UNITED VETERAN'S DISABILITY, LLC

Wesley A. McCauley

Admitted to the United States Court of Appeal for Veterans Claims

Putting veterans and their families in charge ®

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VIA: DIRECT UPLOAD TO REGULATIONS.GOV
U.S Department of Veterans' Affairs
Office of Information Technology, Data Governance and Analytics
c/o Dorothy Glasgow
Acting, VA PRA Clearance Officer
810 Vermont Avenue, N.W.
Washington, D.C. 20420

Re: Public Comments Concerning
F.R. Doc. No. 2025-22331; OMB Control No. 2900-0721

Dear Sir/Madame:

United Veteran's Disability, LLC provides these comments in response to the proposed collection of certain information by the VA concerning VA Form 21-2680: Examination for Housebound Status or Permanent Need for Regular Aid and Attendance.

I am also joined in this letter by Alex Graham of AskNOD, Inc.

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United Veteran's Disability, LLC is a Veteran's advocacy firm owned by a VA accredited agent.

Likewise, AskNOD, Inc. is a Veteran's advocacy firm owned by a Vietnam combat Veteran who is also an accredited agent.

Both my office and Mr. Grahm's office specialize in claims for Special Monthly Compensation ("SMC") which generally begins when a claimant submits to the VA a completed VA Form 21-2680.

We respectfully disagree with VA's determination that no changes are warranted to VA Form 21-2680 and offer several recommendations with supportive reasoning. The recommended revisions for VA Form 21-2680 focus on improving clarity and processing efficiency. Key changes we propose include removing Section V, the Veteran/Claimant's signature and certification, as they are not medical experts capable of certifying the subsequent clinical findings. The form should also clarify Item 18 to explicitly request service-connected disabilities contributing to the need for care for SMC claims. Finally, it is suggested to add a follow-up question to Item 29 regarding whether the claimant would require institutional care without assistance, and to include a general comments box for the examiner to provide essential context.

1. **Removal of Section V (Certification and Signature)**

Currently, Section V requires the Veteran/Claimant to certify that "the statements on this form are true and correct." This section precedes the medical examination portion (Section VI). A Veteran is generally not a medical

professional and cannot competently certify the medical findings, diagnoses, or functional impairments recorded by the examiner in the subsequent sections. Requiring a claimant to attest to medical evidence they did not author creates legal ambiguity and offers no evidentiary value.

Recommendation: Remove Section V entirely. The Claimant's identification is already established in Section I and II. The only necessary signature is that of the Examiner in Section VII, who is the individual responsible for the accuracy of the **clinical** findings.

2. Clarification of Item 18 for SMC

Item 18 asks generally: "What disability(ies) are considered permanent and totally disabling?" For Veterans seeking SMC, *only service-connected* disabilities can serve as the basis for the aid and attendance award. When examiners list non-service-connected conditions in this block, it requires additional development or leads to erroneous denials, as VA adjudicators must disentangle which disabilities are causing the functional loss.

Recommendation: Add specific instructions or a sub-section to Box 18 stating: *"For Veterans claiming Special Monthly Compensation (SMC), please specify which of the service-connected disabilities contribute directly to the need for aid and attendance."* This ensures the nexus between the service-connected disability/disabilities and the need for care is explicitly documented.

3. Expansion of Item 29 (Nursing Home Care/Protective Environment)

Item 29 asks a binary question: "Does the patient require nursing home care?" Many claimants qualify for aid and attendance not because they are currently *in* a nursing home, but because they would require such care if they did not have an in-home caregiver. The current question fails to capture the "protective environment" necessity often required for higher-level SMC, such as SMC under 38 U.S.C. § 1114(t).

Recommendation: Add a follow-up question to Item 29: "*If the claimant does not currently require nursing home care, would they likely require hospitalization, institutionalization, or long-term care without the daily assistance of another person?"* This addition aligns the medical evidence directly the Court's holding in *Laska v. McDonough*, 37 Vet. App. 460 (2024), where the Court clarified that compensation under 38 U.S.C. § 1114(t) is payable to a Veteran who, (1) is in need of regular aid and attendance for service-connected residuals of a traumatic brain injury; (2) is not eligible for compensation under subsection (r)(2); and (3) in the absence of such "regular aid and attendance," would require hospitalization, nursing home care, or other residential institutional care. *Id*.

4. Addition of an Examiner's Remarks Section

The form ends with examiner information but offers no space for narrative context. Complex cases often require context that does not fit neatly

into the checkboxes of Section VI (e.g., fluctuating severity of symptoms, safety concerns not captured by ADLs).

Recommendation: Add a "General Comments/Medical Remarks" box at the end of Section VI. This allows the examiner to explain *why* a specific level of care is medically necessary, bridging the gap between clinical findings and benefit criteria.

5. Additional Suggested Improvements

a. **Granularity in Item 27 (ADLs):** Currently, Item 27 asks if the patient requires assistance with activities like bathing or dressing. It is a simple checkbox.

   Recommendation*:* Change this to a scale for each activity (e.g., "Independent," "Needs Prompting," "Physical Assistance," or "Total Dependence"). This provides the VA adjudicator with a clearer picture of the severity of the disability.

b. **Refinement of Item 36 (Housebound Status):** This item asks how often the patient leaves the home.

   Recommendation: Specifically ask if leaving the home is restricted to "medical purposes" versus "social purposes," as this distinction is vital for determining statutory housebound status versus aid and attendance.

Implementation of these changes would likely result in fewer requests for clarification, faster claim decisions, and a more user-friendly experience for our Veterans and their medical providers.

Thank you for your consideration of these comments. Should you require additional information, please do not hesitate to contact us.

Godspeed,

Wesley A. McCauley
Chief Executive Officer
POA I9A; Accreditation Number 50884

I concur in Mr. McCauley's comments. Secretary Collins has exhorted all of us to identify wasteful practices which generate more work for VA employees. The above suggested revisions will eliminate the need for endless clarifications to elicit the information needed to rate Veterans in these circumstances.

Very Respectfully,

Gordon "Alex" Graham
CEO, Asknod Inc.
POA E1P; OGC Accreditation # 39029

"The veterans benefit system is designed to award 'entitlements to a special class of citizens, those who risked harm to serve and defend their country'. This entire scheme is imbued with special beneficence from a grateful sovereign", Barrett v. Principi 363 F.3d 1316, 1320 (Fed. Cir. 2004).