

AMA and Reading VA Decisions

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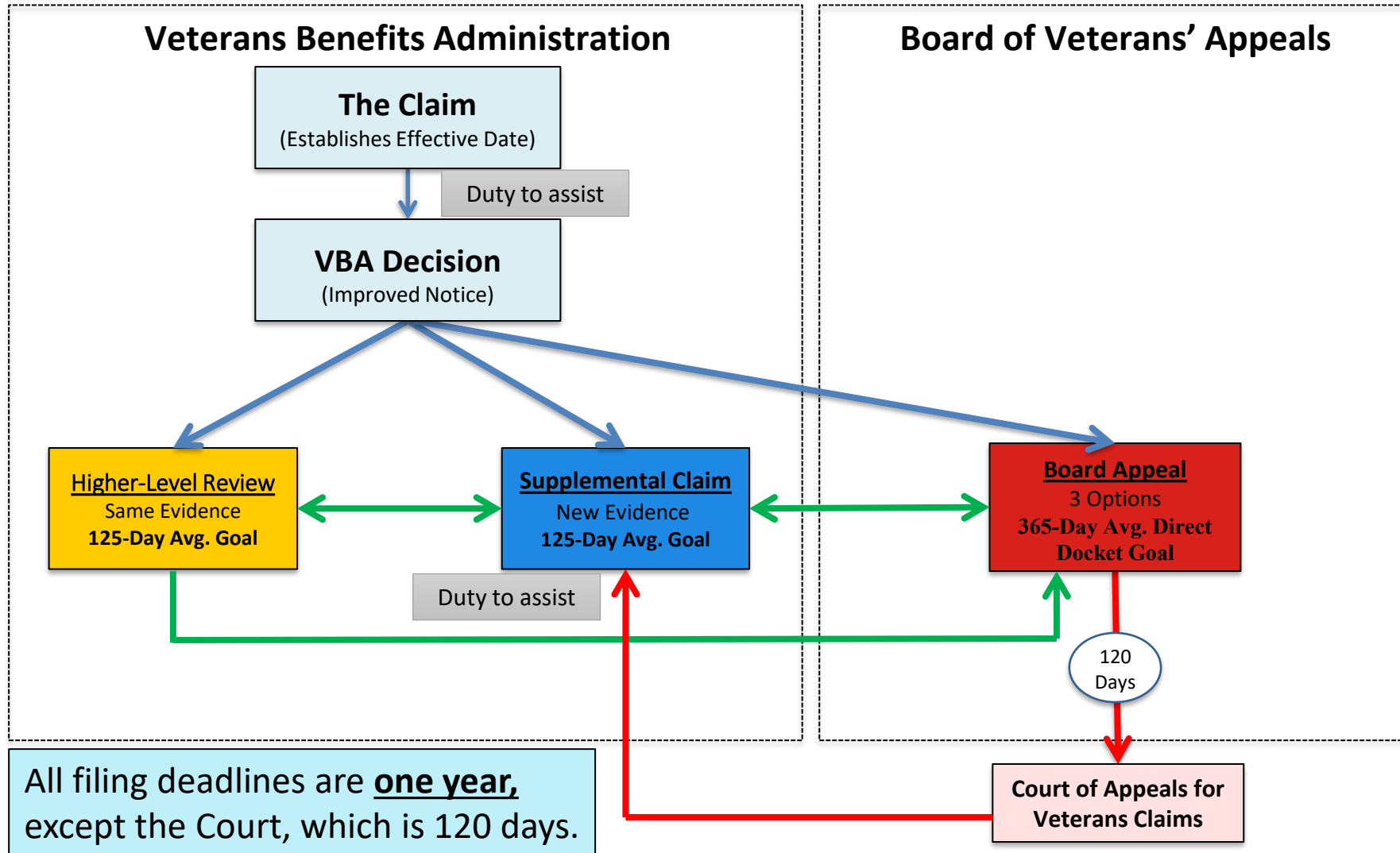


Lesson Learning Objectives

Learn the basics of the Appeals Modernization Act (AMA) and how to read VA rating decisions:

- Learn an overview of the **review** and **appeal** lanes under AMA.
- Learn AMA requirements for a VA rating decision.
- Learn how to read VA rating decisions to help Veterans **choose the best review or appeal lane**.
- Learn about **continuous pursuit**.
- Check in on VA's decision timeliness under the AMA.

AMA Basic Structure



Higher-Level Review

VA Form 20-0996 – Review by RO

- Decided by higher-trained VA employee.
- Can submit argument(s) why VA made a mistake deciding claim.
- Cannot submit evidence.
- VA has **NO** Duty to Assist the Veteran with obtaining evidence.
- VA's goal is to respond with a new rating decision within 125 days.

