



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

January 29, 2009

Director (00/21)  
All VA Regional Offices and Centers

Fast Letter 09-06

SUBJ: Appeals Resource Centers

This letter provides information and procedural guidance on the brokering of certain appeals from regional offices of jurisdiction (ROJs) to the Appeals Resource Centers (ARCs). Brokering is expected to begin on or about February 2, 2009.

## **Appeals Resource Centers**

The Veterans Benefits Administration is establishing two ARCs: one in Seattle, Washington, and the other in Waco, Texas. The ARCs will improve timeliness, consistency, and accuracy of appellate decisions while allowing the ROJs to focus more resources on processing disability compensation claims.

The ARCs will initially work appeals from their own regional office (RO) workload, then phase in brokered appeals from other ROs that have challenging appeals inventories.

## **Responsibilities of the ARCs**

The ARCs will process fully developed appeals brokered from designated ROJs. Each ARC will establish a point of contact (POC) for Congressional and other priority inquiries as well as a mailbox for ROJs to submit inquiries, request status, and exchange spreadsheets.

Based on the brokering criteria below, the ARCs will handle appeals at any stage after receipt of a notice of disagreement if the appellant either elects the traditional appeal process or does not respond to the appeal election letter. The ARCs are responsible for maintaining monthly reports, including production, quality, and deferral rates. The ARCs will report directly to the Veterans Service Center Manager at their ROs. The ARCs are also responsible for facilitating local reviews of rating decisions by national veterans service organizations (VSOs), attorneys, or agents.

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## **Responsibilities of the ROJs**

The ROJs are responsible for brokering appeals to the appropriate ARC based on the established criteria and schedule. In order to create a pool of appeals for brokering, ROJs should ensure all Veterans Appeals Control and Locator System (VACOLS) screens are updated, including new and past-due diaries on its current appeals workload. Further, ROJs should ensure all Veterans Claims Assistance Act (VCAA) notification requirements are met, including sending *Vazquez-Flores v. Peake* appeal cure notices, if required (see FL 08-16, *Vazquez-Flores v. Peake and New Veterans Claims Assistance Act (VCAA) Notification Requirements*, dated June 2, 2008).

The ROJs are also responsible for informing the local VSOs of the new brokering procedures regarding appeals. The ROJs will disseminate all courtesy copies of appellate actions and award letters received from the ARCs to off-station VSOs or agents, including state and local organizations.

## **Appeals Brokering Procedures**

Area offices will establish the monthly appellate brokering plan, coordinating with the ROJs to determine the number of appeals ready for decision and with the ARCs to determine their brokering capacity.

Area offices will notify the ROJs two to three months in advance of brokering so they can identify and complete all necessary development to ensure cases are ready for decisions. ROJs will ship the first brokering allotment to the appropriate ARC by the first of the month and the remaining allotment by the fifteenth of the month. The ARCs will control brokered cases through VACOLS and track cases using an Access database specifically created for the ARCs.

The ARCs will process and return brokered cases to the ROJs within approximately 30 days.

## **Brokering Criteria**

ROJs will broker only those cases that meet designated appeals brokering criteria. There is no limit on the number of volumes comprising a brokered claims folder. To ensure appeals are ready for decision, a veterans service representative (VSR) or higher-graded employee at the ROJ will screen cases to be shipped to the ARCs.

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Initially, the brokering criteria will be limited to appeals with:

- Only one pending VACOLS record entry, and
- No more than 5 issues, and
- Election of the traditional appeal process, or no response to appeal election letter\*, or
- Receipt of VA Form 9, *Appeal to Board of Veterans' Appeals*, regardless of whether the appellant requests a hearing with the Board.

**\*NOTE:** Do not broker appeals to the ARCs if a local hearing with a Decision Review Officer (DRO) or other ROJ employee is pending.

Appeals not authorized for brokering involve the following issues or situations:

- Concurrent end products (EPs)
- Private attorneys
- Helpless children
- Former prisoners of war (FPOWs)
- Locked files
- Non-rating appeals (e.g., dependency, apportionment, loan guaranty)
- Operation Enduring Freedom/Operation Iraqi Freedom (OEF/OIF) appellants
- Appeals awaiting hearings before local decision makers
- Foreign residents
- Pension
- Radiation
- Terminally ill appellants
- Hardship claimed by appellants

ROJs will be notified of expanded criteria for appeals cases eligible for brokering as the ARCs' capacity increases over time.

An appeal is deemed "ready for decision" when all of the following applicable conditions are met:

- VCAA notice has been sent to claimant
- Military service is verified
- Service treatment records (STRs) or a formal finding of their unavailability is in the claims folder
- All requested private medical records have been received, or the 30-day suspense dates for the follow-up requests have elapsed
- VA examinations, or the failure-to-report notices, have been received
- All other development/response suspense dates have expired
- Formal finding of insufficient information to corroborate posttraumatic stress disorder stressors is in the claims folder

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- Appeal election letter has been sent to the claimant
- Traditional appeal process election or the claimant has not responded to the appeal election letter
- If appellant elected DRO review, the DRO has completed it.

