



**DEPARTMENT OF VETERANS AFFAIRS**  
**Veterans Benefits Administration**  
**Washington, D.C. 20420**

Vietnam Veterans of America  
8719 Colesville Road, Suite 100  
Silver Spring, MD 20910

Dear Director:

VBA is responding to a comment received May 15, 2017, from Vietnam Veterans of America in regards to federal register notice published at 82 Fed. Reg. 14276-14277, on our proposal to revise control number 2900-0747 (VA Form 21-526EZ, *Application for Disability Compensation and Related Compensation Benefits*).

**Comments Received:**

- **VA should use easy-to-understand instructions, including prominently displayed text directing claimants to contact an accredited Veteran Service Officer (VSO).**

The instructions listed within this collection have been tailored to include language that is required by statute (Title 38 U.S.C. 5103A) to provide notice regarding the rights to the claimant and VA's duty of assist (DTA). They are more than just a step-by-step instruction on how to fill out each question asked. They explain the form, how the form is used, how the form is completed, and the DTA requirements. The contents of these instructions meet all legal requirements. If at any point there is confusion from an individual claimant, he/she can always request assistance from VA or a VSO and we review each form received so as not to penalize non-compliance or incomplete information, whenever certain basic requirements are met or not.

As far as VA not using plain language, this is in fact not so. The Office of Management and Budget (OMB) has previously approved the form and language used. Although we have made improvements, the prior language complied with plain language requirements, and that our focus in all updates includes review to make sure not only that we comply, but that we make improvements wherever we can.

The option to employ a VSO is open to all claimants, and note that VA is a non-adversarial system. Any statement from VVA regarding how they are best suited to assist and will reduce denial/appeals is purely subjective and VA makes

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no comment on them; each claim is evaluated based on evidence and facts, with no consideration of VSO status. The same goes for appeals and appeal rights. With that in mind, however, VBA has added text to the instructions that provides how to contact an accredited VSO.

Additionally, the comment describes using collections from other agencies. This is inappropriate as VA designs these applications specifically for use by claimants interacting with the unique VA claims systems.

- **VA should revise the form so that Veterans are not automatically entered into the Fully Developed Claim (FDC) Program when they submit claims.**

Regarding your comments on the February 2016 version of this collection, that is not in question here. VBA's proposed information collection request listed in the federal register has revised the content regarding the options the claimant has in filling out the collection. On the first page of the application, Question 1, it delineates which option the claimant may want their application to follow; formatted into checkboxes. Under Section VIII: Claim Certification and Signature, the claimant is reminded to check one of the boxes in Item 1, on page 8, to indicate they want their claim to be considered as a standard claim or not.

We would like to note, however, that enrollment in the Fully Developed Claim (FDC) program does NOT preclude an individual from the traditional claims route and it does NOT waive rights under duty to assist (DTA). Those rights always exist, but the particulars of how DTA applies are on a case by case basis, in accordance with what evidence the file contains, the veteran submits, or the veteran reports/identifies. FDC does not negate DTA; we simply remove the person from that program, if these DTA items are triggered. VA cannot review, on its own, a claim, and then opt-in to the FDC on the Veteran's behalf. Also, the opt-in pilot, as referenced by VVA, was just that – a pilot. Nothing in 38 U.S.C. 5101 requires an opt-in for the current FDC program.

I hope this response adequately addresses your inquiry.

Sincerely,

Beth Murphy  
Director  
Compensation Service

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