

Supporting Statement for

VAF 21-0960M-9	Knee and Lower Leg Conditions Disability Benefits Questionnaire
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(2900-xxxx)

A. Justification

1. The Department of Veterans Affairs (VA), through its Veterans Benefits Administration (VBA), administers an integrated program of benefits and services established by law for veterans, service personnel, and their dependents and/or beneficiaries. 38 U.S.C. 501 (a), Rules and Regulations, authorizes VA to prescribe all rules and regulations which are necessary or appropriate to carry out the laws administered by the Department, including the methods of making medical examinations. 38 CFR 3.326 authorizes a VA examination where the reasonable probability of a valid claim is indicated in any claim for disability compensation or pension, including claims for benefits set forth under 38 C.F.R. 3.351(d) and (e), benefits based on the need of a veteran, surviving spouse, or parent for regular aid and attendance, and benefits based on a child's incapacity for self-support. This provision also stipulates that medical evidence such as hospital reports or any examination reports, from any government or private institution may be accepted for rating a claim without further examination. The VA Form 21-0960M-9, *Knee and Lower Leg Conditions Disability Benefits Questionnaire* will be used for disability compensation or pension claims which require an examination and/or receiving private medical evidence that may potentially be sufficient for rating purposes.

The initial Information Collection Request (ICR) for the VAF 21-0960 series (71 forms) was consolidated under five Office of Management and Budget (OMB) control numbers (2900-0749, 2900-07769, 2900-0778, 2900-0779, and 2900-0781). OMB Control Number 2900-0776, which expires March 15, 2015, currently contains VA Form 21-0960M-9, *Knee and Lower Leg Conditions Disability Benefits Questionnaire*.

VA proposes to remove this information collections (IC) from control number 2900-0776 and have it assigned a new individual control number. VA will retain all other ICs under OMB control number 2900-0776 until pending substantive revisions are complete. At which time, VA will request separate OMB control numbers for each IC in the VA Form 21-0960 series.

This change is necessary to provide VA with the flexibility to modify each form on an individual basis instead of limiting the changes to the original five groupings. VA needs the maximum flexibility because the content of the form is influenced by a multitude of unpredictable forces outside its control. As such, VA needs to maximize its ability to modify the forms consistent with the form contents' dynamic environment.

There was a corrected FRN submitted. See item 8.

2. The form will be used to gather necessary information from a claimant's treating physician regarding the results of medical examinations. VA will gather medical information related to the claimant that is necessary to adjudicate the claim for VA disability benefits. VAF 21-0960M-9, *Knee and Lower Leg Conditions Disability Benefits Questionnaire*, will gather information related to the claimant's diagnosis of a knee or lower leg condition.
3. Currently the collection of information does not involve the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology. Veterans Online Applications (VONAPP) allows applicants to view, print and submit applications electronically to VBA; however, the Department is not planning to add VA Form 21-0960 series to VONAPP as it is completed by the examining physician rather than by applicants. For this reason VA is developing a web portal for the public to use as a pathway for private physicians in order to complete and submit forms in the VA Form 21-0960 series DBQs.
4. Program reviews were conducted to identify potential areas of duplication; however, none were found to exist. There is no known Department or Agency which maintains the necessary information, nor is it available from other sources within our Department.
5. The collection of information does not involve small businesses or entities. However, in an effort to assist the entities of the physicians who are required to complete these questionnaires, VA will maintain a web portal internet website. This site will provide private physicians with a paperless means to fill out and submit pertinent medical evidence.
6. The VA compensation and pension programs require current information to determine initial and continuing eligibility for benefits. This form solicits the information needed to determine the level of disability. Without this information, benefits could not be administered effectively. The provisions of 38 CFR § 3.159 states in pertinent part that in a claim for disability compensation, VA will provide a medical examination or obtain a medical opinion if the information and evidence of record does not contain sufficient competent medical evidence to decide the claim. If the Veteran chooses to have his or her private physician complete a DBQ in lieu of a VA examination, the DBQ will solicit the information needed, per rating schedule criteria, to determine the level of disability without the need to schedule a VA medical examination.
7. There is no special circumstance requiring collection in a manner inconsistent with 5 CFR 1320.6 guidelines.
8. The Department notice was published in the Federal Register on June 25, 2013, pages 38098 -38099. A corrected 30-day Federal Register Notice (FRN) (Volume 79, No. 8, on January 13, 2014, pages 2251-2252) was published because the 60-day