VA U.S. Department of Veterans Affairs		VA DATE STAMP (DO NOT WRITE IN THIS SPACE)
DECISION REVIEW REQUEST: HIGHER-LEVEL REVIEW		
INSTRUCTIONS: Before completing this form, read the Privacy Act and Respondent Burden on page 5. Use this form to request a Higher-Level Review of a decision you received. A Higher-Level Review is a new review of an issue(s) previously decided by VA based on the evidence of record at the time of the prior decision. For more information call us toll-free at 1-800-827-1000 (TTY: 711) or contact us online through ASK VA: https://ask.va.gov/ . VA forms are available at https://www.va.gov/find-forms/ .		
SECTION I - VETERAN'S IDENTIFICATION INFORMATION		
NOTE: You may fill out the form online or by hand. If completed by hand, print the information neatly and legibly, insert one letter per box, and completely fill in each applicable check box to help expedite processing of the form.		
1. VETERAN'S NAME (First, Middle Initial, Last) 		
2. SOCIAL SECURITY NUMBER 	3. VA FILE NUMBER (If applicable) 	4. DATE OF BIRTH (MM/DD/YYYY)
5. VA INSURANCE POLICY NUMBER (If applicable) 		
6. CURRENT MAILING ADDRESS (Number and street or rural route, P.O. Box, City, State, ZIP Code and Country) No. & Street Apt./Unit Number City State/Province Country ZIP Code/Postal Code - ☐ I AM EXPERIENCING HOMELESSNESS OR AM AT RISK OF HOMELESSNESS		
7. TELEPHONE NUMBER (Include Area Code) - - Enter International Phone Number (If applicable)		
8. E-MAIL ADDRESS (Optional) 		

