

**Notice of Disagreement (NOD) (Pension, Dependency and Indemnity
Compensation (DIC), Burial, and Accrued), VA Form 21P-0970
OMB 2900-NEW**

A. JUSTIFICATION

1. Explain the circumstances that make the collection of information necessary. Identify legal or administrative requirements that necessitate the collection of information.

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. Information is requested by this form under the authority of 38 U.S.C. §7105. The statute is codified at 38 CFR §20.201, §20.302, and §20.501.

The statute and regulations describe the process by which a claimant can appeal the decisions made by VBA on a claim for benefits.

2. Indicate how, by whom, and for what purposes the information is to be used; indicate actual use the agency has made of the information received from current collection.

VA Form 21P-0970 will be used by the claimant to initiate an appeal by indicating disagreement with a decision issued by a VA Regional Office (RO) specifically related to a claim for VA pension benefits, dependency and indemnity compensation (DIC) benefits, burial benefits, and accrued benefits. VA Form 21P-0970 will be the claimant's first step in the appeal process. The respondent may or may not continue with an appeal to the Board of Veterans Appeals (BVA). If the claimant opts to continue to BVA for an appeal, this form will be included in the claim folder as evidence.

VA will provide VA Form 21P-0970 to the claimant with the notification letter of the decision in paper form or via hyperlink to VA's website. The use of VA Form 21P-0970 will be mandatory when claimants initiate an appeal of a decision regarding pension, DIC, burial, or accrued claims for benefits.

Currently, VBA does not have a mandatory form which would enable the claimant to initiate an appeal of a decision made regarding entitlement to pension, DIC, burial, or accrued benefits. As a result, claimants may provide their notice of disagreement in any format. The variety of submissions hampers efforts to identify, and process timely, the claimant's appeal. With the implementation of this collection, the submissions will be standardized, increasing efficiency.

3. Describe whether, and to what extent, the collection of information involves the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g. permitting electronic submission of responses, and the basis for the decision for adopting this means of collection. Also describe any consideration of using information technology to reduce burden.

For the information collected on VA Form 21P-0970 VA will not use automated, electronic, mechanical, or other technological collection techniques.

VA Form 21P-0970 will be available on the benefits.va.gov website in a fillable, printable electronic format.

VBA does not currently have the technology in place to allow for the electronic submission of the form. To ease the burden on respondents, VBA plans to develop and deploy functionality enabling

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electronic submission of this information. VBA cannot estimate the date this functionality will be deployed.

4. Describe efforts to identify duplication. Show specifically why any similar information already available cannot be used or modified for use for the purposes described in Item 2 above.

VBA conducted program reviews to identify duplication, but found none. There is no known Department or Agency which maintains the necessary information, nor is the information available through other sources within VA.

VA maintains a related information collection, VA Form 21-0958 (OMB Control Number 2900-0791). However, this form applies only to disability compensation claims; it does not apply to claims for pension, DIC, burial, or accrued benefits.

5. If the collection of information impacts small businesses or other small entities, describe any methods used to minimize burden.

The collection of information does not affect small businesses or other small entities.

6. Describe the consequences to Federal program or policy activities if the collection is not conducted or is conducted less frequently as well as any technical or legal obstacles to reducing burden.

VBA would be unable to properly administer appeals of decisions made on claims for pension, DIC, burial, or accrued benefits without this collection of information. The information is collected on an ad hoc basis, and, therefore, cannot be collected less frequently. The form is designed to collect the minimum amount of information which will allow VBA to properly administer the appeal.

7. Explain any special circumstances that would cause an information collection to be conducted more often than quarterly or require respondents to prepare written responses to a collection of information in fewer than 30 days after receipt of it; submit more than an original and two copies of any document; retain records, other than health, medical, government contract, grant-in-aid, or tax records for more than three years; in connection with a statistical survey that is not designed to produce valid and reliable results that can be generalized to the universe of study and require the use of a statistical data classification that has not been reviewed and approved by OMB.

There are no special circumstances which would cause this information collection to be conducted more often than quarterly, or require respondents to prepare written responses to a collection of information in fewer than 30 days after receipt of it; submit more than an original and two copies of any document; retain records, other than health, medical, government contract, grant-in-aid, or tax records for more than three years; in connection with a statistical survey that is not designed to produce valid and reliable results that can be generalized to the universe of study and require the use of a statistical data classification that has not been reviewed and approved by Office of Management and Budget.

