

**§ 21.32 Notification by VA of necessary information or evidence when a claim is filed; time for claimant response and VA action.**

The provisions of this section apply to claims that are governed by this subpart or subpart M of this part.

(a) *VA has a duty to notify claimants of necessary information or evidence.* Except when a claim cannot be substantiated because there is no legal basis for the claim, or undisputed facts render the claimant ineligible for the claimed benefit, when VA receives a complete or substantially complete application for vocational rehabilitation benefits and services provided under this subpart or subpart M of this part VA will:

(1) Notify the claimant of any information and evidence that is necessary to substantiate the claim;

(2) Inform the claimant which information and evidence, if any, the claimant is to provide to VA and which information and evidence, if any, VA will try to obtain for the claimant; and

(3) Inform the claimant of the time limit, as provided in paragraph (c) of this section, for responding to VA's notification, and of actions, as provided in paragraph (d) of this section, that VA may take to decide the claim if the claimant does not respond to such notification within 30 days.

(b) *Definitions for purposes of §§ 21.32 and 21.33.* For purposes of this section and § 21.33:

(1) The term *application* does not include a notice of disagreement.

(2) The term *notification* means the notice described in paragraph (a) of this section.

(3) The term *substantially complete application* means, for an individual's first application for vocational rehabilitation benefits and services administered by VA, an application containing:

(i) The claimant's name;

(ii) His or her relationship to the veteran, if applicable;

(iii) Sufficient information for VA to verify the claimed service, if applicable; and

(iv) The benefit claimed.

(4) The term *information* means non-evidentiary facts, such as the claimant's Social Security number or ad-

dress, or the name of the educational institution the claimant is attending.

(c) *Time limit.* Any information and evidence described in the notification as information and evidence that the claimant is to provide must be received by VA within one year from the date of the notification. If VA does not receive the information and evidence from the claimant within that time period, VA may adjudicate the claim based on the information and evidence in the file.

(d) *Actions VA may take after 30 days if no response from claimant.* If the claimant has not responded to the notification within 30 days, VA may decide the claim before the expiration of the one-year period, based on all the information and evidence in the file, including information and evidence it has obtained on behalf of the claimant. If VA does so, however, and the claimant subsequently provides the information and evidence specified in the notification within one year of the date of the notification, VA must readjudicate the claim. If VA's decision on a readjudication is favorable to the claimant, the award of vocational rehabilitation benefits and services shall take effect as if the prior decision by VA on the claim had not been made.

(e) *Incomplete applications.* If VA receives an incomplete application for benefits, it will notify the claimant of the information necessary to complete the application and will defer assistance until the claimant submits this information. If the information necessary to complete the application is not received by VA within one year from the date of such notice, VA cannot pay or provide any benefits based on that application.

(f) *Who VA will notify.* For the purpose of this section, when VA seeks to notify a claimant, it will provide such notice to:

(1) The claimant;

(2) His or her fiduciary, if any; and

(3) His or her representative, if any.

(Authority: 38 U.S.C. 5102, 5103, 5103A(a)(3))

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