

(5) Trainee Handouts

**TRAINING FOR VSO LESSON FIVE PREPARING AND
SUBMITTING ORIGINAL LIVE CLAIMS**

PREREQUISITE TRAINING	Prior to this training you should have completed the lesson on “Introduction to Development”.
PURPOSE OF LESSON	<p>The purpose of this lesson is to present material so that at the completion of the lesson you will be able to:</p> <ul style="list-style-type: none">▪ Identify the forms and process for filing an original claim for live veterans benefits, including what entries are required for each.▪ Assist the veteran in applying for live compensation or pension.
TIME REQUIRED	2 hours
INSTRUCTIONAL METHOD	Participatory discussion and practical exercise.
REFERNCES	38 CFR 3.150 and M21-1MR, Part III, subpart ii, Chapter 3
MATERIALS/ TRAINING AIDS	<p>Classroom or private area where a discussion may be held. Chairs and writing surfaces are required.</p> <ul style="list-style-type: none">▪ Note pad, and pen or pencil▪ Handheld calculator▪ Each Student should have a current copy of VA Form 21-526, <i>Veteran’s Application for Compensation and/or Pension</i>, complete with the instructions.

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Claiming Compensation, Pension or Both

As we discussed in the prior lesson, a claim for compensation *may be* a claim for pension, or vice versa, depending on what is claimed and how the application is completed. You would begin this process in your interview with the veteran. Most veterans consult a service officer for a claim for compensation benefits, but many may also be eligible for pension as well. Remember that in order to claim pension, the veteran must have wartime service, be permanently and totally disabled (or over age 65) and must have minimal income. If your veteran meets these requirements, you may want to claim pension in addition to compensation. Whatever you and the veteran decide, it should be clear which benefit(s) the veteran is claiming. The instructions with the 21-526 (below) have a matrix explaining which parts to complete to claim the particular benefit sought, and one of the first entries asks the question of which benefit is being claimed. If the veteran is entitled to both, we will pay the greater benefit automatically; no election is required, and the veteran can switch back and forth as circumstances dictate.

VA Form 21-526 Veteran's Application for Compensation and/or Pension

In the lesson on “Introduction to Development” you learned that an original, formal claim for compensation or pension must be filed on a form prescribed by the Secretary. For live claims, that is VA Form 21-526. You must use this form if benefits have never been claimed before. If the veteran is currently receiving a VA benefit, or has received compensation or pension before, or applied for these benefits before, you do not need to use this form. If the veteran is not sure, and you can't get access to a VA computer record, you can use this form. No harm will come to the claim if you do, but the form takes longer to fill out, so use a shorter way to apply for the benefits if you can. The form is voluminous, but in most cases the entries are self explanatory. The first seven pages are instructions for completing the form. Those instructions should be consulted if you have any questions, and are more thorough than the guidelines contained here. The form has multiple parts. You should complete each part of the form that is appropriate to the benefit(s) being claimed. If you come to questions that do not apply to your veteran, such as reserve service or military retired pay, it is usually better to put “NA” or some other entry than it is to leave it blank.

Part A, General Information: This part must be completed for all applications. As the name implies, this is general information that is part of every claim. The first entry you come to asks what benefit is being claimed; compensation, pension or both. The entry will direct you to the other parts of the application you should complete. Please note that some entries, such as name and Social Security number are mandatory. Some parts, such as reserve service, may not apply and can be skipped. Be sure to include the veteran's phone numbers and E-mail address. The VA is using phone calls and E-mails whenever possible to develop missing information for claims. The last page requires the veteran's signature. This is critical as we will not act on the application unless it is signed by the veteran. No one but the veteran can sign here, even if all he can do is make an "X". If he unable to make any mark at all, we should be made aware of that and someone can sign for him as “next friend”, or if a guardian has appointed by a court, the guardian can sign. A service officer can not sign for the veteran on an original application.

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Part B, Compensation: This part must be completed for all compensation claims regardless if the veteran is claiming a condition that had its' onset in service or a presumptive condition that did not appear for years later.

1. List the conditions that the veteran is seeking compensation for in the same language as the medical diagnosis describes it, if you have that information. If not, describe it in terms of the residual disability. For example, a claimed disability could be "residuals of gun shot wound of the right leg with muscle weakness, nerve damage and scarring". You don't always have to be that detailed, but we must address everything the veteran claims, so in this case, we would have to address all the claimed residuals of the trauma. This is an important point; be sure to list everything you want the VA to consider. We will review the records and take jurisdiction of any disabling condition, whether or not it's claimed, but we must address everything listed on the application.
2. You only need to claim each condition once; repeated treatments for the same condition do not have to be listed on the application. For example, if the veteran was diagnosed in service for migraine headaches, you do not need to list each headache or each clinic visit, but you should describe the frequency of the attacks if they are not documented.
3. List only conditions that have a chronic residual that will appear on a current examination. Conditions that have resolved without a discernable residual will not be service-connected. Listing conditions that cannot be service-connected slows the process. This can become an area of some contention. Sometimes a veteran will want to claim something you know cannot be service-connected. Your best course of action is to honestly counsel the veterans of what he/she should expect from the outcome of this claim, but do not refuse to list something even though you know it will not be granted.
4. Do not claim conditions that the law specifically excludes from compensation, such as conditions that result from alcohol, drug or tobacco use.

