

108 CMR 4.00 INTERVIEW AND APPLICATION PROCEDURE- RESPONSIBILITIES OF THE
VETERANS' AGENT

Section

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4.01: Interview Guidelines

4.01: General Principles Concerning Applications for Benefits

(1) The Secretary, in his sole authority, shall establish forms and additional-interview guidelines by directive for all applications for benefits under 108 CMR.

4.02: Application Procedures

(2) Right to File an Application. Every veteran and dependent of a veteran with proof of such status, has a right to file an application for veterans' benefits. If the applicant exercises this right, an application must be taken by the veterans' agent. ~~This~~ The right to file shall not be confused does not entitle, nor convey any right to, the applicant ~~with a right~~ to receive benefits.

(3) Legal Requirements for Application. An applicant for veterans' benefits is required by M.G.L. c. 115, § 4 to file with a veterans' agent in the city or town wherein he or she resides ~~a written~~ an application on-in a form prescribed by the Secretary.

4.02: Processing of the Initial Application for Benefits

(1) First Contact with the Applicant. The veterans' agent shall take an application from every veteran, spouse, and/or dependent who seeks assistance from his/her office. No applicant should be turned away without being permitted to complete an application for benefits.

(2) Failure to Take an Application.

(a) If the veterans' agent does not take an application, the Secretary, or his designee, shall take the application, make the decision as to the award of benefits, and order the city or town to make payment within fourteen days from the date of such notice.

(b) If a city or town refuses or does not make such payment within fourteen days from receipt of such notice the Secretary shall notify the state treasurer of such refusal or failure and thereafter such benefits shall be paid to the applicant by the commonwealth.

(c) If the commonwealth shall be called upon to pay any such benefits on behalf of any such city or town, the total of any such benefits paid in any such calendar year shall be assessed upon such city or town, or deducted from funds that may be due such city or town from the commonwealth.

(3) Veterans Affairs Benefits. The veterans' agent shall review the applicant's records ~~applicant's records~~ to assist in determining whether the applicant may be eligible for, available VA benefits, shall advise the applicant if it appears that he or she may be so eligible, and assist the applicant in applying for such benefits, including helping the applicant to obtain copies of supporting documents.

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(4) Form of Application. An application for veterans' benefits shall be made on Form or Screen VS-1, with the exception of a reapplication for benefits. After the previous application has been inactive for a period of up to six months, and so long as there has been no change in circumstances other than the applicant's financial needs, the reapplication may be made on Form or Screen VS-21A.

(a) Recipients shall complete a new Form VS-1 after three consecutive years in receipt of veterans' benefits.

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~~(b) The original initialed and signed application and reapplication shall be forwarded to the Secretary.~~

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~~(c) Each January, recipients shall provide proof of income and shelter expenses, which shall be forwarded to DVS.~~

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~~(d) Information provided on an application shall be either typed or printed legibly.~~

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(e) The date which appears on the application shall be the date of the applicant's first contact with the veterans' agent.

~~(54) Who May File an Application. The general rule is that the Applications shall be filed by the veteran or a dependent of the veteran, depending on who is seeking the veterans' benefits. Exceptions to the general rule are made when the Where an applicant is unable, for good reason satisfactory to the veterans' agent, to file an application, then the veterans' agent shall permit another a designated person may to file the an application on the applicant's behalf. The guardian-guardianor, conservator or person holding the power of attorney for of an applicant, may file an application on behalf of the applicant, provided that the name on the application is that of the veteran or dependent seeking veterans' benefits.~~

~~(65) Time Deadline for Veterans' Agents Referral of Application. Within ten working business days after the applicant files an application, the veterans' agent shall send forward the application, with his or her recommendation for action, to DVS. If the veterans' agent is unable to meet this deadline, he or she shall notify the DVS authorizer in advance, stating the reasons for the delay.~~

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(7) Imposition of Additional Requirements Prohibited. The veterans' agent shall not impose additional requirements, over and above the requirements set out in these regulations, upon the applicant during the application process or prior to paying benefits. A veterans' agent who routinely and willfully continues to impose additional requirements, after being directed by the Secretary to end this practice, shall be determined to be acting in a manner that violates Title 8 of the CMR and will subject the city or town to a finding of non-compliance with the requirements of M.G.L. Ch.115, §3. The finding of non-compliance shall result in the reduction of the reimbursement allowance, paid by the Commonwealth under M.G.L. Ch. 115, §6, to 50 per cent.