FRN citation was missing on the 30-day FRN. VA received two comments. Comments were received from Swords to Plowshares Swords to Plowshares specifically commented that the failure to include a medical nexus question in these DBQs results in solicitation of insufficient information to decide most claims for which the DBQ would be used. Additionally, Swords to Plowshares stated that omission of a medical nexus DBQ is not in line with VA's goal of creating an empowered, Veteran-centric claims process. As a part of their comment, Swords to Plowshares suggested remedying the omission through inclusion of a medical nexus section in the DBQ or, in the alternative, issuance of a DBQ specifically for medical nexus evidence.

VA acknowledges the comments from Swords to Plowshares and notes that it is considering a stand-alone Medical Opinion DBQ for public release at a later date. With regard to Swords to Plowshares comment that omission of a medical nexus DBQ is not in line with VA's goal of creating an empowered, Veteran-centric claims process, VA notes that inclusion of a medical opinion section on each DBQ would frustrate, rather than promote, this goal. In that regard, any future edits or changes required to a medical opinion section would require republication of all 71 of VA's DBQs currently available for public use. This would cause unnecessary delay in the availability of DBQs to the public and impact Veterans' ability to actively participate in the claims process. VA acknowledges that this drawback would be avoided if a stand-alone Medical Opinion DBQ was created; as previously mentioned, VA is considering public release of a stand-alone Medical Opinion DBQ.

Comments were also received from Philip Brahm which were not related to the proposed collection. VA informed Mr. Brahm that his comments were unrelated and provided contact information where he could obtain assistance.

9. No payments or gifts to respondents have been made under this collection of information.
10. . The records are maintained in the appropriate Privacy Act System of Records identified as "Compensation, Pension, Education, and Vocational Rehabilitation and Employment Records-VA (58VA21/22/28)," published at 74 FR 29275 on June 19, 2009, and last amended at 77 FR 42593 (July 19, 2012).
11. There are no questions of a sensitive nature.
12. Estimate of Information Collection Burden.
 - a. Number of Respondents is estimated at 50,000 per year
 - b. Frequency of Response is on occasion for most beneficiaries.
 - c. Annual burden hours is 25,000 hours:

d. The estimated completion time for VAF 21-0960M-9 is 30 minutes

e. According to the U.S. Bureau of Labor Statistics Average Hourly Earnings, the cost to the respondent is \$24, making the total cost to the respondents an estimated \$600,000 (25,000 hours x \$24 per hour).

13. VA does not anticipate any costs associated with the completion of this form by third parties, such as physicians. The use of this form is not mandatory in the claims process and therefore does not have an associated mandatory costs. Any costs associated with the completion of this form are negotiated between the veteran and his/her physician...

14. Estimated Costs to the Federal Government:

a. Processing/Analyzing costs \$ 2,926,250

(GS-13/5 @ \$48.35 x 50,000 x 30/60 minutes = \$ 1,208,750)

(GS-12/5 @ \$40.66 x 50,000 x 30/60 minutes = \$ 1,016,500)

(GS-09/5 @ \$28.04 x 50,000 x 30/60 minutes = \$701,000)

b. Printing and production cost \$4,500

c. Total cost to government \$2,966,750

15. This is a new information collection. However, the information collected in this request is currently approved under OMB Control Number 2900-0776.

16. The information collection is not for publication or tabulation use.

17. We are not seeking approval to omit the expiration date for OMB approval.

18. This submission does not contain any exceptions to the certification statement.

B. Collection of Information Employing Statistical Methods

The data collection does not employ statistical methods.