§ 21.1033 Time limits.

The provisions of this section are applicable to informal claims and formal claims.

(a) Failure to furnish form, information, or notice of time limit. VA’s failure to give a claimant or potential claimant any form or information concerning the right to file a claim or to furnish notice of the time limit for the filing of a claim will not extend the time periods allowed for these actions.

(b) [Reserved]

(c) Time limit for filing a claim for an extended period of eligibility under 10 U.S.C. chapter 1606, or 38 U.S.C. chapter 30, 32, 33, or 35. VA must receive a claim for an extended period of eligibility provided by §21.3047, §21.5042, §21.7051, §21.7551, or §21.9535 by the later of the following dates:

(1) One year from the date on which the spouse’s, surviving spouse’s, veteran’s, reservist’s, or other eligible individual’s original period of eligibility ended; or

(2) One year from the date on which the spouse’s, surviving spouse’s, veteran’s, reservist’s, or other eligible individual’s physical or mental disability no longer prevented him or her from beginning or resuming a chosen program of education.

(d) Time limit for filing for an extension of eligibility due to suspension of program (38 U.S.C. chapter 35). VA must receive a claim for an extended period of eligibility due to a suspension of an eligible
child’s program of education as provided in §21.3043 by the later of the following dates.

(1) One year from the date on which the child’s original period of eligibility ended; or

(2) One year from the date on which the condition that caused the suspension of the program of education ceased to exist.

(Authority: 38 U.S.C. 3512(c))

(e) Extension for good cause. (1) VA may extend for good cause a time limit within which a claimant or beneficiary is required to act to perfect a claim or challenge an adverse VA decision. VA may grant such an extension only when the following conditions are met:

(i) When a claimant or beneficiary requests an extension after expiration of a time limit, he or she must take the required action concurrently with or before the filing of that request; and

(ii) The claimant or beneficiary must show good cause as to why he or she could not take the required action during the original time period and could not have taken the required action sooner.

(2) Denials of time limit extensions are separately appealable issues.

(Authority: 38 U.S.C. 5101, 5113)

(f) Computation of time limit. (1) In computing the time limit for any action required of a claimant or beneficiary, including the filing of claims or evidence requested by VA, VA will exclude the first day of the specified period, and will include the last day. This rule is applicable in cases in which the time limit expires on a workday. When the time limit would expire on a Saturday, Sunday, or holiday, the VA will include the next succeeding day in the computation.

(2) The first day of the specified period referred to in paragraph (f)(1) of this section will be the date of the letter of notification to the claimant or beneficiary for purposes of computing time limits. As to appeals, see §§20.302 and 20.305 of this chapter.

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


§21.3001 Appeals.

A claimant may appeal a decision of eligibility or entitlement to educational assistance under title 38, U.S.C., to the Board of Veterans Appeals in accordance with the provisions of 38 CFR part 20. A claimant may appeal a decision of entitlement to educational assistance under 10 U.S.C. 510 and 10 U.S.C. chapters 106a, 1606, and 1607 to the Board of Veterans Appeals in accordance with the provisions of 38 CFR part 20. A claimant may not appeal a decision of eligibility under 10 U.S.C. 510 or 10 U.S.C. chapters 106a, 1606, or 1607 or for supplemental or increased educational assistance under 10 U.S.C. 16131(i) or 38 U.S.C. 3015(d), 3021, or 3316 to VA as the Department of Defense solely determines eligibility to supplemental and increased educational assistance under those sections.

(Authority: 38 U.S.C. 501(a), 7105, 7105A)

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