Office of Administrative Review (OAR)
Quality Call Bulletin
January 2026

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November 2025 National Quality Errors

Target Audience: Decision Review Operations Center (DROC) Management and Quality Review Teams (QRT), Decision Review Officers (DRO), Rating Veterans Service Representatives (RVSR), and Veterans Service Representatives (VSR)

Presenter: Drew Martin, Management and Program Analyst, OAR

Rating Errors Cited in July 2025
OAR identified 5 rating-related errors and 3 comments within 7 different cases in November 20251 A1 error for failure to address all claimed issues

- 2 A2 errors for failure to address inferred and/or ancillary issues
- 1 B2 error for VCAA noncompliance
- 2 D1 errors for incorrect effective date
- 2 J1 comments not associated with the EP under review
- 1 J2 comment associated with the EP under review

A2 – Inferred/Ancillary Issues

Two errors were cited for failure to address all inferred or ancillary issues.

- RD dated 11/18/25 failed to establish entitlement to special monthly compensation (SMC) based on loss of use of creative organ (k). Service connection (SC) was established for erectile dysfunction; therefore, the criteria for SMC have been met and this entitlement is considered within the scope of the claim. (38 C.F.R. 3.155, 38 C.F.R. 3.350, 38 C.F.R. 4.115b (DC 7522), M21-1 V.iii.7.4.b., M21-1 VIII.iv.4.A.4.a., M21-1 V.ii.3.A.2.b.)

- RD dated 10/22/25 failed to establish SC for hearing loss, right ear, which was shown to be a residual of the acoustic neuroma and is considered within the scope of the claim. 38 C.F.R. 4.87, DC 6209, indicates that benign neoplasms of the ear will be rated on impairment of function. The Veteran's acoustic neuroma was evaluated based on paralysis of the seventh facial nerve; however, VA examination dated 04/25/22, also showed right ear hearing loss which was found to be a residual of the acoustic neuroma. (38 C.F.R. 3.155, M21-1 V.ii.3.A.1.c., M21-1 V.ii.3.A.2.c.)

B2 – VCAA Compliance

One error cited for incomplete VCAA development, which involved two separate aspects.

- HLR decision dated 11/21/25, continued the denial of SC for the cause of the Veteran's death, prior to conducting necessary specialized radiation development under 38 C.F.R. 3.311. TERA memorandum conceded radiation exposure based on the personnel records indicating that the Veteran completed the Nuclear Projectile Assembly Course and a TERA medical opinion was obtained. However, the TERA opinion is not considered adequate, as no consideration was given to the Veteran's actual radiation dose estimate, which is not of record. When a claim is received for disability caused by exposure to ionizing radiation and the Veteran has a confirmed radiogenic disease under 38 C.F.R. 3.311(b)(2), specialized radiation development is required. In this case, the Veteran has a confirmed diagnosis of acute myeloid leukemia, which is a radiogenic disease, and the cause of the Veteran's death. The Veteran's record does not contain a DD Form 1141, Record of Occupational Exposure to Ionizing Radiation. For claims based on occupational exposure, a written request to the service department is required to obtain records of occupational exposure to radiation. Once dosimetry information is received, the case should be referred to Compensation Service. (M21-1 VIII.iii.4.B.1, M21-1 VIII.iii.9.B.3.a. and f.)

- HLR decision dated 11/21/25 continued the denial of SC for the cause of the Veteran's death, prior to directing completion of an adequate TERA memorandum and updated TERA medical opinion. TERA memorandum dated 11/04/24, conceded exposure to radiation. However, VA Form 21-526EZ and 4138 received 08/14/24 included statements regarding additional exposure including diesel exhaust, solvents/degreasers and asbestos related to the Veteran's duties in a Field Artillery unit. Personnel records confirm duties as a Cannoneer and Assembler in a Field Artillery unit. The statements of additional exposures are consistent with the facts and circumstances of the Veteran's service. (PACT Act SOP, PACT Act FAQs (TERA Q12 pg. 37 of 94, Examinations and Opinions Q7 pg. 45 of 94))

D1 – Effective Dates

There were two errors cited for incorrect effective dates.