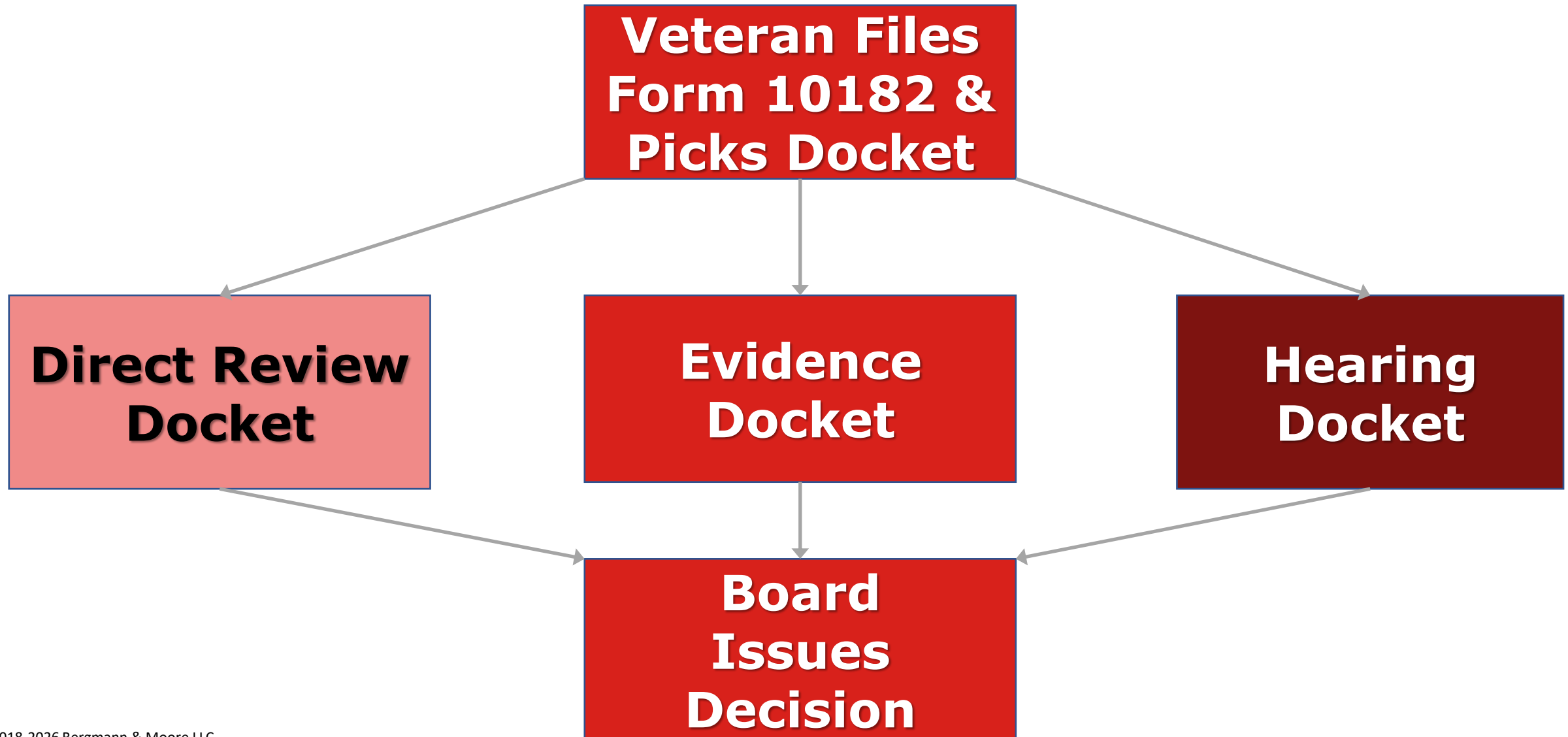
Supplemental Claim

 U.S. Department of Veterans Affairs		VA DATE STAMP (DO NOT WRITE IN THIS SPACE)	
DECISION REVIEW REQUEST: SUPPLEMENTAL CLAIM			
IMPORTANT: Please read the Privacy Act and Respondent Burden information on page 3 before completing the form. Use this form to submit a claim if you disagree with a decision you received. For more information you can contact us online through Ask VA: https://ask.va.gov/ or call us toll-free at 1-800-698-2411 (TTY:711). If you prefer you may complete and submit the form online by using the addresses and weblinks listed in the Instructions, Page 1 or 2.			
1. BENEFIT TYPE (PLEASE CHECK ONLY ONE BOX) Note: If you would like to file for multiple benefit types, you must complete a separate VA Form 20-0995 for each benefit type.			
☐ COMPENSATION		☐ PENSION/DIC/SURVIVORS BENEFITS	
☐ EDUCATION		☐ LOAN GUARANTY	
☐ VETERAN READINESS AND EMPLOYMENT		☐ NATIONAL CEMETERY ADMINISTRATION	
☐ FIDUCIARY		☐ LIFE INSURANCE	
☐ VETERANS HEALTH ADMINISTRATION (NOTE: If checked, specify in the space provided below, which benefit type you are claiming for VHA. (e.g., Travel/Mileage Reimbursement, Medical Treatment Reimbursement, Health Care Eligibility, Clothing Allowance, etc.)			
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NOTE: You may complete the form online or by hand. If completed by hand, print the information requested in ink, neatly and legibly, insert one letter per box, and completely fill in each applicable checkbox to help expedite processing of the form.			
2. VETERAN'S NAME (First, Middle Initial, Last)			
3. SOCIAL SECURITY NUMBER		4. VA FILE NUMBER (If applicable)	
5. DATE OF BIRTH (MM/DD/YYYY)		6. SERVICE NUMBER (If applicable)	
7. VA INSURANCE POLICY NUMBER (If applicable)		8. MAILING ADDRESS (Number, street or rural route, P.O. Box, City, State, ZIP Code and Country)	
9. TELEPHONE NUMBER (Optional) (Include Area Code)		10. E-MAIL ADDRESS (Optional)	
Enter International Phone Number (If applicable)			

VA Form 20-0995 – Review by RO

- Can submit argument(s) why VA made a mistake.
- Must submit **new and relevant evidence**.
- VA uses a different employee to decide.
- VA has a Duty to Assist the Veteran with finding evidence.
- VA's goal is to respond within 125 days.

Overview of Board Appeal Options



Direct Review Docket

VA Form 10182 – Box 10A

- Veteran may only submit argument(s) describing why VA made a mistake.
- Veteran may ***not*** submit evidence.
- VA has ***NO*** Duty to Assist to find evidence.
- VA's goal is to decide in one year, but in practice takes much longer.

VA		U.S. Department of Veterans Affairs		DECISION REVIEW REQUEST: BOARD APPEAL (NOTICE OF DISAGREEMENT)	
PART I - PERSONAL INFORMATION					
1. VETERAN'S NAME (First, middle initial, last)		2. VETERAN'S FILE NUMBER		3. VETERAN'S DATE OF BIRTH (MM/DD/YYYY)	
4. IF I AM NOT THE VETERAN, MY NAME IS (First, middle initial, last)				5. MY DATE OF BIRTH (If I am not the Veteran) (MM/DD/YYYY)	
6. MY PREFERRED MAILING ADDRESS (Number and street or rural route, P.O. Box, City, State, ZIP Code and Country)					
☐ I AM EXPERIENCING HOMELESSNESS					
7. MY PREFERRED TELEPHONE NUMBER (Include Area Code) (999-999-9999)		8. MY PREFERRED E-MAIL ADDRESS		9. MY REPRESENTATIVE'S NAME	
PART II - BOARD REVIEW OPTION (Check only one)					
10. A Veterans Law Judge will consider your appeal in the order in which it is received, depending on which of the following review options you select. (For additional explanation of your options, please see the attached information and instructions.)					
☒ 10A. Direct Review by a Veterans Law Judge: I do not want a Board hearing, and will not submit any additional evidence in support of my appeal. (Choosing this option often results in the Board issuing its decision most quickly.)					
☐ 10B. Evidence Submission Reviewed by a Veterans Law Judge: I have additional evidence in support of my appeal that I will submit to the Board with my VA Form 10182 or within the 90 days of the Board's receipt of my VA Form 10182. (Choosing this option will extend the time it takes for the Board to decide your appeal.)					
☐ 10C. Hearing with a Veterans Law Judge: I want a Board hearing and the opportunity to submit additional evidence in support of my appeal that I will provide within 90 days after my hearing. I want the hearing type below: (Choosing this option will extend the time it takes for the Board to decide your appeal.)					
☐ Central Office Hearing (I will attend in person in Washington, DC)					
☐ Videoconference Hearing (I will go to a Regional Office)					
☐ Virtual Telehearing (I will attend using an internet-connected device) (Important: Provide your e-mail address and Representative in Part I)					

Evidence Docket

VA  U.S. Department of Veterans Affairs		
DECISION REVIEW REQUEST: BOARD APPEAL (NOTICE OF DISAGREEMENT)		
PART I - PERSONAL INFORMATION		
1. VETERAN'S NAME (First, middle initial, last)	2. VETERAN'S FILE NUMBER	3. VETERAN'S DATE OF BIRTH (MM/DD/YYYY)
4. IF I AM NOT THE VETERAN, MY NAME IS (First, middle initial, last)		5. MY DATE OF BIRTH (If I am not the Veteran) (MM/DD/YYYY)
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VA Form 10182 – Box 10B

- Veteran can add new evidence with the VA Form 10182 **or** within 90 days of filing the Form.
- Veteran may also submit argument(s) on why VA made a mistake.
- VA has **NO** Duty to Assist.
- VA's goal is to decide in 1.5 years, but in practice takes much longer.

