

TRAINING MODULE 8
Study Plan
ELIGIBILITY VERIFICATION REPORTS (EVR)
Deductible Expenses

Objective:

To learn the requirements for proper periodic reporting of income and expenses to maintain continued eligibility for pension or parents' DIC, and which expenses may be excluded from a claimant's income for VA purposes.

References:

Title 38, U.S. Code, Chapters 13 and 15

38 Code of Federal Regulations §§ 3.3–3.277; 3.652–3.661

Adjudication Manual 21-1, Part I, Appendix B; Part IV, Chapters 16 and 29;

Adjudication Manual M21-1MR, Part 5; Part 10, Chapters 9 and 10.

EVR Fact Sheet, pg. 8-5

EVR Booklet, 2001

Instructions:

Study the assigned reference materials for an understanding of how to assist and advise claimants on the effect of their various income and expenses on their VA pension awards. Learn which deductions are likely to require further documentation.

Summary:

I. EVRs:

Department of Veterans Affairs (VA) pension for a veteran, surviving spouse, or child is an income-based benefit, as is Dependency and Indemnity Compensation (DIC) for the veteran's dependent parents. This means that the claimant(s) must show that they meet the prescribed income limits to establish both initial eligibility for payment as well as eligibility for continued payment. This is generally first accomplished by the income and net worth information portions of the initial applications (VA Forms 21-526, 21-527, 21-534, or 21-535, as applicable). For the purpose of establishing ongoing eligibility, an Eligibility Verification Report (EVR) is sent.

Law and regulations require that as a condition of continuing pension, each person in receipt of pension must provide such information as is necessary to determine their annual income and net worth, as well as for their dependents, as applicable. This basically means that each claimant is sent an EVR each year, generally at the end of the calendar year. The information requested on an individual EVR is geared to the particular program for that claimant, and will be discussed in more detail below. Notwithstanding the general requirement, not all claimants will be sent an EVR each year.

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Persons in receipt of old-law (protected) pension or Section 306 pension will not routinely be sent an EVR, unless there is some indication of a significant change in that person's income or dependency status and the information is needed to determine continued eligibility to payment under that program. Persons in receipt of improved pension or parents' DIC may not be sent an EVR if they consistently report no income from any source (and there is no other information to the contrary), or if their only income is from Social Security or other government source, which may be verified by computer match. These individuals may submit a VA Form 21-8416 Medical Expense Report to reduce countable annual income.

As noted above, the information requested on an EVR is specific to that claimant's program. All EVRs ask for addresses and Social Security numbers of claimants and dependents, and also marital and dependent status (this information may be pre-printed). All EVRs ask for gross monthly amounts of all recurring income (such as Social Security) and annual amounts of other or non-recurring income, both received during the current year and expected during the coming year. All EVRs also ask if there is any change in the income received or expected, along with sources or amounts (other than cost of living increases). All EVRs except for children receiving death pension ask if the veteran or beneficiary is a patient in a nursing home (quite often, this will be the first indication that the veteran or beneficiary might be entitled to a higher rate because of need for aid and attendance). Section 306 pension and improved pension EVRs also ask for net worth information. Finally, EVRs for Section 306 pension and parents' DIC provide space for listing family medical expenses paid during the current year.

Since the information on the EVR is required as a condition of continued eligibility for payment, there are strict time limits for returning the reports. The claimant is warned when the EVR is mailed that the report must be returned by a specified date or payments will be suspended. A follow-up reminder may be sent as a due process notice, reminding the claimant of the deadline for returning the EVR to avoid interruption of payments and possible overpayment. If there is still no response, the award is terminated without further notice, effective the end of the current calendar year for old-law and Section 306 pension cases, and effective the beginning of the current calendar year (or the beginning date of the award, whichever is later) for improved pension and parents' DIC. If an award is terminated for failure to return the EVR, it may be resumed if evidence of entitlement is received within one year after the year for which the income and net worth (if applicable) was to be reported. If the evidence is received after that time limit, it is considered to be a new or reopened claim for payment purposes. Evidence to clear an overpayment resulting from failure to return an EVR may be submitted at any time, however.