- HLR decision dated 11/10/25 erroneously denied entitlement to an effective date, prior to 01/13/25, for the compensable evaluations assigned for the SC left and right stress fracture, pelvis. The assignment of initial non-compensable evaluations for both hips, by the RD dated 06/29/23, was clearly and unmistakably erroneous. At the VA examination, dated 06/13/23, the Veteran reported current symptoms of hip discomfort resulting in the inability to sit or stand for long periods. Flare-ups were reported in both hips, with severity of 8/10, that are precipitated by standing, sitting and activity. Medical opinion provided on the same day indicated that the Veteran was experiencing flare-ups in both hips with symptoms of pain with sitting and standing for long periods. Under 38 CFR 4.59, objective evidence of painful motion is not required for assignment of the minimum compensable evaluation for the musculoskeletal disability. The record at the time of the initial decision included competent evidence of subjective painful motion of the hips. Entitlement to an earlier effective date is warranted. (38 C.F.R. 3.105, 38 C.F.R. 4.59, M21-1 V.iii.1.A.1.a., M21-1 V.iii.1.A.1.f.)

- HLR decision dated 11/28/25 assigned an incorrect effective date of 12/23/24, for the increased evaluation of 70% for adjustment disorder with mixed anxiety and depressed mood, which was the date of a private disability benefits questionnaire (DBQ). The HLR decision explained that the effective date is the first date the medical evidence shows a higher evaluation is warranted, since the claim was continuously pursued (38 C.F.R. 3.2500(h)(1)). However, SC for adjustment disorder with mixed anxiety and depressed mood was initially established by RD dated 09/16/24, with a 30% evaluation effective 08/09/24. The Veteran was notified of this decision on 09/18/24. Subsequently, an ITF was received on 09/21/24 and a claim for increase for adjustment disorder with mixed anxiety and depressed mood was received on 02/24/25 via VAF 21-526EZ, along with the private DBQ dated 12/23/24. The initial claim for the mental disorder is not considered continuously pursued, as the Veteran did not submit a timely review request. Since the claim was not continuously pursued, assignment of an effective date under 38 C.F.R. 3.2500(h)(1) is not applicable. Effective dates for claims for increase are governed by 38 C.F.R. 3.400(o), which states that the effective date will be assigned from date of receipt of claim or date entitlement arose, whichever is later OR the earliest date as of which it is factually ascertainable based on all evidence of record that an increase in disability had occurred if a complete claim or intent to file a claim is received within 1 year from such date, otherwise, date of receipt of claim. (M21-1 II.iii.2.C.3.b., M21-1 V.ii.4.A.5.a., M21-1 X.ii.2.A.1.a.)

J1 – Comments Not Related to EP Under Review

There were two comments cited that were not related to the EP under review.

- RD dated 11/28/23, erroneously established service connection (SC) for prostate cancer. The evidence of record does not confirm a diagnosis of prostate cancer. The Veteran has a history of bladder cancer, for which SC has been established. In 07/2018, the Veteran underwent a transurethral resection of the prostate (TURP) for benign prostatic hyperplasia (BPH). Subsequent pathology report indicates no malignancy of the prostate. There is no indication of biopsy confirmed prostate cancer. (M21-1 V.iii.7.3.b.)

- RD dated 10/27/25, assigned an incorrect effective date of 09/18/25 for entitlement to individual unemployability (IU). The Veteran's service connected (SC) disabilities meet the schedular requirements for individual unemployability from 11/21/23, based on RDs dated 02/19/25, 05/27/25, 07/3/25 and 09/23/25, which established SC for right knee condition, low back condition, right hip condition, radiculopathy, right lower extremity and adjustment disorder with mixed anxiety, depressed mood and insomnia disorder. Subsequently, on 10/01/25, within one year of those decisions, the Veteran submitted a claim for IU. The evidence indicates the Veteran last worked on 10/17/23 with employment officially ending on 01/31/25. Entitlement to IU was established based on impairment related to the SC musculoskeletal conditions and mental health condition. Since the Veteran's claim for IU was received within one year of the RDs establishing the schedular criteria for IU and the Veteran was no longer working during that period, entitlement to an earlier effective date under 38 C.F.R. 3.400(o)(2) is warranted. (M21-1 V.ii.4.A.5.c., M21-1 V.ii.4.A.5.d.)

J2 – Comments Related to EP Under Review

- RD dated 11/18/25, failed to establish a separate non-compensable evaluation for erectile dysfunction. Service connection was established for prostate trouble including voiding dysfunction, BPH, erectile dysfunction (ED) under diagnostic code (DC) 7517, with a 20 percent evaluation for voiding dysfunction. However, under DC 7522 a separate non-compensable evaluation is warranted when there is erectile dysfunction with or without penile deformity. Separate evaluations are warranted where none of the symptomatology for any one condition duplicates or overlaps another. (38 C.F.R. 4.14, 38 C.F.R. 4.115b (DC 7522), M21-1 V.ii.3.D.2.b.)

