



DEPARTMENT OF VETERANS AFFAIRS

8320-01

Disruption of Mail Service

AGENCY: Department of Veterans Affairs (VA).

ACTION: Notice of exception to date of receipt rule.

SUMMARY: In response to the declaration of a national emergency, announced on March 13, 2020, due to the coronavirus disease of 2019 (COVID-19) pandemic in the United States, the Veterans Benefits Administration (VBA) instituted temporary provisions for determining the acceptable dates for the receipt of correspondence through the United States Postal Service mail and other mail delivery systems. This is an updated notice to VA's April 20, 2020, Federal Register publication.

FOR FURTHER INFORMATION CONTACT: Cleveland Karren, Director, Policy and Procedures, Compensation Service, Department of Veterans Affairs, 810 Vermont Avenue NW, Washington, DC 20420, 202-461-9700. (This is not a toll-free telephone number.)

SUPPLEMENTARY INFORMATION: On March 13, 2020, the President of the United States signed a declaration of national emergency due to the COVID-19 pandemic in the United States, beginning March 1, 2020. The COVID-19 pandemic required VBA to dramatically alter its operations in concert with the Federal Government's efforts to combat the spread of the virus.

VBA, as part of its efforts to protect veterans and employees, has in many locations maximized the use of telework from home. In addition, VBA has temporarily closed public contact units within VBA regional offices. Although the United States Postal Service operations have continued, limited physical staffing at VBA regional offices could lead to delays in the ability of these regional offices to receive mail and process it in a timely manner. At several VBA regional office locations the processing of correspondence (containing claims, pertinent beneficiary information or related evidence) mailed to VA during this period could be interrupted due to VA's involvement in the Federal Government's effort to combat the spread of COVID-19. VA aims to protect the interest of claimants who send such correspondence to VBA through the normal channels of communication during this period and could possibly be deprived of benefits solely because these channels of communication are disrupted during this time of national emergency. Therefore, VA has instituted temporary provisions for determining the acceptable dates for the receipt of correspondence through the United States Postal Service mail and other mail delivery systems (such as courier mail), as updated in this notice.

VA regulation 38 CFR 3.1(r) allows the Under Secretary for Benefits to establish exceptions to VA's rule on the date of receipt of claims, information or evidence by a notice published in the Federal Register. Ordinarily, "date of receipt" means the date on which a claim, information or evidence was received in a VA office. This regulation states that exceptions may be established when a natural or man-made interference with the normal channels through which VBA ordinarily receives correspondence has

resulted in one or more VBA regional offices experiencing extended delays in the receipt of claims, information or evidence to an extent that, if not addressed, the delay would adversely affect such claimants, through no fault of their own.

The COVID-19 pandemic has interrupted operations at all VBA regional offices since the beginning of March 2020. Correspondence containing claims, information or evidence sent to VA during this period was likely delayed due to interrupted operations of VBA regional offices. Because VBA regional office mail systems were impacted, VA has established the following updated exceptions to the standard date of receipt rule.

Exceptions to Date of Receipt Rule for Claimants Affected by the COVID- 19 Outbreak

VA previously gave notice that for purposes of determining entitlement to benefits, any correspondence received by VA from any claimant, during the period March 1, 2020, through 60 calendar days past the date the President ends the national state of emergency, that contains claims, information or evidence, is considered received on the date of postmark. That guidance remains in effect unless existing regulations permit an earlier date of receipt, such as in 38 CFR 3.108, 3.153 or 3.201, or in the case of Veterans Pension, if its application would, in rare instances, unduly disadvantage the claimant.

VA also previously gave notice that, in the event there is no mail postmark or date stamp by the through the United States Postal Service mail and other mail delivery systems, VA would consider the correspondence as received no later than February 29,

2020. This updated notice provides that, effective immediately, VA will consider any correspondence with no postmark or date stamp as received 10 calendar days prior to the document's scanning date at the centralized claims intake center, counting the date of receipt at the intake center as the 10th calendar day; except in such cases where the mailing clearly shows that the receipt date would be erroneous. This change is necessary to account for the length of the COVID-19 pandemic and the realities of current mail processing.

Due to length of the COVID-19 pandemic, it is no longer reasonable to assume that mail lacking a postmark was received prior to March 1, 2020. Most mail sent to regional offices is forwarded directly to VBA's claims intake center for scanning and processing; however, some sites are excluded from direct forwarding. At those sites, there are personnel onsite to review the mail and send it for scanning. Also, VA is aware of some minor delays in either forwarding, receiving and scanning the mail. In either case, treating mail as received by VA 10 calendar days prior to the date of the scanning at the claims intake center, is sufficient to cover the current delays in mail processing.

VA, in applying this guidance, is attempting to give claimants the earliest and most accurate date of claim. As such, VA will treat mail that lacks a postmark as if it was received by VA 10 calendar days prior to the date of the scanning by the claims intake center, except in such cases where the mailing clearly shows that it would be clearly erroneous. In situations where applying this liberal guidance would be clearly erroneous, VA will provide the best estimate for the date of receipt. This approach allows VA to utilize a date of mail receipt that is more aligned with the actual date of

receipt. This guidance applies to correspondence received during the designated period from all domestic and foreign postal codes.

Signing Authority

The Secretary of Veterans Affairs, or designee, approved this document and authorized the undersigned to sign and submit the document to the Office of the Federal Register for publication electronically as an official document of the Department of Veterans Affairs. Brooks D. Tucker, Acting Chief of Staff, Department of Veterans Affairs, approved this document on August 20, 2020 for publication.

Luvenia Potts,

Regulation Development Coordinator,

Office of Regulation Policy & Management,

Office of the Secretary,

Department of Veterans Affairs.

[FR Doc. 2020-18839 Filed: 8/26/2020 8:45 am; Publication Date: 8/27/2020]