



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

April 6, 2020

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

In Reply Refer To:
Policy Letter 20-02

Subject: Novel Coronavirus (COVID-19) Claims and Appeals Processing Guidance

Purpose

This letter informs all regional offices and centers that the COVID-19 global pandemic is considered a good-cause basis for VA to grant extensions of time limits to submit certain documents/responses or if a claimant fails to report for a hearing or scheduled Compensation and Pension (C&P) examination and requests to reschedule. In addition, for the purpose of determining the date of entitlement, VA will accept the postmark date on any correspondence received from any claimant containing claims, information, or evidence.

This guidance applies from March 1, 2020 and will expire 60 calendar days following the date the President ends the national state of emergency.

Background

On March 11, 2020, the World Health Organization upgraded the status of the COVID-19 outbreak from epidemic to pandemic. On March 13, 2020, the President declared that the COVID-19 outbreak constituted a national emergency, beginning March 1, 2020. While United States Postal Service (USPS) operations have continued, in some cases, local travel restrictions or other COVID-19-mandated health precautions may impact the ability of claimants to timely file forms, and other documents, or to perform travel that may be required as part of the VA claims/appeals process. In addition, COVID-19 is impacting VA's ability to receive mail.

Under 38 C.F.R. §§ 3.109(b) and 19.53, VA has the authority to grant time limit extension requests, provided good cause is shown for the delay. VA may also postpone final action on a claim if good cause can be shown for a claimant's failure to take a required action, such as not reporting for a C&P examination or a prescheduled hearing. See 38 C.F.R. §§ 3.105(i)(2) and 3.655. Finally, under 38 C.F.R. § 3.1(r), VA may grant exceptions to the general date of receipt rules for claims when a natural or man-made disaster interferes with the normal channels through which VA ordinarily receives correspondence and this would adversely affect claimants through no fault of their own.

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Guidance

The policy guidance in this letter applies to all regional office claims and appeals processing personnel within the Veterans Service Centers, Pension Management Centers, and Decision Review Operations Centers.

Effective March 1, 2020, if a claimant or a claimant's authorized representative requests an extension of a time limit associated with a required action based on the COVID-19 pandemic, including,

- the filing of a claim that would perfect a previous expired communication of intent to file,
- the filing of a response to a proposed adverse action,
- the submission of requested evidence, or,
- attendance at a hearing or C&P examination.

VBA will grant these requests under the good cause provisions, provided the time limit would have expired or situation occurred on or after March 1, 2020.

To request an extension for filing due to COVID-19, claimants should note the request on their filing submission or attach the request as a separate document. Where an extension is requested after expiration of a time limit, the action required of the claimant must be taken concurrent with or prior to the filing of a request for extension of the time limit. To ensure full consideration of a time limit extension, claimants should note in their request that they are requesting an extension of the time allowed to take the specified action on a claim because of COVID-19, (or any related reference to COVID-19, the coronavirus, national pandemic, or similar language). If the request is submitted after initial submission of a pending claim or appeal, the claimant should specify the time limit for which they are seeking an extension to ensure accurate processing.

Requests for Time Limit Extensions

Claimant requests for extensions of time limits under section 3.109 only apply to submission of a claim or claim-related information or when contesting a VA decision. For example, VBA can extend the time limit when a claimant previously submitted an intent to file and was later unable to perfect a complete claim within the one-year period, but would not be able to use good cause to otherwise grant an earlier effective date if no intent to file was ever communicated. Extensions for legacy appeal time limits under section 19.53 must be received in writing. As there is no specific form requirement for requesting good cause extensions of time limits, VBA will accept COVID-19 pandemic-related extension requests on any form or written documentation.

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Evidence Submission

Claimants who have already filed a claim may continue to submit requests in writing or over the telephone for extensions related to evidence submissions. Telephone communication must be properly documented on a report of contact, *VA Form 27-0820, Report of General Information*. Claims processors must also update any suspense dates for tracking purposes. A note should be placed in the record stating no final action should be taken until the evidence is submitted or the extension period concludes.

Requests to Reschedule Hearings or C&P Exams

Claimants who have already filed a claim and who request to reschedule hearings or C&P examinations based on section 3.655 may continue to submit requests in writing or over the telephone. Telephone communication must be properly documented on *VA Form 27-0820*. The examination or hearing should be rescheduled or, if rescheduling is not a possibility, a note should be placed in the record stating no final action should be taken until a hearing or exam is completed.

Processing an Extension

If the time limit extension request does not identify the issue for which extension is requested, and the issue cannot be determined based on a review of the file, employees must make one attempt to contact the claimant and/or representative, if applicable, by telephone to clarify the issue and document the attempt or successful contact on *VA Form 27-0820*. If the telephonic attempt at clarification is unsuccessful, reject the extension request and send written notification to the claimant.

For extension requests that are granted under this letter, claims processors will include the following statement in the decision notification letter to the claimant.

VA has granted your time limit extension request due to the Novel Coronavirus (COVID-19) pandemic.

For any extension requests unrelated to COVID-19, or outside the timelines noted in this letter, claims processors should apply the requirements of section 3.109 or 19.53 to make a fact-based determination on whether the extension can be granted. Denials of extension requests are separately appealable, and claimants should be given standard claims review rights.

Claims processors should follow existing M21-1 and M21-5 procedures regarding requests for extension of time limits outside the timeframe of this letter. Such requests must be reviewed on a case-by-case basis and determined on their individual merits.

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Date of Receipt Guidance

For the purpose of determining the date of entitlement, any correspondence addressed to VA during the designated period of this policy letter's applicability will be considered received on the date of the postmark affixed by USPS.

In the event there is no postmark or date stamp by USPS, VA will consider any correspondence with a VA date stamp or Claims Intake Center COVID-19 watermark during the designated period as received no later than February 29, 2020. This includes all correspondence received from domestic zip codes and foreign mail codes.

Intake personnel should enter a VBMS note stating "COVID-19-postmark accepted" on all impacted cases. This note is for informational purposes for claims processors and does not negate the requirement to consider other effective date policies that may apply.

To provide public notice of this claimant-friendly measure, VA is preparing a Federal Register notice that, for purposes of determining the date of entitlement, VA will accept the date of the USPS postmark as the date of receipt for any correspondence received that contains claims information or evidence.

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Questions

Submit questions on Compensation Service Procedures to M21-1.VBAVACO@va.gov.

Submit questions on P&F Procedures to PFPOLPROC.VBACO@va.gov.

Submit questions on legacy appeals and higher-level reviews to AMO-Appeals.Admin@va.gov.

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