Reviewing Evidence from Non-VA Sources

Target Audience: Decision Review Operations Center (DROC) Management and Quality Review Teams (QRT), Decision Review Officers (DRO), Rating Veterans Service Representatives (RVSR), Veterans Service Representatives (VSR), and Claims Assistants (CA)

Presenter: Lynn Rowzee, Management and Program Analyst, OAR

References:

- 38 U.S. Code § 5103A - Duty to assist claimants
- 38 CFR § 4.23 Attitude of rating officers
- M21-1, IV.i.1.A.1.c. Reviewing Evidence Before Determining an Examination or Opinion Is Necessary
- M21-1, IV.i.3.A.1.e Assessing Sufficiency of DBQs Completed by Non-VA Providers
- M21-1, IV.i.3.A.1.f. Authenticity of DBQs
- M21-1, IV.i.3.A.1.g. Potential Indicators of DBQ Inauthenticity
- M21-1 V.ii.1.A.1.h. Provisions Applied by the Rating Activity in Evaluating Evidence
- M21-1, V.ii.1.A.3.e. Basis for Rejecting Medical Evidence
- M21-1, V.ii.1.A.4.a. Evaluating Evidence From Non-VA Sources
- M21-1, V.ii.1.A.6.a. Evaluation of Evidence
- *Shipwash v. Brown*, 8 Vet.App. 218 (1995)
- *Colvin v. Derwinksi*, Vet.App. 175 (1991)

Reminders

In response to concerns expressed by some external stakeholders, we wanted remind DROC claims processors they should not assume non-VA medical or lay evidence holds less probative value than VA-originated evidence. Unless there is reason to question its competency or credibility, accept non-VA medical or lay evidence at face value.

- When evaluating non-VA medical and lay evidence, accept it at face value unless its competency or credibility is in question.
- Do not assume non-VA evidence holds less probative value as VA-originated evidence.
- When weighing evidence and assigning probative value decision-makers must:
  - Remain objective, fair, professional, and courteous
  - Ensure conclusions are supported by fact and law
  - Remove any bias or personal feelings
  - Follow evidentiary guidance in laws, regulations, the M21-1, and other agency guidance
- The rating activity may *not* rely on its own unsubstantiated medical conclusions to reject expert medical evidence provided by the claimant.

Review of Private DBQs

- DBQs from treatment providers should be taken at face value once they have been reviewed for authenticity
- Claims processors may not dismiss privately completed DBQs without a justifiable and documented reason
  - If a VA examination is deemed warranted, claims processors *must* add a permanent note in VBMS stating, PDBQ followed by the reason the DBQ appears inauthentic
  - Some *potential* indicators of DBQ inauthenticity are in M21-1, IV.i.3.A.1.g.
    - The presence of one or more of these does *not* automatically mean the DBQ is inauthentic or fraudulent and private DBQs should *not* be routinely rejected or automatically deemed potentially inauthentic or fraudulent.
    - Depending on the situation, informal contact with the OIG or a fraud referral *may* be appropriate but should not be documented in VBMS

Requesting Clarification

- Pursuant to 38 USC 5103A, VA has a duty to return for clarification unclear or insufficient private examination reports.
- If a private, non-VA provider completed DBQ is deemed insufficient for rating purposes, claims processors should attempt to obtain the necessary information from the private provider prior to requesting a VA examination.
- When a privately completed DBQ is deemed insufficient for rating purposes and a VA examination is requested as a result, claims processors must add a permanent VBMS note explaining the reason for finding the privately completed DBQ insufficient.
- Finally, when an examination or opinion is requested to remedy a lacking element, the exam and/or opinion may be requested specific to *only* the lacking element.

Example

- **Scenario:** A Veteran who resides in Colorado provides a private medical opinion for a headache condition from a non-VA provider who works for MedOpinionsDirect, LLC. The company is headquartered in Austin, TX; but employs medical providers across the country. The examiner indicates the opinion was rendered based on an interview with the Veteran (but not seen in person) along with a review of medical records and claims information provided by the Veteran's legal representative. The non-VA provider's license is from Tennessee, and an internet search indicates she also resides in Tennessee.
- **Analysis:** Absent other indicators of inauthenticity, this medical opinion should not be rejected simply because the Veteran resides over 100 miles from the provider.