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8. If applicable, provide a copy and identify the date and page number of publication in the Federal Register of the sponsor's notice, required by 5 CFR 1320.8(d), soliciting comments on the information collection prior to submission to OMB. Summarize public comments received in response to that notice and describe actions taken by the sponsor in responses to these comments. Specifically address comments received on cost and hour burden.

The sponsor's notice was published in the Federal Register on Monday, May 23, 2016, Volume 81, No. 99, pages 32386-32387. Two comments were received in response to the notice.

One comment was submitted by the National Organization of Veterans' Advocates (NOVA).

NOVA stated it is unnecessary to have separate Notice of Disagreement (NOD) forms for compensation and other types of claims. NOVA pointed out the existence of an NOD form for compensation claims (VA Form 21-0958 *Notice of Disagreement* [OMB Approved No. 2900-0791]) and suggested the benefit types present on the proposed VA Form 21P-0970 be added to the existing VA Form 21-0958.

VBA studied adding the benefit types in question to VA Form 21-0958, but we determined the form would become too complicated and unduly increase the burden on the respondent. Furthermore, since different types of claims and appeals are processed by different VA Regional Offices, using separate forms will help ensure the forms are routed to the proper office of jurisdiction, thereby ensuring proper processing.

NOVA stated that not all benefit types have checkboxes in column 12.B. VBA believes there is little additional burden for the appellant to use the "Other" checkbox and fillable field. Adding two additional checkboxes to each row in 12.B would cause each row to be so wide that the form would require an additional page.

Lastly, NOVA stated that VA should clarify that a claimant who files the wrong standardized form will not be penalized, but will be given the opportunity to file the correct form in a reasonable period of time. VBA cannot concur with this portion of the comment because we are bound by 38 CFR §20.201(a)(5), which states:

"Alternate form or other communication. The filing of an alternate form or other communication will not extend, toll, or otherwise delay the time limit for filing a Notice of Disagreement, as provided in §20.302(a). In particular, returning the incorrect VA form, including a form designed to appeal a different benefit does not extend, toll, or otherwise delay the time limit for filing the correct form."

The second comment was submitted by Mr. Larry Goette, County Veterans Service Officer for Robert County at the Sioux Falls Regional Office.

Mr. Goette questioned why there was a need for a new NOD form with the VA Form 21-0958 currently being used.

Currently, VBA does not have a mandatory form which would enable the claimant to initiate an appeal of a decision made regarding entitlement to pension, DIC, burial, or accrued benefits. As a result, claimants may provide their notice of disagreement for these benefit types in any format. The variety

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of submissions hampers efforts to identify, and timely process the claimant's appeal. With the implementation of the 21P-0970, the submissions will be standardized, increasing efficiency.

VA form 21-0958 Notice of Disagreement, applies only to disability compensation claims; it does not apply to claims for pension, DIC, burial, or accrued benefits. Adding pension and other contentions to VA Form 21-0958 would overly complicate the form. Also, separating pension, DIC, burial, and accrued NODs from compensation NODs helps ensure the forms are routed to the correct VA Regional Office of Jurisdiction and processed properly.

9. Explain any decision to provide any payment or gift to respondents, other than remuneration of contractors or grantees.

No payments or gifts to respondents will be made under this collection of information.

10. Describe any assurance of privacy to the extent permitted by law provided to respondents and the basis for the assurance in statute, regulation, or agency policy.

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 (June 19, 2009).

11. Provide additional justification for any questions of a sensitive nature (Information that, with a reasonable degree of medical certainty, is likely to have a serious adverse effect on an individual's mental or physical health if revealed to him or her), such as sexual behavior and attitudes, religious beliefs, and other matters that are commonly considered private; include specific uses to be made of the information, the explanation to be given to persons from whom the information is requested, and any steps to be taken to obtain their consent.

There are no questions of a sensitive nature.

12. Estimate of the hour burden of the collection of information:

- a. Number of Annual Respondents: 12,000 Respondents
- b. Frequency of Response: One-time
- c. Total Burden Hours: 6,000 hours
- d. Estimated Completion Time: 30 minutes
- e. Any person may apply for one of the benefits covered by this collection. Therefore it is not possible to make assumptions regarding the population of claimants and appellants, such as the average age of claimants or their average earnings. In order to estimate the costs to respondents, VBA used general wage information for the population as a whole.

