

## § 20.1104

the claimant is properly notified is final if an appeal is not perfected as prescribed in Rule 302 (§20.302 of this part).

(Authority: 38 U.S.C. 7105)

### **§ 20.1104 Rule 1104. Finality of determinations of the agency of original jurisdiction affirmed on appeal.**

When a determination of the agency of original jurisdiction is affirmed by the Board of Veterans' Appeals, such determination is subsumed by the final appellate decision.

(Authority: 38 U.S.C. 7104(a))

### **§ 20.1105 Rule 1105. New claim after promulgation of appellate decision.**

When a claimant requests that a claim be reopened after an appellate decision has been promulgated and submits evidence in support thereof, a determination as to whether such evidence is new and material must be made and, if it is, as to whether it provides a basis for allowing the claim. An adverse determination as to either question is appealable.

(Authority: 38 U.S.C. 5108, 7104)

### **§ 20.1106 Rule 1106. Claim for death benefits by survivor—prior unfavorable decisions during veteran's lifetime.**

Except with respect to benefits under the provisions of 38 U.S.C. 1311(a)(2), 1318, and certain cases involving individuals whose Department of Veterans Affairs benefits have been forfeited for treason or for subversive activities under the provisions of 38 U.S.C. 6104 and 6105, issues involved in a survivor's claim for death benefits will be decided without regard to any prior disposition of those issues during the veteran's lifetime.

(Authority: 38 U.S.C. 7104(b)).

[70 FR 72221, Dec. 2, 2005]

## §§ 20.1107–20.1199 [Reserved]

### **Subpart M—Privacy Act**

#### **§ 20.1200 Rule 1200. Privacy Act request—appeal pending.**

When a Privacy Act request is filed under §1.577 of this chapter by an indi-

## 38 CFR Ch. I (7–1–12 Edition)

vidual seeking records pertaining to him or her and the relevant records are in the custody of the Board, such request will be reviewed and processed prior to appellate action on that individual's appeal.

(Authority: 5 U.S.C. 552a; 38 U.S.C. 7107)

#### **§ 20.1201 Rule 1201. Amendment of appellate decisions.**

A request for amendment of an appellate decision under the Privacy Act (5 U.S.C. 552a) may be entertained. However, such a request may not be used in lieu of, or to circumvent, the procedures established under Rules 1000 through 1003 (§§20.1000–20.1003 of this part). The Board will review a request for correction of factual information set forth in a decision. Where the request to amend under the Privacy Act is an attempt to alter a judgment made by the Board and thereby replace the adjudicatory authority and functions of the Board, the request will be denied on the basis that the Act does not authorize a collateral attack upon that which has already been the subject of a decision of the Board. The denial will satisfy the procedural requirements of §1.579 of this chapter. If otherwise appropriate, the request will be considered one for reconsideration under Rules 1000 through 1003 (§§20.1000–20.1003 of this part).

(Authority: 5 U.S.C. 552a(d); 38 U.S.C. 7103, 7108)

## §§ 20.1202–20.1299 [Reserved]

### **Subpart N—Miscellaneous**

CROSS-REFERENCE: In cases involving access to patient information relating to a Department of Veterans Affairs program for, or the treatment of, drug abuse, alcoholism, alcohol abuse, sickle cell anemia, or infection with the human immunodeficiency virus, also see 38 U.S.C. 7332.

#### **§ 20.1300 Rule 1300. Removal of Board records.**

No original record, paper, document or exhibit certified to the Board may be taken from the Board except as authorized by the Chairman or except as may be necessary to furnish copies or