

In Reply Refer To: 212A
Fast Letter 13-10

SUBJ: Guidance on Date of Claim Issues

Purpose

This fast letter provides guidance for establishing dates of claim including guidance for previously unadjudicated claims that are found or "discovered" in the claims folder.

Date of Claim Establishment

VA regional office staff should document claim receipt dates in claim folders and in the electronic systems in accordance with M21-1MR.III.ii.1.B.5 and M21-1MR.III.ii.1.C.10.

The date of claim for claims establishment purposes is as follows:

- For first or third party information, the *earliest date* the information is received in any Department of Veterans Affairs facility. This date should be identified from the earliest VA date stamp. Date stamps can be from any VA entity, including but not limited to, Regional Office (RO), Pension Management Center (PMC), Veterans Affairs Medical Center (VAMC) or Records Management Center (RMC). (M21-1MR.III.i.1.2.b).

Exception: Use the date a previously unadjudicated claim is discovered as the date of claim for system control purposes. The earliest date stamp shown on the discovered document shall not be used as the date of claim for purposes of establishing the EP, but it must be considered when determining the effective date if benefits are granted. This will ensure that the claimant is paid properly.

Important: A contention-level special issue has been created in MAP-D titled "Unadjudicated Claims Discovered" that should be used when establishing EPs for these claims.

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- For messages generated as a result of matching programs and BDN write-outs, the date shown on the message, or if no date is shown, the date of the review. (M21-1 V III., 19.10).
- **Exception:** BDN write-outs and 800 Series Work Items with the legend "Processing Date - Cycle XX, Month/Year" will use the Hines cycle schedule for date of claim purposes. Please see the Hines Cycle Schedule for more information.
- For due process, the date the notice of proposed adverse action is sent. (M21-1MR.I.2.II.7.b)
- For EP 930 that is established to (a) correct a case worked erroneously or (b) to control an EP that was cleared prematurely, use the same date of claim of the underlying EP prematurely cleared or incorrectly processed. (M21-4, Appendix C, Section II, and M21-1MR III.1.2.b)

Previously Unadjudicated Claims Discovered in Claims Folder

Authorization to establish a date of claim for a previously unadjudicated claim or "discovered" claim will be approved by the RO Director, or his/her designee, which will be no lower than an Assistant Director. The claim's establishment must be notated on the document by the Director, or his/her designee. This applies to either a paper notation in the claims folder or an electronic notation in the electronic record. After the claim is adjudicated, the Director must send an email to Compensation Service at VAVBAWAS/C/D/212A with "Unadjudicated Claim Discovered" in the subject line and the following information concerning the claim:

- SSN or claim number
- Claimant name
- End product
- Date of claim (reflecting the date of discovery of the unadjudicated claimed issues)
- Effective date (reflecting the effective date for payment purposes, if applicable)

CUE and Effective Date

The instructions provided in this fast letter do not govern assignment of effective dates for claim decision purposes or claims for clear and unmistakable error (CUE). In order for a CUE to occur, a decision has to have been made on a claim. Any newly "discovered" claims discussed above have never been decided; therefore, CUE is not applicable in these cases. See 38 CFR 3.105(a) for more information on CUEs.

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Effective date guidance is covered in 38 U.S.C. § 5110, 38 CFR 3.400 and 38 CFR §3.157. Please refer to this guidance when deciding the correct effective date to be assigned.

Questions

If you have any questions about this letter, please e-mail VAVBAWAS/CO/212A.

/S/
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Director
Pension and Fiduciary Service

/S/
Thomas J. Murphy
Director
Compensation Service