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Beginning in late 2001 VA consolidated all pension and parents' DIC operations into three locations: Philadelphia, Pennsylvania, Milwaukee, Wisconsin, and St. Paul, Minnesota. These three Pension Maintenance Centers (PMC) handle operations to include mailing and processing of EVRs for all improved disability and death pension and all parents' DIC cases. As a matter of information, these PMCs are now handling all original pension claims. The addresses and jurisdictions of the three Centers are shown below (page 8-6). There is a single toll-free telephone number for all three PMCs, **1-877-294-6380**; incoming calls will be automatically switched to the proper center, in the same manner as for the basic VA information number (1-800-827-1000).

Most EVRs from now on will be issued by the PMC of primary responsibility, but some may still be sent out by a different RO handling a particular claim (see EVR office listing later in this section). ***It is extremely important that careful attention be paid to the return address on the EVR***—if an EVR issued by a PMC is returned to the wrong office, the automatic control for its return set by the PMC will not be cleared, and the beneficiary's payments will be interrupted. If a beneficiary comes in to the office for help with an EVR issued by a PMC and the deadline for its return is too near to mail the EVR, the PMCs will accept a fax copy of the EVR provided the original EVR is then mailed to the PMC as a confirming copy. The PMC fax numbers are:

Philadelphia	Milwaukee	St. Paul
1-215-381-3777	1-414-902-9401 1-414-902-5633	1-612-970-5724

2. Deductible Expenses:

Income from all sources is considered for all of the pension programs and for parents' DIC, unless it is specifically excluded. It is important that all income be reported, and VA will make the determination on whether or not it is to be excluded. However, certain expenses may be deducted from income for VA purposes (IVAP), either to establish that income continues to meet applicable limits (for old-law and Section 306 pension), or to establish entitlement to a greater rate of payment (for improved pension and parents' DIC).

Old-law pension: If the veteran received benefits for permanent and total disability from any source including Social Security Administration, Office of Federal Employees Compensation, Railroad Retirement Board, state workman's compensation, commercial insurance, etc., then unreimbursed medical expenses paid each year which are related to the disability for which the veteran was retired may be allowed as continuing expenses to keep income within limits. Otherwise, deductible expenses are not a factor for old-law pension.

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Section 306 pension: Unreimbursed medical expenses which exceed 5% of the total reported and countable family income may be deducted from the income for VA purposes (IVAP); this will not increase the pension rate payable, but may be used to keep the IVAP within the specified limits. If the space provided on the EVR is not sufficient for reporting such expenses, VA Form 21-8416, *Medical Expense Report*, should be completed. In addition, a deduction may be allowed for the amounts actually paid by a surviving spouse or child for the last illness, burial and just debts of the deceased veteran, or the amounts actually paid by a veteran, surviving spouse or child for the expenses of the last illness or burial of the veteran's deceased spouse or child. Final expenses are deducted from IVAP on a dollar-for-dollar basis with no deductible, and are applied against the IVAP for the year(s) the expenses are actually paid by the beneficiary. Again, these will not increase the pension rates payable, but will only keep the IVAP within limits for the year(s) involved.

Improved pension: The theory is that at any given time the claimant's income for VA purposes (IVAP) plus the rate of VA pension will establish a given level of income, the maximum annual pension rate (MAPR). To keep the program closer to the theory, certain expenses paid by a beneficiary are considered in determining the beneficiary's IVAP. Most deductible expenses are deducted from the net countable income, although some expenses may only be deducted from specific income. Unreimbursed out-of-pocket unusual medical expenses, defined as exceeding 5% of the applicable MAPR, may be used to reduce a beneficiary's IVAP for the year they are actually paid. These expenses may be for the veteran or surviving spouse and any dependents, or for a relative who is not a dependent but who is a member of the beneficiary's household.

