

§ 5101. Claims and forms

(a)(1) A specific claim in the form prescribed by the Secretary (or jointly with the Commissioner of Social Security, as prescribed by section 5105 of this title) must be filed in order for benefits to be paid or furnished to any individual under the laws administered by the Secretary.

(2) If an individual has not attained the age of 18 years, is mentally incompetent, or is physically unable to sign a form, a form filed under paragraph (1) for the individual may be signed by a court-appointed representative, a person who is responsible for the care of the individual, including a spouse or other relative, or an attorney in fact or agent authorized to act on behalf of the individual under a durable power of attorney. If the individual is in the care of an institution, the manager or principal officer of the institution may sign the form.

(b)(1) A claim by a surviving spouse or child for compensation or dependency and indemnity compensation shall also be considered to be a claim for death pension and accrued benefits, and a claim by a surviving spouse or child for death pension shall be considered to be a claim for death compensation (or dependency and indemnity compensation) and accrued benefits.

(2) A claim by a parent for compensation or dependency and indemnity compensation shall also be considered to be a claim for accrued benefits.

(c)(1) Any person who applies for, signs a form on behalf of an individual to apply for, or is in receipt of any compensation or pension benefit under laws administered by the Secretary shall, if requested by the Secretary, furnish the Secretary with the social security number of such person, or TIN in the case that the person is not an individual, and the social security number of any claimant, dependent, or beneficiary on whose behalf, or based upon whom, such person applies for or is in receipt of such benefit. A person is not required to furnish the Secretary with a social security number for any person to whom a social security number has not been assigned.

(2) The Secretary shall deny the application of or terminate the payment of compensation or pension to a person who fails to furnish the Secretary with a social security number or TIN required to be furnished pursuant to paragraph (1) of this subsection. The Secretary may thereafter reconsider the application or reinstate payment of compensation or pension, as the case may be, if such person furnishes the Secretary with such social security number or TIN.

(3) The costs of administering this subsection shall be paid for from amounts available to the Department of Veterans Affairs for the payment of compensation and pension.

(d) In this section:

(1) The term “mentally incompetent” with respect to an individual means that the individual lacks the mental capacity—

(A) to provide substantially accurate information needed to complete a form; or
(B) to certify that the statements made on a form are true and complete.

(2) The term “TIN” has the meaning given the term in section 7701(a)(41) of the Internal Revenue Code of 1986.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1225, § 3001; Pub. L. 97-295, § 4(95)(A), Oct. 12, 1982, 96 Stat. 1313; Pub. L. 99-576, title VII, § 701(61), Oct. 28, 1986, 100 Stat. 3296; Pub. L. 101-508, title VIII, § 8053(a), Nov. 5, 1990, 104 Stat. 1388-352; renumbered § 5101 and amended Pub. L. 102-40, title IV, § 402(b)(1), (d)(1), May 7, 1991, 105 Stat. 238, 239; Pub. L. 102-83, § 4(a)(1), (b)(1), (2)(E), Aug. 6, 1991, 105 Stat. 403-405; Pub. L. 108-183, title VII, § 708(c)(2), Dec. 16, 2003, 117 Stat. 2674; Pub. L. 112-154, title V, § 502(a), Aug. 6, 2012, 126 Stat. 1190.)

REFERENCES IN TEXT

Section 7701(a)(41) of the Internal Revenue Code of 1986, referred to in subsec. (d)(2), is classified to section 7701(a)(41) of Title 26, Internal Revenue Code.

PRIOR PROVISIONS

Prior section 5101 was renumbered section 8301 of this title.

AMENDMENTS

2012—Subsec. (a). Pub. L. 112-154, § 502(a)(1), designated existing provisions as par. (1) and added par. (2).

Subsec. (c)(1). Pub. L. 112-154, § 502(a)(2)(A), inserted “, signs a form on behalf of an individual to apply for,” after “who applies for” and “, or TIN in the case that the person is not an individual,” after “of such person” and substituted “claimant, dependent,” for “dependent”.

Subsec. (c)(2). Pub. L. 112-154, § 502(a)(2)(B), inserted “or TIN” after “social security number” in two places.

Subsec. (d). Pub. L. 112-154, § 502(a)(3), added subsec. (d).