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(87) Payment of Initial Benefits. The veterans' agent is not required to wait for authorization by DVS for the payment of benefits to the applicant. The agent shall pay those benefits upon his or her determination that the applicant is eligible. In the event that such payment is determined by DVS to have occurred as the result of a good faith mistake on the part of the veterans' agent, the Commonwealth will reimburse such payment at the appropriate percentage of reimbursement as set out in 108 CMR 13.01.

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4.03: Computer Match Program

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Upon the written request from any veterans' agent, DVS shall verify by the Massachusetts Department of Revenue computer linkup whether any applicant for or recipient of veterans' benefits is in receipt of wages or has a bank account, or is delinquent in child support payments. DVS shall also verify whether said applicant or recipient is in receipt of transitional assistance. Requests shall include the applicant's or recipient's name, social security number,

and other data required to assure identification.

4.04: Privacy Concerns

(1) Notification to Applicants. In accordance with M.G.L. c. 66A, every applicant who applies for veterans' benefits must be informed that information contained in the application (Form VS-1) for veterans' benefits may be submitted to the Department of Revenue and Department of Transitional Assistance for the purpose of determining whether they are in receipt of wages, whether they hold bank accounts, and whether they are delinquent in child support payments.

(2) Consent Notice.

(a) The veterans' agent shall give each applicant a Computer Match Consent Notice which the applicant, and any other adult individual for whom benefits are being requested, shall sign and date.

(b) Each time a person applies or reapplies for benefits, this process must be repeated.

~~(3) CORI Requirements. In accordance with the Criminal Offender Record Information (CORI) law, M.G.L. c. 6, § 178, access to criminal records may be had only if a veterans' agent is certified by the Massachusetts Criminal History Systems Board.~~ 4.05: Sources of Information

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Sources of information available for the initial decision on the application for benefits or for any decision related to a change in circumstances of the recipient include:

(1) The Department of Public Health, Registry of Vital Records and Statistics, maintains a central repository of records concerning births, deaths and marriages within the Commonwealth. The veterans' agent may collect such information from that office, rather than contacting individual cities and towns.

(2) The War Records Section of the Adjutant General's Office maintains complete records on the military service of veterans whose place of residence was Massachusetts at the time of their discharge. When an applicant does not have the necessary discharge or release document in his or her possession at the time of the application, the veterans' agent shall obtain the basic background details and then request a certificate of military service from the War Records Section. Other sources of military records are the VA Regional Offices and the Military Personnel Records Center in St. Louis, Missouri.

(3) Records of divorce, separation, adoption and similar proceedings may be obtained from the Probate Court which has or had jurisdiction over the matter.

(4) Information on an applicant's compliance with support orders may be obtained from the probation officer in the appropriate Probate and Family Court.

(5) The veterans' agent, with the full cooperation of the applicant, may obtain information on the wages or reasons for unemployment of an applicant from the applicant's employer. The veterans' agent also may obtain such information on wages earned by an applicant's spouse or children, provided that the spouse and children are members of the applicant's household. If obtaining a wage earner's report would jeopardize an individual's employment, the veterans' agent should obtain a copy of the employee's pay stubs from the applicant.

(6) The veterans' agent may obtain information upon written request and with the written authorization of the applicant or the recipient, regarding balances of checking and savings accounts.

(7) The applicant or recipient, or his/her spouse shall, if necessary, provide the veterans' agent with a waiver or authorization allowing release of the information referred to in 108 CMR 4.05.

4.06: Requirement that Applicant Cooperate with the Veterans' Services Agent/Veterans' Agent

(1) The applicant seeking benefits is required to reasonably cooperate with the veterans' agent and DVS in the processing of his or her application. Such cooperation shall include, but is not limited to, giving signed consent for medical treatment, physical or mental examinations, power of attorney to examine VA records, court records, and tax and tax or financial records. The determination of what constitutes reasonable cooperation shall be based on the facts and circumstances specific to each applicant and his or her situation.

(2) If the applicant is unable to cooperate, due to physical or mental illness, or other external factors beyond the applicant's control, the veterans' agent shall make reasonable attempts to arrange for a clinician or other appropriate service provider to assess the condition of the applicant.