Health insurance and/or Medicare premiums are allowable expenses; other medical expenses are considered on a case-by-case basis. Although most medical expenses are deducted from the IVAP retroactively for the year they are paid, certain expenses may be allowed prospectively and on an ongoing basis, such as the costs of nursing home care. A deduction may also be allowed for the unreimbursed final expenses of the veteran, spouse or child, which have been actually paid. Final expenses include the expenses of the last illness and burial, and for the veteran only, just debts. VA Form 21-8416, *Medical Expense Report*, should be completed for reporting such expenses.

A deduction may also be allowed for unreimbursed educational expenses of a veteran or surviving spouse, and with certain restrictions, a child. These include amounts paid for tuition, fees, books and necessary supplies. Transportation expenses related to school attendance may be deducted if the veteran or surviving spouse has been determined to be housebound or in need of aid and attendance, and such expenses exceed the amounts which would reasonably be incurred by a nondisabled person. For a child, educational expenses may be deducted only if the child has earned income which exceeds the amount excluded under 38 CFR § 3.272(j)(2), that is, the minimum earned income which would require that an income tax return be filed. The child must be taking a post-high school educational or vocational program; the deductible expenses include amounts paid for tuition, fees, books, and necessary supplies.

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If a beneficiary has income from rental property or a business, the amounts of reasonable operating expenses, including the costs of supplies and interest payments on the property, but not depreciation, may be deducted from the gross income from that source to determine the net countable income. The value of the rental property or business is considered to be net worth. (VA Form 21-4185 – Report of Income from Property or Business – should accompany the Eligibility Verification Report (EVR))

If a beneficiary is awarded benefits (other than VA benefits) based on permanent and total disability or death, a one-time deduction from that award may be taken for the legal, medical, and other expenses incurred in securing the award. This includes awards from Social Security Administration, Office of Federal Employees Compensation, Railroad Retirement Board, state workman's compensation, commercial insurance, and private lawsuits or settlements. After this one-time initial deduction, related ongoing medical expenses are deductible only as described above.

Parents' DIC: Unreimbursed family medical expenses which exceed 5% of the total reported and countable family income may be deducted from the income for VA purposes (IVAP). Persons whose medical expenses are deductible include the parent; the parent's spouse (whether or not this is the veteran's other parent); minor or disabled children of the parent or spouse who are actual or constructive members of the parent's household; and parent(s) of the parent or spouse, who are actual or constructive members of the parent's household. If the space provided on the EVR is not sufficient for reporting such expenses, VA Form 21-8416, *Medical Expense Report*, should be completed.

The rules for determining the net income from a rental or other business are similar, but not identical, to the rules for improved pension. Since net worth is not a factor for parents' DIC, the value of the rental property or business is not considered. Similarly, if a parent or parent's spouse is awarded benefits (other than VA benefits) based on permanent and total disability or death, a one-time deduction from that award may be taken for the legal, medical, and other expenses incurred in securing the award. This includes awards from Social Security Administration, Office of Federal Employees Compensation, Railroad Retirement Board, state workman's compensation, commercial insurance, and private lawsuits or settlements. After this one-time initial deduction, related ongoing medical expenses are deductible only as described above.

3. Income and Expense Verification

Although VA does not normally require a beneficiary to document each and every amount and/or source of income or deductible expense listed on a pension or parents' DIC claim or EVR (unless the information reported is inconsistent or otherwise suspect on its face), this does not mean that the information is accepted without some degree of confirmation. VA has several computer income-matching programs such as SHARE, which will automatically verify amounts paid under other Federal programs including Social Security, SSI, Railroad Retirement, Black Lung Compensation, Civil Service Retirement, etc., against the amounts as reported by the beneficiary. If there are discrepancies, the amounts reported by the matching program are considered to be authoritative, and will be the basis for any action or adjustment needed.