Hearing Docket

VA Form 10182 – Box 10C

- VA schedules a hearing before a Veterans Law Judge (VLJ) who works for VA.
- Veterans can submit new evidence at the hearing **or** within 90 days of the hearing.
- VA has **NO** Duty to Assist.
- VA's goal is to decide in 2 years, but in practice takes much longer.

VA U.S. Department of Veterans Affairs			DECISION REVIEW REQUEST: BOARD APPEAL (NOTICE OF DISAGREEMENT)		
PART I - PERSONAL INFORMATION					
1. VETERAN'S NAME (First, middle initial, last)		2. VETERAN'S FILE NUMBER		3. VETERAN'S DATE OF BIRTH (MM/DD/YYYY)	
4. IF I AM NOT THE VETERAN, MY NAME IS (First, middle initial, last)				5. MY DATE OF BIRTH (If I am not the Veteran) (MM/DD/YYYY)	
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☐ I AM EXPERIENCING HOMELESSNESS					
7. MY PREFERRED TELEPHONE NUMBER (Include Area Code) (999-999-9999)		8. MY PREFERRED E-MAIL ADDRESS		9. MY REPRESENTATIVE'S NAME	
PART II - BOARD REVIEW OPTION (Check only one)					
10. A Veterans Law Judge will consider your appeal in the order in which it is received, depending on which of the following review options you select. (For additional explanation of your options, please see the attached information and instructions.)					
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Plus choose type of hearing!

Question

True or False

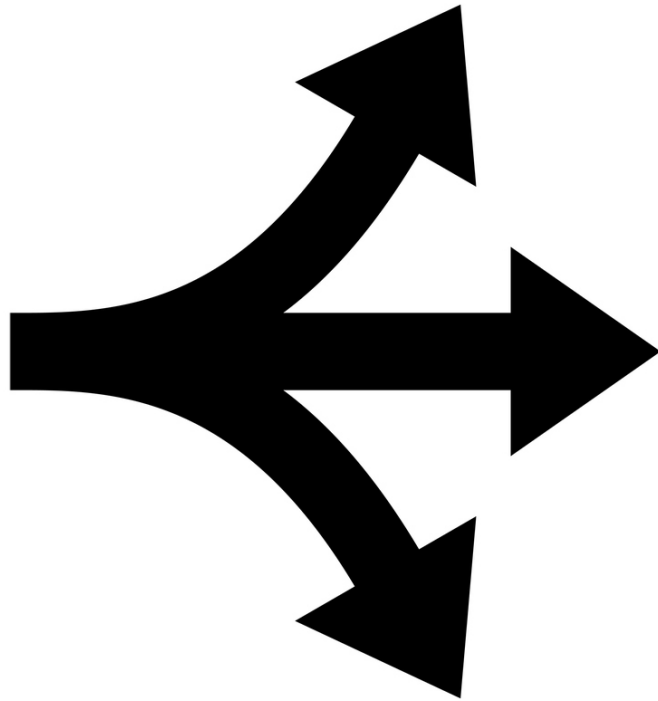
If a rating decision denied multiple issues, the Veteran must select the same AMA dispute option for all of the issues decided in one rating decision.