The second page of Part B is used to establish exposure to agents or conditions that could generate presumptive entitlement under the law, such as Agent Orange or mustard gas. Try to be as specific as possible here to make our search for verification as expeditious as possible. If you have proof of certain events, such as documents verifying in-country Vietnam service, note the documents here and attach copies with the application. If the veteran is claiming any condition that requires some measure of explanation, such as hearing loss secondary to in-service acoustic trauma, you should explain the circumstances. We will not order an examination for hearing loss unless there is some verifiable event that could have caused acoustic trauma, such as exposure to artillery fire.

Part C, Dependency: For compensation, this part should be completed if the veteran has dependents that could be included on his/her award. If the veteran is claiming pension, this part *must* be completed before any benefits will be paid. Payment of pension requires that we know about everyone in the household and their income. Even if the veteran lives alone and has no dependents, we need to know that in order for pension to be awarded. Be sure to include the Social Security number for each dependent claimed.

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Part D, Pension: If the veteran is age 65 or older, or is receiving Social Security due to disability, or is in a nursing home, permanent and total disability for pension purposes is conceded. Therefore, Sections I and II of Part D that relate to prior employment and current disability do not have to be completed. If none of these conditions apply, eligibility due to disability will have to be decided in a rating, so those sections must be completed. If you have medical evidence of a current disability, send it in with the application. Regardless of the other circumstances, the income or net worth parts of the application must be completely filled in before the application will be acted on. Fill in every blank in these sections, putting in “0”(zero) or “none” in every block where it applies. If a block is left blank, the application will be returned to the veteran for completion, and any potential award will be delayed. Not all income counts as “income for VA Pension Purposes”, but we need to know about all sources of income, and we will exclude any income that doesn’t count. Report all income you are aware of and we’ll sort it all out.

VA Form 21-4142, Authorization and Consent to Release Information to the VA: At the end of the 21-526, you will find a VA form 21-4142. This is the form we use to request private treatment reports from doctors and hospitals. If the veteran has been treated in a private medical facility and those records are relevant to the claim, complete a separate 21-4142 for each place you want us to get records from. Make extra copies of the form, or request a batch of these from the VA for your office.

VONAPP

It is now possible to complete the original application electronically. This process is called “VONAPP” and is accessible from the VA’s web page, www.va.gov. As you open that page, on the left side, you will see a list of applications that can be accessed. Opening that page will take you to the VONAPP page where the electronic application is explained. Please note that there is also a link to a list of recognized service organizations with instructions on how to reach them. The VONAPP application is intended for veterans to use without assistance, but even though the veteran may be able to navigate the application, they can still benefit from the expert knowledge of a service officer.

VONAPP is not filling in the blanks on a 21-526 on a computer screen. Instead the application asks the veteran questions and fills out the form from the answers given. The veteran will not see the 21-526 until the final steps and the form is printed out. It will be a text form of the 21-526. Once the program is complete, the veteran electronically submits it to the VA Regional Office in the veteran’s home state. VA will print the form out at the regional office and begin working the claim. The veteran will be instructed to print out the signature page, sign and date it and send it to the regional office via mail or fax. The VONAPP application is not complete until we receive the signature page with the veterans signature on it. We will process the claim up to completion of the decision, but without the signature, we will not release the contents of the decision nor begin paying benefits. If the veteran has other information to submit, he/she can do so along with the signature page.

Many service organizations have their own proprietary software that includes an electronic version of the 21-526. If your organization has this form, you can use it in lieu of the printed version of the 21-526, but it cannot be electronically submitted to the VA; it must be printed out, signed by the veteran, and submitted as any other printed form. The VA cannot accept any applications electronically except VONAPP.

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What to Attach With the Application

Evidence of a Current Disability: In order for a claim for compensation to be successful, three things must be established:

- there must have been an in-service event that caused the disability,
- there must evidence of a current disability, and
- there must be a link between the two.

Usually service medical records (SMR's) will establish the first. In some cases, such as presumptive conditions secondary to certain exposures, the in-service event could be something like in-country Vietnam service. If the veteran has been out of service for less than a year, the SMR's could establish the current disability. In all other claims, we will need evidence of a current disability before we will begin working the claim or order a VA examination. Usually medical evidence with a diagnosis of the claimed condition would be the best evidence to submit. For example, if the veteran claims that he was treated for a duodenal ulcer in service, and he was separated more than a year ago, we would need a doctor's statement that he is currently treating the veteran for an ulcer to establish a "current disability". Some conditions the veteran, or people who know the veteran, are qualified to observe. For example, the veteran or his spouse would be qualified to observe that his hearing has declined. Simply put, if you have evidence that a claimed disability is currently being treated, send it in. If the veteran is claiming pension benefits and permanent and total disability must be established, send us evidence of a disability if you have it. If there is no medical evidence, give us something that can give us enough information to order an examination. For example, a statement to the effect of "the veteran cannot work because of his _____ condition". We must have some indication of a disability before we can order an examination. We will cover submitting service records and evidence to establish dependents in later lessons.