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Since 1991 VA has also had a program of Income Verification Matching (IVM), which essentially matches unearned income from interest or dividends and earned income from wages or salary, as reported by the beneficiary to VA, to the same information as reported to the Internal Revenue Service (IRS) or to the Social Security Administration by the payers of such income. This is now administered by the Pension Maintenance Centers (PMC). If there are discrepancies between the reports, the beneficiary and payer will be required to explain and document the difference(s). If the discrepancy can not be satisfactorily explained or otherwise resolved, benefits will be reduced or terminated as appropriate.

Since IRS records are highly sensitive and confidential, they may not be used as the basis for acting on a beneficiary's VA award unless and until both the beneficiary and the payer of the income in question have been given full opportunity to explain and correct any discrepancies shown. Even though the beneficiary has designated an accredited veterans service organization as his/her authorized representative for the VA claim, the representative may not view IRS-related material unless and until the beneficiary gives specific written permission, i.e., a new

VA Form 21-22, *Appointment of Veterans Service Organization as Claimant's Representative*, or designates an individual as representative. The designation of an individual or a veterans' service organization as the beneficiary's representative in an IVM case is only valid for five (5) years from the date the beneficiary signs the Form 21-22. If the beneficiary is married, then separate authorizations of representation must be signed by each the beneficiary and the beneficiary's spouse. Disclosure of IRS-related material to the designated representative is highly restricted—such materials may only be disclosed for the purpose of determining eligibility for and/or extent of entitlement to compensation, pension or DIC.

VA is required to annually audit about 4% of pension and parents' DIC cases nationwide, chosen randomly, where deductions of unreimbursed medical expenses paid are, or have been, a factor in the rates being paid. The PMC will request the beneficiary to provide documentation, including copies of receipted bills, for each claimed unreimbursed medical expense paid, either during the EVR period or for the past calendar year (if different). If the claimant is not able to provide satisfactory documentation that all of the claimed expenses were in fact paid, the PMC will retroactively adjust the award so that the rate(s) payable will not include the claimed deductible expenses. This will create an overpayment in the account. Established ongoing expenses such as Medicare premiums are not included in this audit.

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EVR Fact Sheet

Addresses and Jurisdictions of Pension Maintenance Centers (PMCs):

Philadelphia

Department of Veterans Affairs
Pension Maintenance Center
P.O. Box 42000
Philadelphia, PA 19101

Milwaukee

Milwaukee VA Pension Center
P.O. Box 342000
Milwaukee, WI 53234-2000

St. Paul

St. Paul VA Pension Center
P.O. Box 11000
St. Paul, MN 55111-0000

Philadelphia
Atlanta
Baltimore
Boston
Buffalo
Columbia
Hartford
Huntington
Manchester
Newark
New York
Pittsburgh
Providence
Roanoke
St. Petersburg
San Juan
Togus
White River Junction
Wilmington
Winston-Salem
WRO

Milwaukee
Chicago
Cleveland
Detroit
Indianapolis
Jackson
Little Rock
Louisville
Montgomery
Nashville
New Orleans
St. Louis

St. Paul
Albuquerque
Anchorage
Boise
Denver
Des Moines
Fargo
Ft. Harrison
Honolulu
Houston
Lincoln
Los Angeles
Manila
Muskogee
Oakland
Phoenix
Portland
Reno
Salt Lake City
San Diego
Seattle
Sioux Falls
Waco
Wichita

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Who will receive an EVR this year?

-- Beneficiaries who do **not** have a verified SS # in the VA master record. If a veteran has a spouse, both veteran's and spouse's SS# must be verified.

-- Beneficiaries who have income other than Social Security.

-- Beneficiaries who have future income changes in the VA's master record.

Example: Claimant won the lottery in June 2008. This income is countable for the period July 1, 2008 through June 30, 2009. Since there is a future income change in the claimant's benefits, they will receive an EVR.

A claimant must be in receipt of income based benefits by the end of the month of August to be included in the review.