2003—Subsec. (a). Pub. L. 108-183 substituted “Commissioner of Social Security” for “Secretary of Health and Human Services”.

1991—Pub. L. 102-40, § 402(b)(1), renumbered section 3001 of this title as this section.

Subsec. (a). Pub. L. 102-83, § 4(b)(1), (2)(E), substituted “Secretary” for “Administrator” after “prescribed by the”.

Pub. L. 102-83, § 4(a)(1), substituted “administered by the Secretary” for “administered by the Veterans’ Administration”.

Pub. L. 102-40, § 402(d)(1), substituted “5105” for “3005”.

1990—Subsec. (c). Pub. L. 101-508 added subsec. (c).

1986—Subsec. (b)(1). Pub. L. 99-576 substituted “surviving spouse or” for “widow or” in two places.

1982—Subsec. (a). Pub. L. 97-295 substituted “Health and Human Services” for “Health, Education, and Welfare”.

EFFECTIVE DATE OF 2012 AMENDMENT

Pub. L. 112-154, title V, § 502(b), Aug. 6, 2012, 126 Stat. 1191, provided that: “The amendments made by subsection (a) [amending this section] shall apply with respect to claims filed on or after the date of the enactment of this Act [Aug. 6, 2012].”

PILOT PROGRAMS ON EXPEDITED TREATMENT OF FULLY DEVELOPED CLAIMS AND PROVISION OF CHECKLISTS TO INDIVIDUALS SUBMITTING CLAIMS

Pub. L. 110-389, title II, § 221, Oct. 10, 2008, 122 Stat. 4154, provided that:

“(a) PILOT PROGRAM ON EXPEDITED TREATMENT OF FULLY DEVELOPED CLAIMS.—

“(1) IN GENERAL.—The Secretary of Veterans Affairs shall carry out a pilot program to assess the feasibility and advisability of providing expeditious treatment of fully developed compensation or pension claims to ensure that such claims are adjudicated not later than 90 days after the date on which such claim is submitted as fully developed.

“(2) DURATION OF PILOT PROGRAM.—The pilot program under this subsection shall be carried out during the one-year period beginning on the date that is 60 days after the date of the enactment of this Act [Oct. 10, 2008].

“(3) PROGRAM LOCATIONS.—The pilot program under this subsection shall be carried out at 10 regional offices of the Department of Veterans Affairs selected by the Secretary for purposes of such pilot program.

“(4) FULLY DEVELOPED CLAIM DEFINED.—For purposes of this subsection, the term ‘fully developed claim’ means a claim for a benefit under a law administered by the Secretary—

“(A) for which the claimant—

“(i) received assistance from a veterans service officer, a State or country [probably should be ‘country’] veterans service officer, an agent, or an attorney; or

“(ii) submits along with the claim an appropriate indication that the claimant does not intend to submit any additional information or evidence in support of the claim and does not require additional assistance with respect to the claim; and

“(B) for which the claimant—

“(i) submits a certification in writing that is signed and dated by the claimant stating that, as of such date, no additional information or evidence is available or needs to be submitted in order for the claim to be adjudicated; and

“(ii) for which the claimant’s representative, if any, submits a certification in writing that is signed and dated by the representative stating that, as of such date, no additional information or evidence is available or needs to be submitted in order for the claim to be adjudicated.

“(b) PILOT PROGRAM ON PROVISION OF CHECKLISTS TO INDIVIDUALS SUBMITTING CLAIMS.—

“(1) IN GENERAL.—The Secretary shall carry out a pilot program to assess the feasibility and advisability of providing to a claimant for whom the Secretary is required under section 5103(a) of title 38, United States Code, to provide notice of required information and evidence to such claimant and such claimant’s representative, if any, a checklist that includes information or evidence required to be submitted by the claimant to substantiate the claim.

“(2) DURATION OF PILOT PROGRAM.—The pilot program under this subsection shall be carried out—

“(A) for original claims filed after the date of the enactment of this Act [Oct. 10, 2008], during the one-year period beginning on the date that is 60 days after the date of the enactment of this Act; and

“(B) for claims to reopen and for claims for increased ratings that were filed after the date of the enactment of this Act, during the three-year period beginning on the date that is 60 days after the date of the enactment of this Act.