A. True

B. False



Question Answer

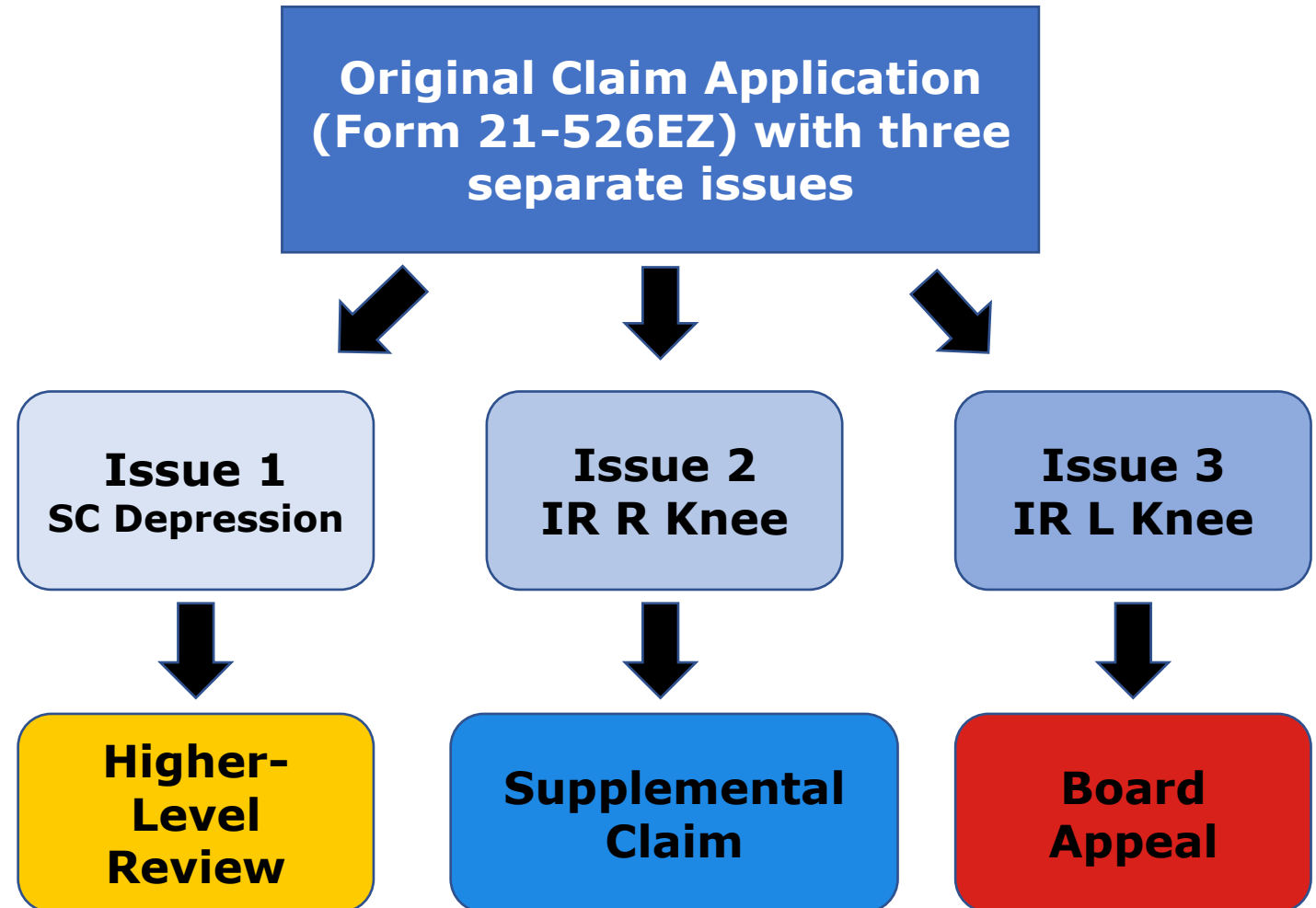


- **False**
- Under AMA Veterans can choose different review options for different issues, even if those issues were decided in the same rating decision.

Separate Issues and Separate Lanes

Veterans have options under AMA.

For example, different issues from the same claim can be split into separate review / appeal lanes depending on what is needed to win each issue.



Choosing Multiple Dispute Options

- VA regulations prohibit Veterans from reviewing ***the same issue*** in multiple VA dispute options at the same time.
 - The Veteran cannot file a Supplemental Claim while waiting for a decision from the Board.
- This does **not** include waiting for a decision from a federal court.
 - Veterans **can** file a Supplemental Claim while waiting for a decision from the Court of Appeals for Veterans Claims (CAVC).
- VA will not always catch concurrent elections and automatically reject the second filing.
 - Simultaneous reviews cause confusion for VA and the Veteran.

Advocacy tip: Before filing a review or appeal, confirm the Veteran does not have a review or appeal pending on the same issue.

Improved Notice

- One key feature of AMA is an improved notice of VA rating decisions.
- Intended to provide all the information Veterans and VSOs need to make an informed choice about the type of review or appeal they may seek.
- AMA requires VA to include 7 items in all rating decisions.



DEPARTMENT OF VETERANS AFFAIRS
Veterans Benefits Administration
Regional Office

VA File Number
[REDACTED]

Represented By:
[REDACTED]

Rating Decision
05/29/2019

INTRODUCTION

The records reflect that you are a Veteran of the Korean Conflict Era. You served in the Army from [REDACTED] 1950 to [REDACTED] 1952. You filed an original disability claim that was received on December 21, 2018. Based on a review of the evidence listed below, we have made the following decision(s) on your claim.

DECISION

1. Service connection for bilateral hearing loss is granted with an evaluation of 60 percent effective December 21, 2018.
2. Service connection for tinnitus is denied.

EVIDENCE

- VA Form 21-526EZ Application for Disability Compensation and Related Compensation Benefits, received December 21, 2018

AMA Notice Requirements

7 notice items required by AMA statute:

- (1) Identification of the **issues adjudicated**.
- (2) A summary of the **evidence considered** by the Secretary.
- (3) A summary of the **applicable laws** and regulations.
- (4) Identification of **findings favorable** to the claimant.

AMA Notice Requirements Cont.

7 notice items required by AMA statute (cont.):

- (5) In the case of a denial, identification of **elements not satisfied** leading to VA's denial.
- (6) An explanation of how to obtain or access evidence used in making the decision.
- (7) If applicable, identification of the **criteria** that must be satisfied to grant service connection **or** the **next higher level of compensation**.

Issues Adjudicated

- Here is a rating decision under AMA.
- Looks like a legacy rating decision:
 - Except no RO city or state location listed.
- (1) **Issues adjudicated** by VA are listed under the subsection "DECISION."
 - Statement of each issue granted or denied.



DEPARTMENT OF VETERANS AFFAIRS
Veterans Benefits Administration
Regional Office

██████████
VA File Number
██████████

Represented By:
██████████

Rating Decision
05/29/2019

INTRODUCTION

The records reflect that you are a Veteran of the Korean Conflict Era. You served in the Army from ██████████ 1950 to ██████████ 1952. You filed an original disability claim that was received on December 21, 2018. Based on a review of the evidence listed below, we have made the following decision(s) on your claim.

DECISION

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2. Service connection for tinnitus is denied.

EVIDENCE

- VA Form 21-526EZ Application for Disability Compensation and Related Compensation Benefits, received December 21, 2018

Evidence Considered

- (2) **Evidence considered** is listed under section “EVIDENCE.”
- This section contains bullet points with high-level descriptions and dates.