The VA Examination: Once we have evidence of an in-service event and evidence of a current disability, we will order the VA examination to establish a link between the two. In some cases the link is obvious, but in other cases we will need a medical opinion to establish the link. If you have medical evidence that would assist in this effort, attach it. We will order a VA examination for most claims. The exam request will ask the examiner to look specifically at the disabilities as claimed. Therefore, whatever you put on the 21-526 is likely to be what the veteran is examined for. The wording of your application should reflect the description of the disability as it is currently found. Prepare the veteran by making sure he/she can describe the current symptoms to the examiner, including flare-ups and any pain caused by the condition. If you think the veteran is too shy to speak up to the examiner, have him/her write it down and hand it to the examiner. The examiner's description of the current disability is critical to the claim; make sure the veteran gives this opportunity his/her best effort.

When and Where to Send the Completed Application

As we discussed in the prior lesson, compensation or pension benefits are usually effective from the date the claim is received in the VA. Therefore, it is almost always in the veterans

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best interest to get the claim in as soon as you can. If you work in a VA hospital or clinic, you can get the application date stamped in your facility to get the date of claim established, but once you do this do not hold the application at your desk; instead send it to the regional office having jurisdiction over the veteran's home address as soon as you can. It would be acceptable to hold the application for a day or two if the veteran is going to bring you evidence you intend to submit with the claim, but only for a very short time. If you don't get the evidence right away, send in the application and then send in the evidence separately when you get it at a later date.

On original claims where the veteran has been separated for less than a year, if we receive the application within one year of separation, we can grant the benefit retroactively to the last date of separation. In these cases, the date of claim is less critical than in cases where the veteran has been out of service more than a year. However, this does not mean that you can hold the application at your desk until the time limit expires; you should still send it in for action as soon as you can. There are certain records we are charged with getting, such as service medical records, and we cannot begin our efforts until we receive the application, so it is important that we get it as soon as possible.

In many VSO's, your service organization wants you to send all new claims to their mailbox at the regional office so that they can track the claim in their own system. This is acceptable as in most cases there is little or no delay of the claim in these situations. If you do not send it to the VSO in the regional office, send it directly to the RO that has jurisdiction of the veteran's address. If the veteran has a claims file and that file is in another RO, do not send it to the office where the file is held; send it to the RO where the veteran lives and they will have the file transferred.

The Service Officer's Role in Preparing Original Live C&P Applications

Just contemplating filling out a blank VA Form 21-526 is enough to scare away many potential claimants. It is a huge, complex form; just the general instructions go on for seven pages. A veteran who is unfamiliar with VA benefits will be put off by the application. The entire process becomes easier to deal with if the veteran has an experienced guide to help him/her through this task. That's where you come in. Because you understand what is being accomplished and with this form, you can master it quickly and help others digest it.

- First, put the client at ease. Yes the form is big, but once you start, you'll find it is not difficult to complete. Begin by talking with the client and understanding where they are in the process and what they hope to get from the VA. Is this their first claim? Why do you think you may be entitled to VA benefits? What records do you have on the treatment of this disability?
- Get into the form itself by breaking it down into smaller pieces. Most of the questions are self explanatory and easy to answer. The only ones that require real discussion are going to be about how the claimed disabilities will be listed on the form, and this is where the experienced VSO is most helpful. Have the client focus on the permanent residuals of the disability being claimed, and list them in the way you want the VA to address them. Don't give us "knee condition" when you could be telling us "arthritis of the right knee with painful motion and difficulty standing for more than a few minutes at a time". OK, maybe you don't have to be that specific, but remember that whatever you put on the

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application is what we will likely put on the VA examination request. Which would you rather have your client examined for?

- Once you've gotten past completion of the form, discuss with the client what evidence they have to help their claim, and what you want to submit with the claim. Can they get the evidence to you in a day or two? The answer may dictate whether you submit the application immediately or wait a day or two for the veteran to get the evidence in your hand. Explain the term "effective date" and "date of claim" to the client and how the date the application is submitted to the VA can impact the beginning date of any benefits they may receive.
- Prepare the veteran for the coming VA examination. The veteran needs to articulate his/her symptoms to the examiner. Explain that the time in the room with the examining physician will be short, and that the veteran needs to tell his/her story before the examiner leaves the room. Thinking of what he/she should have said after he/she gets home doesn't help the claim.
- Make sure the veteran understands what will happen next; he/she will get letters from the VA, some explaining what they are doing, some asking for things. Get them to come to you if they have a question or get mail they don't understand. Tell them that they will hear about the outcome of the claim before you do and they should call you when they are notified. Give them your best guess as to when they should receive a decision.

Your intervention and assistance can give us an application that clearly states what the veteran is claiming and gives us a clear indication of how we should handle the claim for a swift and fair completion.