

Subpart A—General

§ 20.1 Rule 1. Purpose and construction of Rules of Practice.

(a) *Purpose.* These rules establish the practices and procedures governing appeals to the Board of Veterans' Appeals (Board).

(Authority: 38 U.S.C. 501(a), 7102, 7104)

(b) *Construction.* These rules are to be construed to secure a just and speedy decision in every appeal.

(Authority: 38 U.S.C. 501(a), 5107, 7104)

[57 FR 4109, Feb. 3, 1992, as amended at 84 FR 179, Jan. 18, 2019]

§ 20.2 Rule 2. Procedure in absence of specific Rule of Practice.

Where in any instance there is no applicable rule or procedure, the Chairman may prescribe a procedure which is consistent with the provisions of title 38, United States Code, and these rules.

(Authority: 38 U.S.C. 501(a), 512(a), 7102, 7104)

§ 20.3 Rule 3. Definitions.

As used in these Rules:

(a) *Agency of original jurisdiction* means the Department of Veterans Affairs activity or administration, that is, the Veterans Benefits Administration, Veterans Health Administration, or National Cemetery Administration, that made the initial determination on a claim.

(b) *Agent* means a person who has met the standards and qualifications for accreditation outlined in § 14.629(b) of this chapter and who has been properly designated under the provisions of § 14.631 of this chapter. It does not include representatives accredited under § 14.629(a) of this chapter, attorneys accredited under § 14.629(b) of this chapter, or a person authorized to represent a claimant for a particular claim under § 14.630 of this chapter.

(c) *Appellant* means a claimant who has filed an appeal to the Board of Veterans' Appeals either as a legacy appeal or in the modernized review system, as those terms are defined in § 19.2 of this chapter, and Rule 4 (§ 20.4 of this part), respectively.

(d) *Attorney-at-law* means a member in good standing of a State bar.

(e) *Benefit* means any payment, service, commodity, function, or status, entitlement to which is determined under laws administered by the Department of Veterans Affairs pertaining to veterans and their dependents and survivors.

(f) *Claim* means a written communication requesting a determination of entitlement or evidencing a belief in entitlement, to a specific benefit under the laws administered by the Department of Veterans Affairs submitted on an application form prescribed by the Secretary.

(g) *Claimant* means a person who has filed a claim, as defined by paragraph (f) of this section.

(h) *Hearing on appeal* or *Board hearing* means a hearing conducted after a Notice of Disagreement has been filed in which testimony is presented concerning the determination, or determinations, by the agency of original jurisdiction being appealed.

(i) *Motion* means a request that the Board rule on some question which is subsidiary to the ultimate decision on the outcome of an appeal. For example, a request to correct a hearing transcript (see Rule 714 (§ 20.714)) is raised by motion. Unless raised orally at a personal hearing before Members of the Board, motions for consideration by the Board must be made in writing. No formal type of document is required. The motion may be in the form of a letter which contains the necessary information.

(j) *Past-due benefits* means a non-recurring payment resulting from a benefit, or benefits, granted on appeal or awarded on the basis of a claim readjudicated after a denial by the Board of Veterans' Appeals or the lump sum payment which represents the total amount of recurring cash payments which accrued between the effective date of the award, as determined by applicable laws and regulations, and the date of the grant of the benefit by the agency of original jurisdiction, the Board of Veterans' Appeals, or an appellate court.

(k) *Presiding Member* means that Member of the Board who presides over

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a hearing, whether conducted as a single Member or panel hearing.

(1) *Simultaneously contested claim* refers to the situation in which the allowance of one claim results in the disallowance of another claim involving the same benefit or the allowance of one claim results in the payment of a lesser benefit to another claimant.

(m) *State* includes any State, possession, territory, or Commonwealth of the United States, as well as the District of Columbia.

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

[57 FR 4109, Feb. 3, 1992, as amended at 61 FR 20449, May 7, 1996; 67 FR 36104, May 23, 2002; 69 FR 53808, Sept. 3, 2004; 79 FR 57698, Sept. 25, 2014; 84 FR 179, Jan. 18, 2019]

§ 20.4 Rule 4. Appeal systems definitions and applicability provisions.

(a) *Appeal*—(1) *In general*. An appeal consists of a Notice of Disagreement timely filed to the Board on any issue or issues for which VA provided notice of a decision under 38 U.S.C. 5104 on or after the effective date, as defined in § 19.2(a) of this chapter.

(2) *Appellant's election for review of a legacy claim or appeal in the modernized review system*. The regulations applicable to appeals are also applicable to legacy claims and appeals, as those terms are defined in §§ 3.2400(b) and 19.2(c) of this chapter, where the claimant elects the modernized review system pursuant to § 19.2(d) of this chapter, and upon the timely filing to the Board of a Notice of Disagreement.

(b) *Applicability of parts 19 and 20*—(1) *Appeals*. Subparts C, D, E, and I of part 20 apply only to the processing and adjudication of appeals in the modernized review system.

(2) *Legacy claims and appeals*. Part 19 and subparts F, G, and J of part 20 apply only to the processing and adjudication of legacy claims and appeals.

(3) *Both appeals systems*. Except as otherwise provided in specific sections, subparts A, B, H, K, L, M, N, and O of part 20 apply to the processing and adjudication of both appeals and legacy claims and appeals.

(Authority: Sec. 2, Pub. L. 115-55; 131 Stat. 1105)

[84 FR 180, Jan. 18, 2019]

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§ 20.5 Rule 5. Right to representation.

An appellant will be accorded full right to representation in all stages of an appeal by a recognized organization, attorney, agent, or other authorized person.

(Authority: 38 U.S.C. 5901-5905, 7105(a))

[57 FR 4104, Feb. 3, 1992. Redesignated and amended at 84 FR 184, Jan. 18, 2019]

§ 20.6 Rule 6. Withdrawal of services by a representative.

(a)(1) *Applicability*. The restrictions on a representative's right to withdraw contained in this paragraph apply only to those cases in which the representative has previously agreed to act as representative in an appeal. In addition to express agreement, orally or in writing, such agreement shall be presumed if the representative makes an appearance in the case by acting on an appellant's behalf before the Board in any way after the appellant has designated the representative as such as provided in § 14.630 or § 14.631 of this chapter. The preceding sentence notwithstanding, an appearance in an appeal solely to notify the Board that a designation of representation has not been accepted will not be presumed to constitute such consent.

(2) *Procedures*. Except as otherwise provided in paragraph (b) of this section, after an appeal to the Board of Veterans' Appeals has been filed, a representative may not withdraw services as representative in the appeal unless good cause is shown on motion. Good cause for such purposes is the extended illness or incapacitation of an agent admitted to practice before the Department of Veterans Affairs, an attorney-at-law, or other individual representative; failure of the appellant to cooperate with proper preparation and presentation of the appeal; or other factors which make the continuation of representation impossible, impractical, or unethical. Such motions must be in writing and must include the name of the veteran, the name of the claimant or appellant if other than the veteran (*e.g.*, a veteran's survivor, a guardian, or a fiduciary appointed to receive VA benefits on an individual's behalf), the applicable Department of Veterans Affairs file number, and the reason why