EVIDENCE

- Rating Decision dated October 17, 2018
- VA Form 21-526EZ Application for Disability Compensation and Related Compensation Benefits received, November 28, 2018
- Private Treatment Records (Audiological Report), [REDACTED], dated January 14, 2019, received January 28, 2019
- VA Form 21-526EZ Application for Disability Compensation and Related Compensation Benefits received, January 28, 2019
- Disability Benefits Questionnaire, Posttraumatic Stress Disorder (Initial), QTC, dated February 14, 2019
- Disability Benefits Questionnaire, Hearing Loss and Tinnitus, QTC, dated March 7, 2019
- VAMC (Veterans Affairs Medical Center) treatment records, [REDACTED] VAMC dated May 2014 through February 2019, electronically reviewed March 14, 2019
- Disability Benefit Questionnaire, hearing loss and tinnitus, dated September 20, 2018

Summary of Applicable Laws

- (3) Summary of **applicable laws and regulations**.
- No specific section or heading.
- Applicable laws described within the “Reasons for Decision” narrative.
 - Citations to laws and regulations are often in parenthesis.

The effective date of this grant is December 21, 2018. Service connection has been established from the day VA received your claim. When a claim of service connection is received more than one year after discharge from active duty, the effective date is the date VA received the claim. (38 CFR 3.400)

Favorable Findings

- (4) Identification of **findings favorable** to claimant.
- No specific section or heading.
- Instead, VA provides a narrative under “Reasons for Decision.”
 - Sometimes set aside with a label, but not bolded or underlined.
 - Usually near the end.

Favorable Findings identified in this decision:

The evidence shows that a qualifying event, injury, or disease had its onset during your service. Military noise exposure is conceded as your DD-214, Certificate of Release or Discharge from Active Duty, indicates an MOS of Motor Vehicle Mechanic.

Elements Not Satisfied

- (5) Identification of **elements not satisfied**.
 - Only required in the case of a denial.
- No separate section or heading.
- Instead, these are discussed in the narrative.
- Not usually set aside with any heading.

Lacking evidence of a diagnosis of tinnitus, we did not find a link between a medical condition and an event during military service.

Favorable Findings and Elements Not Satisfied



- Carefully read the narrative “Reasons for Decision” to spot all **favorable findings** and **elements not satisfied**.
 - VA is not making these obvious.
- This is key information to determine which review / appeal options a Veteran should choose.

Getting a copy of the evidence

- (6) An explanation of **how to obtain or access evidence** used in making the decision.
- Not included in the rating decision itself.
 - In the last paragraph of the notice letter.
- Includes only vague, unclear instructions.
 - VA will treat such communications as a Privacy Act request.

If you would like to obtain or access evidence used in making this decision, please contact us by telephone, email, or letter as noted below letting us know what you would like to obtain. Some evidence may be obtained online by visiting [VA.gov](https://www.va.gov).

Thank you for your service,

Regional Office Director

Advocacy tip:
VSOs can access VBMS
and view evidence
easier and faster.

Identification of Missing Criteria

- **(7) Identification of the criteria that must be satisfied** to grant service connection or the next higher level of compensation.
- No separate section or heading.
- Instead, listed only in narrative "REASONS FOR DECISION"
- May list specific criteria or may be only general

A higher evaluation of 50 percent is not warranted for posttraumatic stress disorder unless the evidence shows occupational and social impairment with reduced reliability and productivity due to such symptoms as:

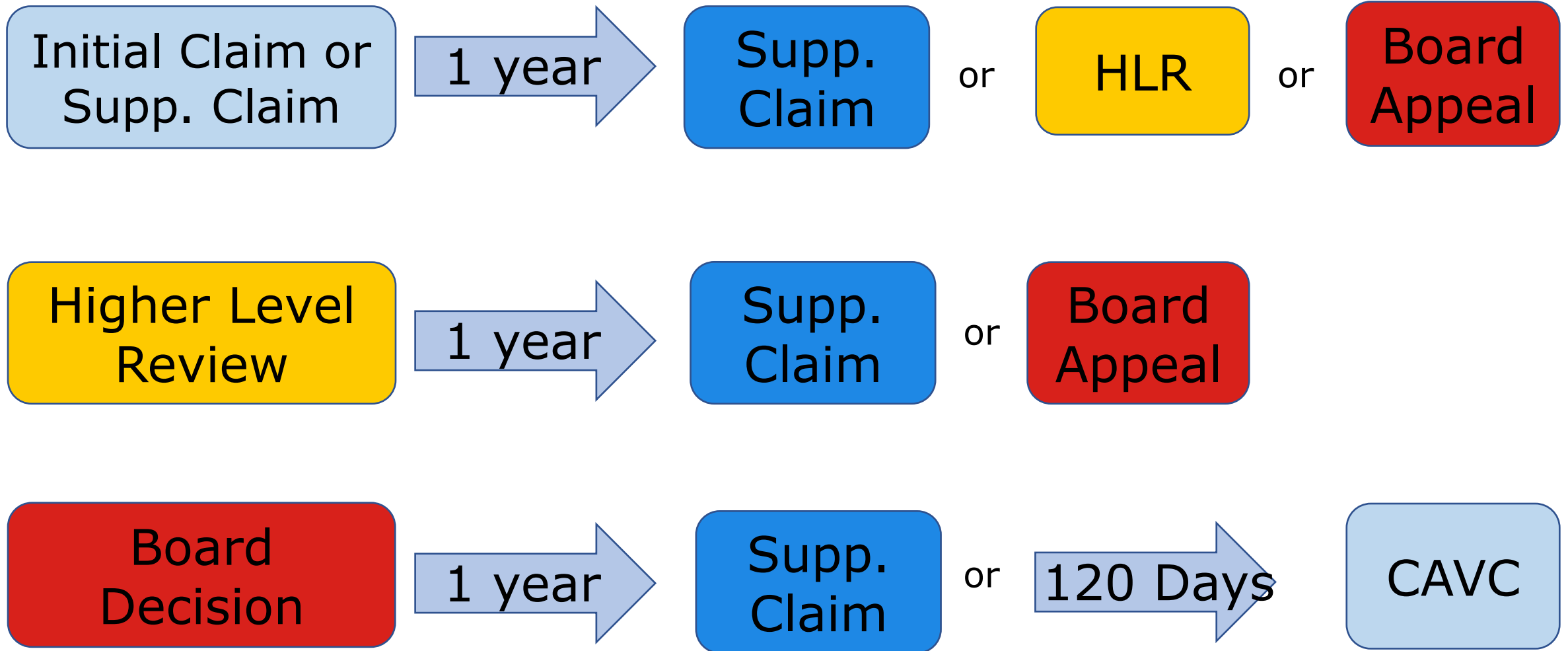
- flattened affect
- circumstantial, circumlocutory, or stereotyped speech
- panic attacks more than once a week
- difficulty in understanding complex commands
- impairment of short- and long-term memory (e.g., retention of only highly learned material, forgetting to complete tasks)
- impaired judgment
- impaired abstract thinking
- disturbances of motivation and mood
- difficulty in establishing and maintaining effective work and social relationships. (38 CFR 4.130)