## **ROJ Procedures for Brokering Appeals**

In VACOLS, the ROJ will establish a 45-day diary from the date of shipment and update VACOLS to show transfer of case to the ARC. The ROJ will temporarily transfer the claims folder to the ARC using the Brokering Transfer Tab in COVERS. The ROJ will complete the brokered appeals shipping spreadsheet (Enclosure A), e-mail the shipping spreadsheet to the ARC mailbox and include a hard copy with the shipment. When the appeal is returned from the ARC, the ROJ will update COVERS to reflect the return of the temporarily transferred claims folder.

If a first notice of death (FNOD) is received while the appeal is brokered to the ARC, the ROJ will process the action. Processing the FNOD will automatically clear any pending end products (EPs). After processing the FNOD, the ROJ will e-mail the ARC via the mailbox to request return of the claims folder due to the death of the appellant, close the VACOLS record, and notify BVA of the appellant's death.

## **ARC Procedures for Brokered Appeals**

The ARC will use the shipping spreadsheet (Enclosure A) included with the shipment and e-mailed by the ROJ to confirm receipt of brokered appeals. All cases brokered to the ARC will be identified with the FedEx tracking number, which will be noted on the shipping spreadsheet.

The ARC will attach a flash to the front of the claims folder to identify it as a brokered case. The ARC will update VACOLS with the specific VACOLS code established for each ARC. The ARC will enter the case in the internal Access database which will generate reports for tracking cycle time measures and the number of cases brokered from each ROJ.

The decision maker at the ARC who completes the Statement of the Case (SOC), Supplemental Statement of the Case (SSOC), or rating decision for a full or partial grant of the benefits sought will review the file to determine the appropriate EP for the decision. The decision maker or VSR will establish the EP in accordance with current procedures.

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If the case does not meet the brokering criteria, the decision maker will prepare a deferred rating and return the case via FedEx to the ROJ for further development. Prior to returning the file to the ROJ, the supervisor or designee at the ARC must certify by signature on the deferred rating that the case is not ready for a decision. The ARC will create a 30-day VACOLS diary with the deferral reason in the “notes” field.

On a daily basis, the ARC will send decisions to the appellants, and courtesy copies of all appellant decisions to the ROJ for dissemination to VSOs or agents, including state and local organizations via batch mail. When all appeal actions have been completed, the ARC will update the VACOLS record (code 50) to show the return of the appeal to the ROJ. The ARC will e-mail to the POC at the ROJ the shipping spreadsheet (Enclosure A) listing all claims in the return shipment.

## **Shipping Brokered Appeals**

The ROJs will ship all brokered appeals to the ARCs via FedEx. The following addresses are to be used:

**WACO ARC**

**VA Regional Office  
One Veterans Plaza  
701 Clay Avenue  
Waco, TX 76706**

**SEATTLE ARC**

**Department of Veterans Affairs  
Auburn Processing Center  
1901 C Street SW  
Building 7, Suite 100  
Auburn, WA 98001**

- Use the ARC POC name and telephone number on the shipping label.
- Use FedEx InSight to track cases when registration is completed. See <http://www.fedex.com/us/solutions/insight.html> for additional information.
- Do **not** show veterans' claim numbers on the outside of the shipping boxes.
- Place a shipping spreadsheet (Enclosure A) inside each box.

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## **Returning Brokered Appeals to the ROJs**

The ARCs will ship completed appeals to the ROJs via FedEx.

- Use the ROJ POC's name and telephone number on the shipping label.
- Identify shipment as "*Brokered Cases.*"
- The FedEx InSight should be used to track cases. See <http://www.fedex.com/us/solutions/insight.html> for additional information.
- Provide a hard copy of the shipping spreadsheet (Enclosure A) with the returned files.
- Do **not** show veterans' claim numbers on the outside of the shipping boxes.

## **Handling Inquiries**

The ROJs or National Call Centers will continue to answer all regular public contact inquiries (including those received via IRIS). Do not forward such inquiries to the ARCs.

While in the possession of the appeal, the POC at the ARC will answer all high-level inquiries such as controlled or Congressional correspondence.

## **Handling Additional Evidence**

If mail or a subsequent claim clearly associated with an appeal brokered to an ARC is received at the ROJ, the ROJ will contact the ARC point of contact to decide whether to fax the new evidence/claim to the ARC or hold it at the ROJ until the brokered claims folder is returned. Otherwise, mail received at the ROJ will be held until the claims folder is returned from the ARC.

Once a brokered appeal is returned to the ROJ, the jurisdiction of subsequent appellate actions remains with the ROJ. However, if the ROJ continues to broker appellate work, the ROJ may re-broker the same appeal to the ARC if it requires a new decision and the case complies with current brokering criteria.

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## **Questions**

Questions about this fast letter should be e-mailed to VAVBAWAS/CO/212A.

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Bradley G. Mayes

Director

Compensation and Pension Service

Enclosure A

## Enclosure A

### Sample Brokered Appeals Shipping Spreadsheet

Click this link to obtain the electronic Excel spreadsheet, [Brokered Appeal Shipping Spreadsheet](#). Complete, e-mail, and include a hardcopy of the spreadsheet in each shipment. For instructions on completing the spreadsheet, click the heading in each column of the electronic Excel document.

							Category					
Station	Claim Number	Number of Volumes	Terminal Digits	Last Name	First Name	Middle Initial (Only)	Form 9	Remand	Traditional	DeNovo	Shipper Tracking Number	Shipper Name