Who will not receive an EVR?

-- Beneficiaries who have verified Social Security numbers in the VA's master record. In the case of a veteran with a spouse, the Social Security number of both the veteran and the spouse must be verified.

-- Beneficiaries who have **no** 'countable income.'

-- Beneficiaries who have only Social Security income or other government retirement or disability income.

-- Beneficiaries who will not have a future income change in the master record.

-- Beneficiaries who were not in receipt of income-based benefits prior to August 31.

(The individuals listed above will only have to file an EVR if there has been a change in dependents or income.)

-- Original Pension Awards processed in September or later will be included in the next year's EVR review.

-- If a claimant **does not** receive an EVR form, but receives a letter with VA Form 21-8416 attached, they **may** complete and return VA Form 21-8416 to report unreimbursed medical expenses. There is no requirement to report income. However, a statement on the 21-8416, or on an attached VA Form 21-4138, indicating "no change in income" or "no change in dependency status" is recommended.

NOTES

-- EVRs should be mailed after Christmas; however, many beneficiaries may not receive their EVR forms until mid-January.

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-- If the completed EVR forms are not received at the VARO or the issuing PMC within 60 days from the release date, the beneficiary's account will go into suspense.

-- Make and retain copies of EVRs and 8416s submitted.

Suggestions to help EVR Processing:

-- Complete all items on both sides of the EVR. Where an item does not apply, write NONE or N/A.

-- Beneficiaries who report interest or dividend income must report the source of the dividends or interest as net worth.

-- Beneficiaries who report interest-bearing assets of \$5,000.00 or more should be sure to report interest or dividend income. If no interest is reported, VA will count 3%.

-- DO NOT mark over bar coded area.

-- If the claimant's address has been changed, clearly indicate the new address on the EVR.

-- Review all pre-printed information on the EVR for accuracy. When showing a change in Social Security, enter the gross amount as the EVR does not have a separate block for the Medicare deduction. When showing other retirement income, enter gross totals. Please insure the claimant's and spouse's Social Security numbers are correct.

-- When completing VA Form 21-8416, please total all expenses reported.

-- For beneficiaries submitting VA Form 21-8416 who were receiving income-based benefits on or before January 1, they should report un-reimbursed medical expenses from Jan. 1 through December 31 of previous calendar year.

-- For beneficiaries submitting VA Form 21-8416 who were receiving income-based benefits prior to August 31, should report the un-reimbursed medical expenses from the effective date of their application through December 31. **Example:** Veteran applied for Improved Pension on March 14, 2008. He was awarded benefits in July 2008 with an effective date of March 14, 2008 and a payment date of April 1, 2008. This veteran should submit a completed VA Form 21-8416 for the period March 14, 2008 through December 31, 2008.

-- Be certain the EVR is SIGNED by the claimant. If signed by a mark, the appropriate certification must be attached. If the claimant is incompetent for VA purposes, the EVR must be signed by the VA appointed payee.

-- When reporting Nursing Home status, please show the complete mailing address.

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Reporting Medical Expenses

EXAMPLE

Initial Periods

Beneficiaries who became entitled after August 2007, and did not receive an EVR or 21-8416 during 2008 should report their un-reimbursed medical expenses paid during 2007, AFTER their date of entitlement to the end of the year, and their total 1998 medical expenses. These individuals must have their 2007 un-reimbursed medical expenses date stamped in the VA Regional Office No Later Than December 31, 2008.

Example: One 8416 completed for 9/29/07 to 12/31/07

One 8416 completed for 1/1/08 to 12/31/08

Running Awards

Beneficiaries who have running awards should report their un-reimbursed medical expenses from Jan. 1, 2008 through December 31, 2008. These individuals must have their 2008 un-reimbursed medical expenses date stamped in the VA Regional Office by December 31, 2009. If they have unreported calendar year 2007 medical expenses to report, they must have been date stamped by 12/31/08.