An evaluation of 0 percent is assigned because your right ear has a speech discrimination of 94 with an average decibel loss of 50 and your left ear has a speech discrimination of 98 with an average decibel loss of 45. The evaluation for hearing loss is based on objective testing. Higher evaluations are assigned for more severe hearing impairment. (38 CFR 4.85)

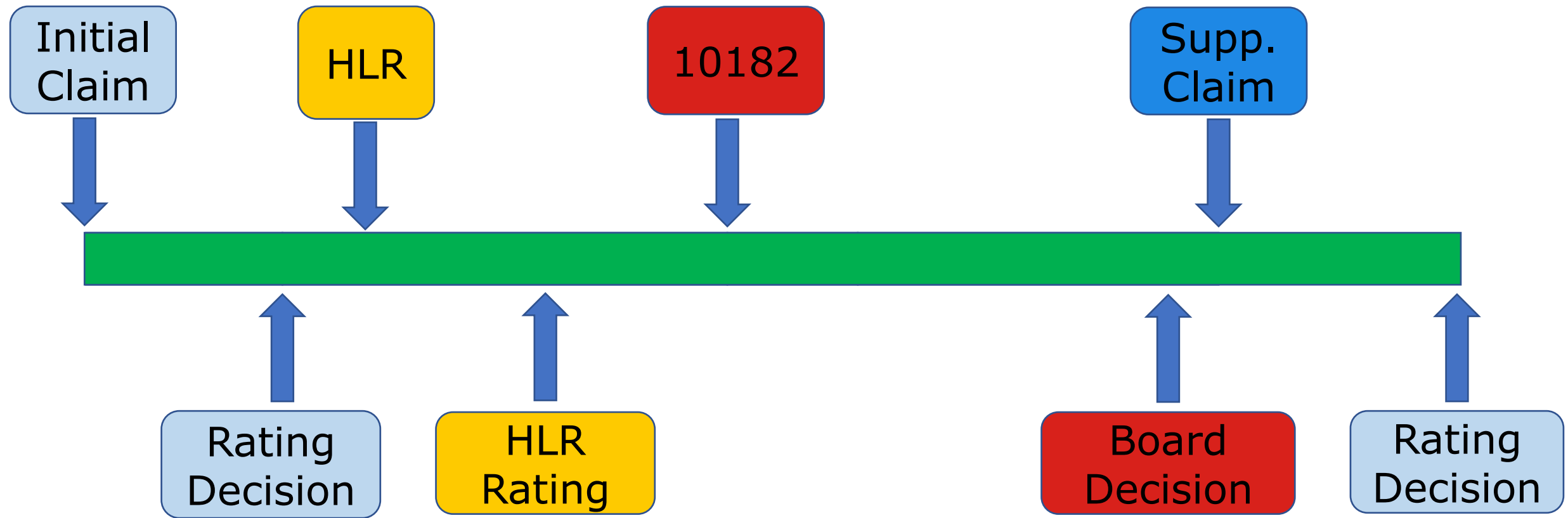
Continuous Pursuit

- If the Veteran's review or appeal is denied, then they can choose another review / appeal option.
- If a Veteran files the correct form **within one year** of VA's most recent decision, **then the effective date of the claim will be preserved.** – This is called “**continuous pursuit.**”
 - For Example: If the Veteran filed a Higher-Level Review and VA denied the claim again, then the Veteran can file a 10182 to the Board.
- By continuing to pursue an issue, the period on appeal could become multiple years.

Continuous Pursuit – Cont.



