



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

August 2, 2013

Director (00/21)
All VA Regional Offices and Centers

In Reply Refer To: 212
Fast Letter 13-17

ATTN: Veterans Service Centers

SUBJ: Processing Fully Developed Original Claims Received from August 6, 2013 through August 5, 2015

Purpose

This letter outlines the procedures for determining the effective date of fully developed original compensation claims received on VA Form 21-526 EZ, *Application for Disability Compensation and Related Compensation Benefits*, and online through VONAPP Direct Connect (VDC), received from August 6, 2013, through August 5, 2015.

This letter **does not rescind** Fast Letter (FL) 12-25, *Fully Developed Claim Program*; all procedures contained within that Fast Letter should continue to be followed in processing FDCs.

Background

On August 6, 2012, the President signed a comprehensive legislative package, the “Honoring America’s Veterans and Caring for Camp Lejeune Families Act of 2012,” Public Law 112-154. Section 506 of this Act amends 38 U.S.C. § 5110 to allow up to a one-year retroactive effective date for awards of disability compensation based on fully developed original claims for compensation received from August 6, 2013, through August 5, 2015. The purpose of this change is to provide an incentive to Veterans and Veterans Service Organizations (VSOs) to submit fully developed claims.

Claims Processing

Eligibility for one-year retroactive date

Continue to follow guidelines outlined in FL 12-25 to determine whether the claim is eligible for the FDC program in general. In addition, to be eligible for a retroactive effective date, all of the following requirements must be met:

- The claim must be for compensation – no other types of claims are eligible,

- The claim must be original; for purposes of this program an original claim is the initial formal (complete) claim filed by a Veteran for disability compensation. Any applications submitted or filed subsequently will be considered new or supplemental claims, and therefore not eligible for a retroactive effective date,
- Informal (incomplete) claims are not eligible for an additional retroactive effective date (however, see the instructions below for determining the proper effective date when an informal claim for the same disability exists in the record),
- The claim must be received on a VA Form 21-526 EZ. Veterans can also apply through eBenefits using VDC,
- The Veteran must have separated from his/her last period of **active duty** service more than one year ago, and
- The claim must be received from August 6, 2013, through August 5, 2015.

If any of these requirements are not met, check to see if the claim is still eligible for processing under the FDC program outlined in FL 12-25. If so, continue processing the claim as an FDC but do not apply special effective date treatment. If the claim is not eligible for processing under the FDC program outlined in FL 12-25, remove the claim from the FDC program and process traditionally.

Calculating the retroactive date

Be sure to review the file for a previous informal or incomplete claim when calculating the retroactive date (see examples below). Compensation awards processed under this FL are eligible to receive retroactive pay and an effective date calculated as whichever is the earlier of

- a) the date **up to** one year prior to receipt of the complete FDC if the facts support such an effective date as explained in the paragraph below, or
- b) the date of receipt of an informal claim for which a formal (complete) FDC was subsequently received.

In either case, the effective date may not be more than one year prior to the date the formal (complete) FDC claim is received.

For example, if a claimant begins the application for an original FDC compensation claim through VA's electronic claims processing system on January 1, 2013, (considered the date of claim), but does not submit the completed electronic application until September 1, 2013, the effective date for any benefit awarded would be September 1, 2012, or 1 year from the date VA received the fully developed electronic claim. In this case, the date the claimant submits the application through VA's electronic claims processing system is considered the "receipt date."

The effective date assigned may be up to one year prior to submission of the formal (complete) FDC, depending on evidence of when the disability first manifested. For example, if evidence submitted with the FDC shows the level of disability existed for one year prior to submission of the claim, then process the award with a one-year retroactive effective date. If, however, the evidence of record supports less than one year of disability, process the award assigning the effective date as the date the evidence shows the evaluation is warranted. Unless there is

evidence clearly supporting a staged rating, the rating should be static through the entire retroactive period. If the evidence supports a staged rating, then clearly explain its rationale and all associated evidence in the rating decision.

Include the following language when awarding a retroactive effective date in accordance with this guidance: “Effective date assigned via Section 506 of PL 112-154.”

If the claim is removed from the FDC program under either the policies outlined in this FL or FL 12-25, then the one-year retroactive effective date cannot be granted. Such claims should be processed in accordance with the traditional governing effective date statutes and regulations.

Outreach and Training

Outreach to Veterans, VSOs, and other organizations is essential in order to encourage participation in this authorized program. Upon release of this FL, ROs must:

- Notify local VSOs of the updates to FDC Program and encourage their support and participation,
- Provide local VSOs training on the updates, and
- Provide local VSOs with information on filing electronic applications through VDC, as well as blank copies of VA Form 21-526 EZ.

Additional information regarding planned outreach is forthcoming.

Regulatory Changes

Compensation Service has drafted regulations to implement this provision; however, they are not final. Procedures and policies discussed in this FL are effective August 6, 2013, but subject to change with the final approval of the draft regulations. Compensation Service will provide notice when regulations are published and if any changes occur.

Questions

If you have any questions about this letter, please e-mail VAVBAWAS/CO/212A.

/S/

Thomas J. Murphy
Director
Compensation Service