

## Department of Veterans Affairs

## § 3.202

### § 3.160 Status of claims.

The following definitions are applicable to claims for pension, compensation, and dependency and indemnity compensation.

(a) *Informal claim.* See § 3.155.

(b) *Original claim.* An initial formal application on a form prescribed by the Secretary. (See §§ 3.151, 3.152).

(c) *Pending claim.* An application, formal or informal, which has not been finally adjudicated.

(d) *Finally adjudicated claim.* An application, formal or informal, which has been allowed or disallowed by the agency of original jurisdiction, the action having become final by the expiration of 1 year after the date of notice of an award or disallowance, or by denial on appellate review, whichever is the earlier. (See §§ 20.1103 and 20.1104 of this chapter.)

(e) *Reopened claim.* Any application for a benefit received after final disallowance of an earlier claim, or any application based on additional evidence or a request for a personal hearing submitted more than 90 days following notification to the appellant of the certification of an appeal and transfer of applicable records to the Board of Veterans Appeals which was not considered by the Board in its decision and was referred to the agency of original jurisdiction for consideration as provided in § 20.1304(b)(1) of this chapter.

(Authority: 38 U.S.C. 501)

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

[27 FR 11887, Dec. 1, 1962, as amended at 31 FR 12056, Sept. 15, 1966; 55 FR 20148, May 15, 1990; 58 FR 32445, June 10, 1993]

### EVIDENCE REQUIREMENTS

#### § 3.200 Testimony certified or under oath.

(a) All oral testimony presented by claimants and witnesses on their behalf before any rating or authorization body will be under oath or affirmation. (See § 3.103(c).)

(b) All written testimony submitted by the claimant or in his or her behalf for the purpose of establishing a claim for service connection will be certified or under oath or affirmation. This includes records, examination reports, and transcripts material to the issue received by the Department of Veterans Affairs at the instance of the claimant or in his or her behalf or requested by the Department of Veterans Affairs from State, county, municipal, recognized private institutions, and contract hospitals.

[40 FR 36329, Aug. 20, 1975]

#### § 3.201 Exchange of evidence; Social Security and Department of Veterans Affairs.

(a) A claimant for dependency and indemnity compensation may elect to furnish to the Department of Veterans Affairs in support of that claim copies of evidence which was previously furnished to the Social Security Administration or to have the Department of Veterans Affairs obtain such evidence from the Social Security Administration. For the purpose of determining the earliest effective date for payment of dependency and indemnity compensation, such evidence will be deemed to have been received by the Department of Veterans Affairs on the date it was received by the Social Security Administration.

(b) A copy or certification of evidence filed in the Department of Veterans Affairs in support of a claim for dependency and indemnity compensation will be furnished the Social Security Administration upon request from the agency.

(Authority: 38 U.S.C. 501(a) and 5105)

CROSS REFERENCE: Claims filed with Social Security. See § 3.153.

[26 FR 1571, Feb. 24, 1961, as amended at 58 FR 25562, Apr. 27, 1993]

#### § 3.202 Evidence from foreign countries.

(a) Except as provided in paragraph (b) of this section, where an affidavit or other document is required to be executed under oath before an official in a foreign country, the signature of that official must be authenticated by a United States Consular Officer in that

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jurisdiction or by the State Department. Where the United States has no consular representative in a foreign country, such authentication may be made as follows:

(1) By a consular agent of a friendly government whereupon the signature and seal of the official of the friendly government may be authenticated by the State Department; or

(2) By the nearest American consul who will attach a certificate showing the result of the investigation concerning its authenticity.

(b) Authentication will not be required: (1) On documents approved by the Deputy Minister of Veterans Affairs, Department of Veterans Affairs, Ottawa, Canada: or

(2) When it is indicated that the attesting officer is authorized to administer oaths for general purposes and the document bears his or her signature and seal; or

(3) When the document is executed before a Department of Veterans Affairs employee authorized to administer oaths; or

(4) When a copy of a public or church record from any foreign country purports to establish birth, adoption, marriage, annulment, divorce, or death, provided it bears the signature and seal of the custodian of such record and there is no conflicting evidence in the file which would serve to create doubt as to the correctness of the record; or

(5) When a copy of the public or church record from one of the countries comprising the United Kingdom, namely: England, Scotland, Wales, or Northern Ireland, purports to establish birth, marriage, or death, provided it bears the signature or seal or stamp of the custodian of such record and there is no evidence which would serve to create doubt as to the correctness of the records; or

(6) When affidavits prepared in the Republic of the Philippines are certified by a Department of Veterans Affairs representative located in the Philippines having authority to administer oaths.

(c) Photocopies of original documents meeting the requirements of this section will be accepted if they

satisfy the requirements of § 3.204 of this part.

(Authority: 38 U.S.C. 501)

CROSS REFERENCE: State Department as agent of Department of Veterans Affairs. See § 3.108.

[26 FR 1571, Feb. 24, 1961, as amended at 40 FR 36329, Aug. 20, 1975; 52 FR 19348, May 22, 1987; 59 FR 46338, Sept. 8, 1994]

### § 3.203 Service records as evidence of service and character of discharge.

(a) *Evidence submitted by a claimant.* For the purpose of establishing entitlement to pension, compensation, dependency and indemnity compensation or burial benefits the Department of Veterans Affairs may accept evidence of service submitted by a claimant (or sent directly to the Department of Veterans Affairs by the service department), such as a DD Form 214, Certificate of Release or Discharge from Active Duty, or original Certificate of Discharge, without verification from the appropriate service department if the evidence meets the following conditions:

(1) The evidence is a document issued by the service department. A copy of an original document is acceptable if the copy was issued by the service department or if the copy was issued by a public custodian of records who certifies that it is a true and exact copy of the document in the custodian's custody or, if the copy was submitted by an accredited agent, attorney or service organization representative who has successfully completed VA-prescribed training on military records, and who certifies that it is a true and exact copy of either an original document or of a copy issued by the service department or a public custodian of records; and

(2) The document contains needed information as to length, time and character of service; and

(3) In the opinion of the Department of Veterans Affairs the document is genuine and the information contained in it is accurate.

(b) *Additional requirements for pension claimants.* In addition to meeting the requirements of paragraph (a) of this section, a document submitted to establish a creditable period of wartime service for pension entitlement may be