The Bureau of Labor Statistics (BLS) gathers information on full-time wage and salary workers. According to [the latest available BLS Current Population Survey \(CPS\)](http://www.bls.gov/cps/cpsaat39.htm) (<http://www.bls.gov/cps/cpsaat39.htm>), the 2016 median weekly earnings of full-time wage and salary workers are \$832.00. Assuming a forty (40) hour work week, the median hourly wage is \$20.80.

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Legally, respondents may not pay a person or business for assistance in completing the information collection, and a person or business may not accept payment for assisting a respondent in completing the information collection. Therefore, there are no expected overhead costs for completing the information collection. VBA estimates the total cost of all respondents to be \$124,800.00.

Median Weekly Wage = \$832.00/week

Median Hour Wage = \$832.00/week x 40hrs/week = \$20.80/hr

Burden Hours per Response = 0.50 hrs

Cost per Response = \$20.80/hr x 0.50 hrs = \$10.4

Total Burden Estimate = \$10.4/Response x 12,000 Responses = \$124,800.00

13. Provide an estimate of the total annual cost burden to respondents or record-keepers resulting from the collection of information. (Do not include the cost of any hour burden shown in Items 12 and 14).

The submission does not involve any record-keeping costs.

14. Provide estimates of annual cost to the Federal Government. Also, provide a description of the method used to estimate cost, which should include quantification of hours, operation expenses (such as equipment, overhead, printing, and support staff), and any other expense that would not have been incurred without this collection of information. Agencies also may aggregate cost estimates from Items 12, 13, and 14 in a single table.

Total Processing/Analyzing Costs with Overhead	\$1,145,040
• GS-13/3 @ \$45.78 x 12,000 x 30/60 minutes =	\$274,680.00
• GS-13/3 Overhead at 100%	\$274,680.00
• GS-11/3 @ \$32.12 x 12,000 x 30/60 minutes =	\$192,720.00
• GS-11/3 Overhead at 100%	\$192,720.00
• GS-5/3 @ \$XXXX x 12,000 x 30/60 minutes =	\$105,120.00
• GS-5/3 Overhead at 100%	\$105,120.00
Printing and production cost (\$90/thousand)	\$1,080.00

Total cost to government \$1,146,120.00

Note: the hourly wage information above is based on the [2016 hourly wages for employees of the VA Regional Office at St. Paul, Minnesota](https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/salary-tables/pdf/2016/MSP_h.pdf) (https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/salary-tables/pdf/2016/MSP_h.pdf). The St. Paul Regional Office is one of three adjudication offices which process these types of claims (Milwaukee and Philadelphia are the others). The locality adjustment of 21.3% applicable to St. Paul falls between the locality adjustments of Milwaukee and Philadelphia.

The processing time estimates above are based on the actual amount of time employees of each grade level spend to process to completion a claim received on this form. The within-grade step (3) of each employee represents the average experience of employees within each grade.

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To account for overhead costs and benefits, we factored in additional costs of 100% of employee salary. This is necessarily a rough adjustment, because methods of estimating these costs vary widely from study to study. One such study, from the [Boston Business Journal](http://web.mit.edu/e-club/hadzima/pdf/how-much-does-an-employee-cost.pdf) (<http://web.mit.edu/e-club/hadzima/pdf/how-much-does-an-employee-cost.pdf>), references an estimate of overhead costs and benefits as high of 170% of employee salary. Since there is no industry standard for estimating overhead costs and benefits costs based on employee salary, we feel our estimate of 100% of employee salary is reasonable.

15. Explain the reason for any burden hour changes since the last submission.

This is the first submission for this collection.

16. For collections of information whose results will be published, outline plans for tabulation and publication. Address any complex analytical techniques that will be used. Provide the time schedule for the entire project, including beginning and ending dates of the collection of information, completion of report, publication dates, and other actions.

The information collected is not for tabulation.

17. If seeking approval to omit the expiration date for OMB approval of the information collection, explain the reasons that display would be inappropriate.

We are not seeking to omit the expiration date.

18. Explain each exception to the certification statement identified in Item 19, "Certification for Paperwork Reduction Act Submissions," of OMB 83-I.

This submission does not include any exceptions to the certification statement.

B. COLLECTIONS OF INFORMATION EMPLOYING STATISTICAL METHODS

No statistical methods are used in this data collection.