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Title 38, Part 3

*Adjudication*

**Veterans Benefits Administration**

Supplement No. 84

Covering period of *Federal Register* issues  
through December 2, 2008

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Custom Federal Regulations Service™

**Supplemental Materials for *Book B***

**Code of Federal Regulations**

**Title 38, Part 3**

*Adjudication*

**Veterans Benefits Administration**

**Supplement No. 84**

5 December 2008

Covering the period of Federal Register issues  
through December 2, 2008

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December 5, 2008**

*Remove these  
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*Section(s)  
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**B-9 to B-10**

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**§3.161 (added)**

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## HIGHLIGHTS

### Book B, Supplement No. 84 December 5, 2008

**Note:** Where substantive changes are made in the text of regulations, the paragraphs of *Highlights* sections are cited at the end of the relevant section of text. Thus, if you are reading §3.263, you will see a note at the end of that section which reads: “Supplement *Highlights* references—6(2).” This means that paragraph 2 of the *Highlights* section in Supplement No. 6 contains information about the changes made in §3.263. By keeping and filing the *Highlights* sections, you will have a reference source explaining all substantive changes in the text of the regulations.

**Supplement frequency:** This Book B (*Adjudication*) was originally supplemented four times a year, in February, May, August, and November. Beginning 1 August 1995, supplements will be issued *every month* during which a final rule addition or modification is made to the parts of Title 38 covered by this book. Supplements will be numbered consecutively as issued.

### **Modifications in this supplement include the following:**

1. On 5 November 2008, the VA published a final rule, effective 5 December 2008, to launch an initiative for accelerated claims and appeals processing at four VA facilities, based on voluntary participation by eligible claimants. Changes:

- Added a new §3.161 (also added a new Subpart P to Part 20, which contains the substantive regulations).

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#### §3.150 Forms to be furnished.

(a) Upon request made in person or in writing by any person applying for benefits under the laws administered by the Department of Veterans Affairs, the appropriate application form will be furnished. (Authority: 38 U.S.C. 5102)

(b) Upon receipt of notice of death of a veteran, the appropriate application form will be forwarded for execution by or on behalf of any dependent who has apparent entitlement to pension, compensation, or dependency and indemnity compensation. If it is not indicated that any person would be entitled to such benefits, but there is payable an accrued benefit not paid during the veteran's lifetime the appropriate application form will be forwarded to the preferred dependent. Notice of the time limit will be included in letters forwarding applications for benefits.

(c) When disability or death is due to Department of Veterans Affairs hospital treatment, training, medical or surgical treatment, or examination, a specific application for benefits will not be initiated.

[26 FR 1570, Feb. 14, 1961, as amended at 30 FR 133, Jan. 7, 1965; 67 FR 40867, June 14, 2002]

**Cross reference:** Extension of time limit. See §3.109(b).

**§3.151 Claims for disability benefits.**

(a) *General.* A specific claim in the form prescribed by the Secretary must be filed in order for benefits to be paid to any individual under the laws administered by VA. (38 U.S.C. 5101(a)). A claim by a veteran for compensation may be considered to be a claim for pension; and a claim by a veteran for pension may be considered to be a claim for compensation. The greater benefit will be awarded, unless the claimant specifically elects the lesser benefit.

(b) *Retroactive disability pension claims.* Where disability pension entitlement is established based on a claim received by VA on or after October 1, 1984, the pension award may not be effective prior to the date of receipt of the pension claim unless the veteran specifically claims entitlement to retroactive benefits. The claim for retroactivity may be filed separately or included in the claim for disability pension, but it must be received by VA within one year from the date on which the veteran became permanently and totally disabled. Additional requirements for entitlement to a retroactive pension award are contained in §3.400(b) of this part. (Authority: 38 U.S.C. 5110(b)(3))

[50 FR 25981, June 24, 1985]

**Cross reference:** Informal claims. See §3.155(b).

**§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(a))

(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; 59 FR 32443, June 10, 1993]

**Supplement *Highlights* reference: 8(1)**

**§3.161 Expedited Claims Adjudication Initiative—Pilot Program.**

Rules pertaining to the Expedited Claims Adjudication Initiative Pilot Program are set forth in part 20, subpart P, of this chapter. (Authority: 38 U.S.C. 501(a))

[73 FR 65732, Nov. 5, 2008]

**Supplement *Highlights* reference:** 84(1)

*Next Section is §3.200*