

Claims for Increased Compensation

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Objectives

- Define claims for increase
- Overview of evidentiary requirements
- Overview of effective dates

References:

38 CFR 3.160(f)

M21-1, Part III, Subpart ii, Chapter 2, Section E

M21-1, Part I, Chapter 1, Section C

38 CFR 3.400(o)

Definition

Any application for an increase in rate of a benefit being paid under a current award, or for resumption of payments previously discontinued
§ 3.160 (f)

May include claims for:

- ✓ an increased evaluation of a disability
- ✓ for special monthly pension (SMP)
- ✓ for special monthly compensation (SMC)
- ✓ to add a dependent, or
- ✓ showing either a reduction of, or a deduction from, income.

Evidentiary Requirements

In claims for increased evaluations, an examination is necessary if an examination or other adequate medical evidence within the last year ***is not*** part of the record.

- The decision to request an examination *within one year* of the last examination must be made on a case-by-case basis.
- A decision to not order an examination shall be supported.
- Prior to requesting an examination, the evidence of record must be reviewed to determine if evidence adequate to evaluate the claim for increase is already present. If there is evidence adequate to evaluate the claim, no examination is warranted.

Effective Dates

- § 3.400(o) date of receipt of claim or date entitlement arose, whichever is later.
- 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.
- When medical records indicate an increase in a disability, receipt of such medical records may be used to establish effective date(s) for retroactive benefits based on facts found of an increase in a disability only if a complete claim or intent to file a claim for an increase is received within 1 year of the date of the report of examination, hospitalization, or medical treatment.



Questions?