“(3) PROGRAM LOCATIONS.—The pilot program under this subsection shall be carried out at four regional offices of the Department selected by the Secretary for purposes of such pilot program.

“(4) CONSTRUCTION.—A checklist provided under the pilot program under this subsection—

“(A) shall be construed to be an addendum to a notice provided under section 5103(a) of title 38, United States Code; and

“(B) shall not be considered as part of such notice for purposes of reversal or remand of a decision of the Secretary.

“(c) REPORTS.—

“(1) FIRST INITIAL REPORT.—Not later than 335 days after the date of the enactment of this Act [Oct. 10, 2008], the Secretary shall submit to Congress a report on the pilot program under subsection (a) and the pilot program under subsection (b) with respect to claims described in subsection (b)(2)(A).

“(2) SECOND INTERIM REPORT.—Not later than 1,065 days after the date of the enactment of this Act, the

Secretary shall submit to Congress a report on the pilot program under subsection (b) with respect to claims described in subsection (b)(2)(B).

“(3) ELEMENTS OF INTERIM REPORTS.—The reports required by paragraphs (1) and (2) shall include the following:

“(A) Data concerning the number and type of claims covered by the respective pilot program.

“(B) The findings of the Secretary with respect to the respective pilot program.

“(C) The recommendations of the Secretary on the feasibility and advisability of continuing or expanding the respective pilot program and any necessary modifications to such pilot program for continuation or expansion.

“(D) Such other information as the Secretary considers appropriate.

“(4) FINAL REPORT.—Not later than 180 days after the completion of each pilot program carried out under this section, the Secretary shall submit to Congress a final report on the feasibility and advisability of continuing or expanding the respective pilot program.”

STUDY OF PERFORMANCE MEASURES FOR CLAIMS ADJUDICATIONS OF THE VETERANS BENEFITS ADMINISTRATION

Pub. L. 110-389, title II, §226, Oct. 10, 2008, 122 Stat. 4159, provided that:

“(a) STUDY OF WORK CREDIT SYSTEM AND WORK MANAGEMENT SYSTEM REQUIRED.—The Secretary of Veterans Affairs shall conduct a study on the effectiveness of the current employee work credit system and work management system of the Veterans Benefits Administration of the Department of Veterans Affairs, which is used—

“(1) to measure and manage the work production of employees of the Veterans Benefits Administration who handle claims for compensation and pension benefits; and

“(2) to evaluate more effective means of improving performance.

“(b) CONTENTS OF STUDY.—In carrying out the study under subsection (a), the Secretary shall consider—

“(1) measures to improve the accountability, quality, and accuracy for processing claims for compensation and pension benefits under laws administered by the Secretary that are adjudicated by the Veterans Benefits Administration;

“(2) accountability for claims adjudication outcomes;

“(3) the quality of claims adjudicated;

“(4) a simplified process to adjudicate claims;

“(5) the maximum use of information technology applications;

“(6) rules-based applications and tools for processing and adjudicating claims efficiently and effectively;

“(7) methods of reducing the time required to obtain information from outside sources; and

“(8) the elements needed to implement—

“(A) performance standards and accountability measures, intended to ensure that—

“(i) claims for benefits under the laws administered by the Secretary are processed in an objective, accurate, consistent, and efficient manner; and

“(ii) final decisions with respect to such claims are consistent and issued within the target identified in the most recent annual Performance and Accountability report submitted by the Secretary to Congress for the most recent fiscal year;

“(B) guidelines and procedures for the identification and prompt processing of such claims that are ready to rate upon submittal;

“(C) guidelines and procedures for the identification and prompt processing of such claims submitted by severely injured and very severely injured veterans, as determined by the Secretary; and

“(D) requirements for assessments of claims processing at each regional office for the purpose of producing lessons learned and best practices.

“(c) REPORT TO CONGRESS.—Not later than October 31, 2009, the Secretary shall submit to Congress a report on—

- “(1) the study conducted under subsection (a); and
- “(2) the components required to implement the updated system for evaluating employees of the Veterans Benefits Administration required under subsection (d).