Record During Continuous Pursuit



Wrong Form Used

- AMA involves lots of different and new VA forms.
- If VA says the Veteran submitted the wrong form the **first** time, then submit the second form VA says is required as quickly as possible.
- Then, after the claim is granted, the Veteran should file an HLR and argue that the effective date should go back to the **first** form.
- A recent Court case, *Chisholm v. Collins*, suggests VA should accept either claims form to establish the effective date.



Question

Which AMA review option is decided the fastest (on average)?

- A. Supplemental Claim
- B. Higher-Level Review
- C. Direct Review docket at the Board of Veterans' Appeals



Question Answer 2



- **Supplemental Claim**

When AMA was first implemented Higher-Level Review was usually the quickest option. However, starting in 2025 Supplemental Claims have been quicker.

Let's look at VA's average processing time for each dispute option in the next slides.

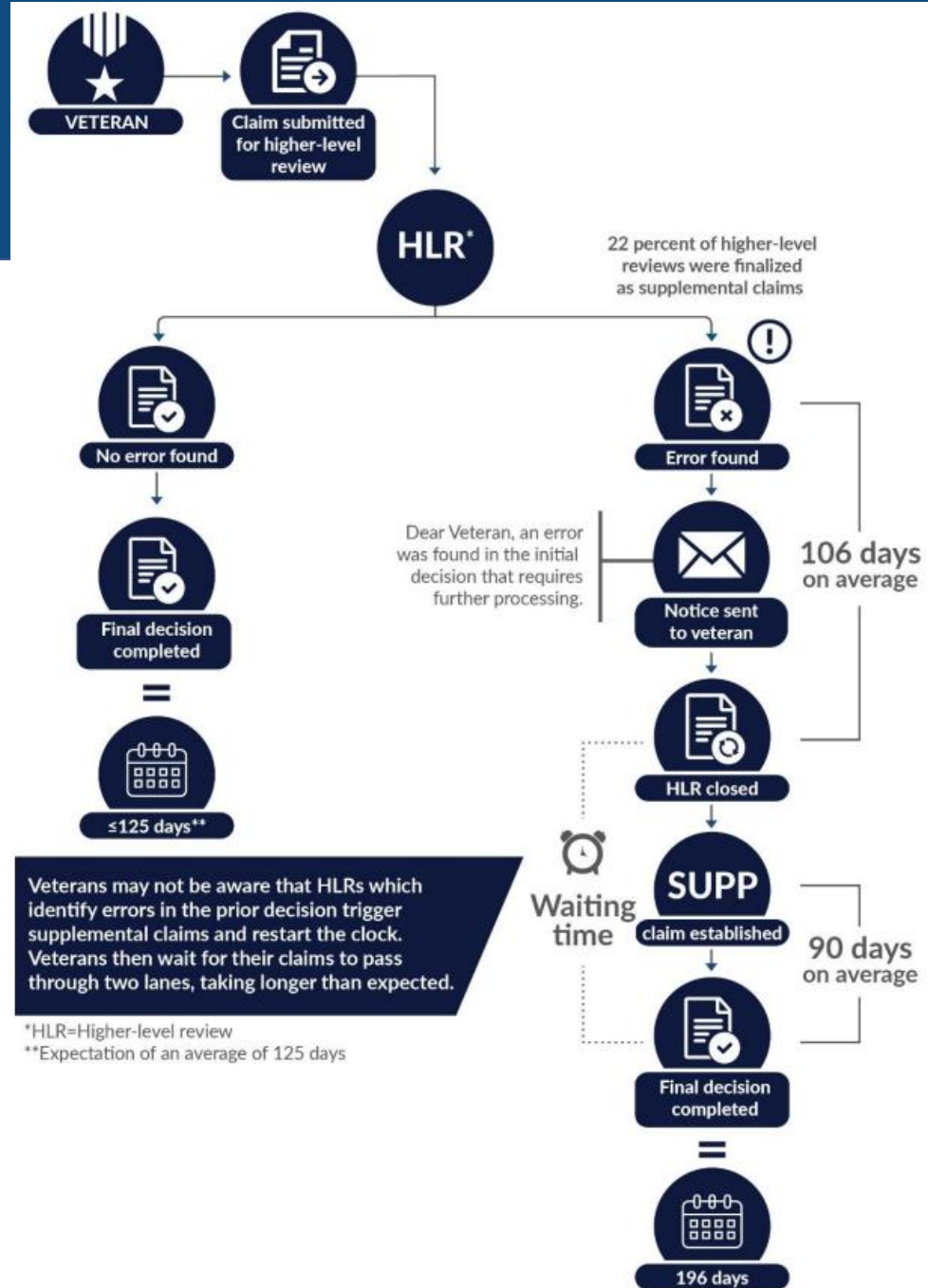
AMA Processing Time at RO

- VBA is completing Higher-Level Reviews and Supplemental Claims faster than VBA's goal of 125 days:
 - Higher-Level Review: average 82 days
 - Supplemental Claim: average 65 days



HLR Grant Wait Time

- A 2023 OIG report revealed that the average days to completion for HLR returned for VA correction is longer.
- This is because the returned issue is sent to the supplemental claim lane and the clock restarted.
- At the time of the report the average wait time was 196 days until VA's error was fixed.



AMA Processing Time at Board



- Board wait times **continue to increase:**
 - Direct: 455 days
 - Evidence: 683 days
 - Hearing: 845 days