Note: Medical expenses are counted for a full twelve-month period regardless of the length of the period during which they are reported.

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Study Questions: EVRs

Using the assigned references and reading materials, answer the following questions:

1. EVRs are not required from all pension recipients so long as there are no changes in their income.
 - a. True
 - b. False
2. If a claimant in receipt of improved pension for two or more years fails to return the EVR, what is the date from which payment is stopped?
 - a. End of the current month
 - b. End of the current year
 - c. First day of the EVR period for which the income information was requested.
 - d. Beginning date of the award
3. For improved pension, unreimbursed medical expenses paid may be deducted from income for VA purposes if they exceed:
 - a. 5% of the claimant's gross income
 - b. 5% of the claimant's maximum annual pension rate.
 - c. 10% of the claimant's net income for VA purposes
 - d. \$1,000 per person.
4. If a claimant's pension award is terminated and an overpayment is created because of failure to return the EVR, how long does the claimant have to provide income information to clear the overpayment?
 - a. 30 days from the date of notice of overpayment
 - b. 60 days from the date of notice of overpayment
 - c. One year from the date of notice of overpayment
 - d. There is no time limit for submitting evidence to clear an overpayment
5. Cost of "Medical Supervision" in a Rest Home is considered an un-reimbursed medical expense.
 - a. True
 - b. False

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6. The veteran's dependent child, age 21, is attending college and working part-time. The child's expected earnings for the year are \$10,000. The child has no other income. The cost of tuition, fees and schoolbooks will be \$5,000. How much of the child's earned income can be deducted from the overall family income for VA purposes?
- a. None—Educational expenses are not deductible and the child's income exceeds the limits. The child may not be counted as a dependent.
 - b. \$5,000—The child's educational expenses are deductible, but the child's earned income is fully countable as family income.
 - c. All—A child's earned income is excluded up to the amount at which a Federal income tax return must be filed. Education expenses may then be deducted from the amount remaining, which in this case would be less than the amount of the school expenses.
7. Return of the EVR is optional if the claimant's current income and net worth are unchanged from last year's.
- a. True
 - b. False
8. Deceased veteran's parents are in receipt of Parent's DIC. The veteran's father dies of complications of surgery, and the mother wins a settlement of \$40,000 for wrongful death from the hospital. By the time she pays attorney fees, the costs of obtaining independent medical experts, and other costs arising from the lawsuit, she realizes less than \$1,000 net income from the lawsuit. She can claim the costs of the lawsuit as a deduction from her income for VA purposes?
- a. True
 - b. False
9. The stepbrother of a surviving spouse in receipt of improved pension is living with her because he is disabled and unable to care for himself. Since he has minimal income of his own, the surviving spouse is helping with his medical bills as best she can. Can the surviving spouse deduct the stepbrother's medical expenses that she is paying for him?
- a. True
 - b. False

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10. Which of the following may not be claimed as “continuing medical expenses” for improved pension?
- a. Medicare Part B premiums
 - b. Cost of care in a nursing home
 - c. Cost of visits to the emergency room
 - d. Any of the above
11. Deceased veteran’s remarried mother is in receipt of DIC. She and her husband operate a small business. Gross income from the business averages about \$25,000 per year. Last year they lost \$2,500 for the year, and expect they will not make a profit again this year. They deduct their operating losses from the business to reduce their income for VA purposes?
- a. True
 - b. False

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FORMS

INCOME VERIFICATION REPORTS- (EVRs)

Correct type of EVR:

- 21-0516-1 - #6 Veteran/Spouse/No children
- 21-0517-1 - #7 Veteran/Spouse with Children
- 21-0518-1 - #8 Surviving Spouse/ No Children
- 21-0519S-1 - #9S Surviving Spouse with Children
- 21-0519C-1 - #9C Child or Children
- 21-0514-1 - #4 Parent's DIC Eligibility Verification Report
- 21-8416 - Medical Expense Report