“(d) EVALUATION OF CERTAIN VETERANS BENEFITS ADMINISTRATION EMPLOYEES RESPONSIBLE FOR PROCESSING CLAIMS FOR COMPENSATION AND PENSION BENEFITS.—Not later than 210 days after the date on which the Secretary submits to Congress the report required under subsection (c), the Secretary shall establish an updated system for evaluating the performance and accountability of employees of the Veterans Benefits Administration who are responsible for processing claims for compensation or pension benefits. Such system shall be based on the findings of the study conducted by the Secretary under subsection (a).”

REVIEW AND ENHANCEMENT OF USE OF INFORMATION TECHNOLOGY IN VETERANS BENEFITS ADMINISTRATION

Pub. L. 110-389, title II, §227, Oct. 10, 2008, 122 Stat. 4160, provided that:

“(a) REVIEW AND COMPREHENSIVE PLAN.—Not later than one year after the date of the enactment of this Act [Oct. 10, 2008], the Secretary of Veterans Affairs shall—

- “(1) conduct a review of the use of information technology in the Veterans Benefits Administration with respect to the processing of claims for compensation and pension benefits; and
- “(2) develop a comprehensive plan for the use of such technology in processing such claims so as to reduce subjectivity, avoidable remands, and regional office variances in disability ratings for specific disabilities.

“(b) INFORMATION TECHNOLOGY.—The plan developed under subsection (a)(2) shall include the following:

- “(1) The use of rules-based processing or information technology systems utilizing automated decision support software at all levels of processing such claims.
- “(2) The enhancement of the use of information technology for all aspects of the claims process.
- “(3) Development of a technological platform that—

- “(A) allows for the use of information that members of the Armed Forces, veterans, and dependents have submitted electronically, including uploaded military records, medical evidence, and other appropriate documentation; and
- “(B) to the extent practicable—

- “(i) provides the capability to such members, veterans, and dependents to view applications for benefits submitted online; and
- “(ii) complies with the provisions of subchapter III of chapter 35 of title 44, United States Code, section 552a of title 5, United States Code, and other relevant security policies and guidelines.

- “(4) The use of electronic examination templates in conjunction with the schedule for rating disabilities under section 1155 of title 38, United States Code.
- “(5) Such changes as may be required to the electronic health record system of the Department of Veterans Affairs and the Department of Defense to ensure that Veterans Benefits Administration claims examiners can access the available electronic medical information of the Department of Veterans Affairs and the Department of Defense.

- “(6) The provision of bi-directional access to medical records and service records between the Department of Veterans Affairs and the Department of Defense.
- “(7) The availability, on a secure Internet website of the Department of Veterans Affairs, of a portal that can be used by a claimant to check on the status of any claim submitted by that claimant and that provides information, if applicable, on—

“(A) whether a decision has been reached with respect to such a claim and notice of the decision; or

“(B) if no such decision has been reached, notice of—

- “(i) whether the application submitted by the claimant is complete;
- “(ii) whether the Secretary requires additional information or evidence to substantiate the claim;

“(iii) the estimated date on which a decision with respect to the claim is expected to be made; and

“(iv) the stage at which the claim is being processed as of the date on which such status is checked.

“(c) REVIEW OF BEST PRACTICES AND LESSONS LEARNED.—In carrying out this section, the Secretary shall review—

- “(1) best practices and lessons learned within the Department of Veterans Affairs; and
- “(2) the use of the technology known as ‘Vista’ by other Government entities and private sector organizations who employ information technology and automated decision support software.

“(d) REDUCTION OF CLAIMS PROCESSING TIME.—In carrying out this section, the Secretary shall ensure that a plan is developed that, not later than three years after implementation, includes information technology to the extent possible to reduce the processing time for each compensation and pension claim processed by the Veterans Benefits Administration. The performance for claims processing under this plan shall be adjusted for changes to the numbers of claims filed in a given period, the complexity of those claims, and any changes to the basic claims processing rules which occur during the assessment period.

“(e) CONSULTATION.—In carrying out this section, the Secretary of Veterans Affairs shall consult with information technology designers at the Veterans Benefits Administration, the Veterans Health Administration, Vista managers, the Secretary of Defense, appropriate officials of other Government agencies, appropriate individuals in the private and public sectors, veterans service organizations, and other relevant service organizations.

“(f) REPORT TO CONGRESS.—Not later than April 1, 2010, the Secretary shall submit to Congress a report on the review and comprehensive plan required under this section.”

“(g) REPORT TO CONGRESS.—Not later than April 1, 2010, the Secretary shall submit to Congress a report on the review and comprehensive plan required under this section.”

TEMPORARY AUTHORITY FOR PERFORMANCE OF MEDICAL DISABILITIES EXAMINATIONS BY CONTRACT PHYSICIANS

Pub. L. 108-183, title VII, §704, Dec. 16, 2003, 117 Stat. 2672, as amended by Pub. L. 110-389, §105, Oct. 10, 2008, 122 Stat. 4149; Pub. L. 111-275, title VIII, §809, Oct. 13, 2010, 124 Stat. 2894; Pub. L. 112-191, title II, §207, Oct. 5, 2012, 126 Stat. 1440; Pub. L. 113-59, §14, Dec. 20, 2013, 127 Stat. 663; Pub. L. 113-175, title I, §106, Sept. 26, 2014, 128 Stat. 1903, provided that:

“(a) AUTHORITY.—Using appropriated funds, other than funds available for compensation and pension, the Secretary of Veterans Affairs may provide for the conduct of examinations with respect to the medical disabilities of applicants for benefits under laws administered by the Secretary by persons other than Department of Veterans Affairs employees. The authority under this section is in addition to the authority provided in section 504(b) of the Veterans' Benefits Improvement Act of 1996 (Public Law 104-275; 38 U.S.C. 5101 note).

“(b) PERFORMANCE BY CONTRACT.—Examinations under the authority provided in subsection (a) shall be conducted pursuant to contracts entered into and administered by the Under Secretary for Benefits.

“(c) EXPIRATION.—The authority in subsection (a) shall expire on December 31, 2015. No examination may be carried out under the authority provided in that subsection after that date.

“(d) REPORT.—Not later than four years after the date of the enactment of this Act [Dec. 16, 2003], the

Secretary shall submit to Congress a report on the use of the authority provided in subsection (a). The Secretary shall include in the report an assessment of the effect of examinations under that authority on the cost, timeliness, and thoroughness of examinations with respect to the medical disabilities of applicants for benefits under laws administered by the Secretary."

PILOT PROGRAM FOR USE OF CONTRACT PHYSICIANS FOR DISABILITY EXAMINATIONS

Pub. L. 104-275, title V, §504, Oct. 9, 1996, 110 Stat. 3341, as amended by Pub. L. 113-235, div. I, title II, §241, Dec. 16, 2014, 128 Stat. 2568, provided that:

"(a) **AUTHORITY.**—The Secretary of Veterans Affairs, acting through the Under Secretary for Benefits, may conduct a pilot program under this section under which examinations with respect to medical disability of applicants for benefits under laws administered by the Secretary that are carried out through the Under Secretary for Benefits may be made by persons other than employees of the Department of Veterans Affairs. Any such examination shall be performed pursuant to contracts entered into by the Under Secretary for Benefits with those persons.

"(b) **LIMITATION.**—The Secretary may carry out the pilot program under this section as follows:

"(1) In fiscal years before fiscal year 2015, through not more than 10 regional offices of the Department of Veterans Affairs.

"(2) In fiscal year 2015, through not more than 12 regional offices of the Department.

"(3) In fiscal year 2016, through not more than 15 regional offices of the Department.

"(4) In fiscal year 2017 and each fiscal year thereafter, through such regional offices of the Department as the Secretary considers appropriate."

"(c) **SOURCE OF FUNDS.**—Payments for contracts under the pilot program under this section shall be made from amounts available to the Secretary of Veterans Affairs for payment of compensation and pensions.

"(d) **REPORT TO CONGRESS.**—Not later than three years after the date of the enactment of this Act [Oct. 9, 1996], the Secretary shall submit to the Congress a report on the effect of the use of the authority provided by subsection (a) on the cost, timeliness, and thoroughness of medical disability examinations."

EXPEDITED TREATMENT OF REMANDED CLAIMS

Pub. L. 103-446, title III, §302, Nov. 2, 1994, 108 Stat. 4658, as amended by Pub. L. 105-368, title V, §512(c), Nov. 11, 1998, 112 Stat. 3342, provided that Secretary of Veterans Affairs was to take necessary actions to provide for expeditious treatment, by the Board of Veterans' Appeals and by regional offices of the Veterans Benefits Administration, of any claim that had been remanded by the Board of Veterans' Appeals or by the United States Court of Appeals for Veterans Claims for additional development or other appropriate action, prior to repeal by Pub. L. 108-183, title VII, §707(c), Dec. 16, 2003, 117 Stat. 2673.

VETERANS' CLAIMS ADJUDICATION COMMISSION

Pub. L. 103-446, title IV, Nov. 2, 1994, 108 Stat. 4659, as amended by Pub. L. 104-275, title V, §503(a), Oct. 9, 1996, 110 Stat. 3341, established Veterans' Claims Adjudication Commission which was directed to conduct comprehensive evaluation and assessment of Department of Veterans Affairs system for disposition of claims for veterans benefits and of system for delivery of such benefits, together with any related issues determined to be relevant to study, for purpose of determining means of increasing efficiency of system, means of reducing number of claims under system for which final disposition is pending, and means of enhancing ability of Department of Veterans Affairs to achieve final determination regarding claims under system in prompt and appropriate manner, and further provided for membership and powers of Commission, personnel matters,

definitions and funding, and for submission of preliminary report to Secretary of Veterans Affairs and Congress not later than one year after Nov. 2, 1994, submission of final report not later than Dec. 31, 1996, and for termination of Commission 90 days after submission of final report.

§ 5102. Application forms furnished upon request; notice to claimants of incomplete applications

(a) **FURNISHING FORMS.**—Upon request made by any person claiming or applying for, or expressing an intent to claim or apply for, a benefit under the laws administered by the Secretary, the Secretary shall furnish such person, free of all expense, all instructions and forms necessary to apply for that benefit.

(b) **INCOMPLETE APPLICATIONS.**—If a claimant's application for a benefit under the laws administered by the Secretary is incomplete, the Secretary shall notify the claimant and the claimant's representative, if any, of the information necessary to complete the application.

(c) **TIME LIMITATION.**—(1) If information that a claimant and the claimant's representative, if any, are notified under subsection (b) is necessary to complete an application is not received by the Secretary within one year from the date such notice is sent, no benefit may be paid or furnished by reason of the claimant's application.

(2) This subsection shall not apply to any application or claim for Government life insurance benefits.

(Added Pub. L. 106-475, §3(a), Nov. 9, 2000, 114 Stat. 2096; amended Pub. L. 108-183, title VII, §701(a), Dec. 16, 2003, 117 Stat. 2670.)

PRIOR PROVISIONS

A prior section 5102, Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1225, §3002; renumbered §5102, Pub. L. 102-40, title IV, §402(b)(1), May 7, 1991, 105 Stat. 238; Pub. L. 102-83, §4(a)(1), (b)(1), (2)(E), Aug. 6, 1991, 105 Stat. 403-405, related to application forms, prior to repeal by Pub. L. 106-475, §3(a), Nov. 9, 2000, 114 Stat. 2096.

Another prior section 5102 was renumbered section 8302 of this title.

AMENDMENTS

2003—Subsec. (c). Pub. L. 108-183 added subsec. (c).

EFFECTIVE DATE OF 2003 AMENDMENT

Pub. L. 108-183, title VII, §701(c), Dec. 16, 2003, 117 Stat. 2670, provided that: "The amendments made by this section [amending this section and section 5103 of this title] shall take effect as if enacted on November 9, 2000, immediately after the enactment of the Veterans Claims Assistance Act of 2000 (Public Law 106-475; 114 Stat. 2096)."

§ 5103. Notice to claimants of required information and evidence

(a) **REQUIRED INFORMATION AND EVIDENCE.**—(1) The Secretary shall provide to the claimant and the claimant's representative, if any, by the most effective means available, including electronic communication or notification in writing, notice of any information, and any medical or lay evidence, not previously provided to the Secretary that is necessary to substantiate the claim. As part of that notice, the Secretary shall indicate which portion of that information