(3) Where the veterans' agent, after a good faith review of the facts and circumstances pertaining to the applicant, determines that the applicant is not providing reasonable cooperation, the agent may issue a Notice of Action denying benefits in accordance with 108 CMR 8.03.

4.07: Completion of the Application.

(1) Upon completion of the application for benefits, the veterans' agent shall:

(a) Determine an applicant's eligibility and need for benefits on the basis of information obtained from the applicant and through the agent's own investigation.

(b) The veterans' agent then shall make a determination on the type and level of benefits, if any, which shall be granted to the applicant unless the determination requires prior approval.

(c) The veterans' agent shall not deny an application for benefits on the ground that it does not present a situation conforming to a pattern for which there are predetermined standards of assistance, nor shall the veterans' agent deny an application or withhold benefits payments solely because of delays in the administrative or investigatory process.

(d) The determination of a veterans' agent that an applicant is or is not eligible for or does or does not need veterans' benefits shall be supported by adequate evidence. Hearsay information on the applicant's reputation or the unsupported opinions of the veterans' agent shall not be a sufficient basis for said determination.

(e) The determination and recommendation of the veterans' agent shall be made available in writing to the applicant in the form of a Notice of Action as defined in 108 CMR 8.03, and shall include facts supporting the determination and recommendation and reference to the applicable statutes or regulations.

(2) Veterans' Agent's Approval of Application for Benefits. Whenever the veterans' agent determines that an application shall be approved, he or she shall promptly send written notification to the applicant on a Notice of Action form prescribed by the Secretary advising the applicant of the amount of benefits to be provided and the effective date, and the applicants' right of appeal if dissatisfied with the amount or the effective date of benefits. The

Notice of Action form must comply with the requirements of Section 8.03. The appeal process is controlled by the provisions of 108 C.M.R.-CMR 8.04.

(3) Veterans' Agent's Denial of Application for Benefits. Whenever the veterans' agent determines that an application shall be denied, he or she shall promptly send written notification to the applicant on a Notice of Action form prescribed by the Secretary advising the applicant of the denial, the factual reasons therefor, and shall reference the applicable statutes or regulations. The Notice of Action shall inform the applicant of his/her right of appeal of the denial of benefits. The Notice of Action form must comply with the requirements of Section 8.03. The appeal process is controlled by the provisions of 108 C.M.R.-CMR 8.04.

(4) Appeal of Determination by Veterans' Agents. An applicant or recipient may appeal any award or denial of the initial application for benefits within 21 days of his or her receipt of the Notice of Action. The procedures relative to appeals are set forth in Section 8.04 of these regulations. 108 CMR 8.04.

4.08: Pre-application Veterans' Benefits

With pPrior approval, the Secretary may, on recommendation of the veterans' agent, authorize or approve the payment of veterans' benefits for not more than 60 days prior to the date of the application. The necessity must have been caused by serious accident or illness to the applicant or to one or more dependents of the applicant.

4.09: Supporting Documents for Benefits Application

(1) The applicant shall submit to the veterans' agent, who shall submit to DVS, supporting documents to verify the military service, dependent status, marital status, income, school enrollment verification, and other categories as listed in Table 1. The veterans' agent shall send legible copies of these documents, and any other documents requested by the authorizer to DVS.

(2) The veteran's agent shall submit to DVS written verification of the full-time status of a student in each February and October that a child over the age of 18 is attending high school, college, or other institution of higher learning. For children under the age of 18 written verification of student status shall be submitted with the January update.

(3) Requests for reimbursement of any services rendered to or on behalf of a recipient must be accompanied by the following:

- (a) Receipt on bill provider's letterhead.
- (b) Names, addresses of providers and license numbers where applicable.

Table 1

<u>Applicant</u>	<u>Documents</u>
<u>Separated veteran</u>	<u>Separation decree</u> <u>Order for separate maintenance</u> <u>Order for support</u>
<u>Spouse of a veteran</u>	<u>Marriage certificate</u>
<u>Child of a veteran</u>	<u>Birth certificate or adoption record with name of eligible veteran as parent</u>
<u>Widow/widower of a veteran</u>	<u>Marriage certificate</u> <u>Death certificate</u>

<u>Child of a deceased veteran</u>	<u>Birth certificate or adoption record with name of eligible veteran as parent</u> <u>Death certificate</u>
<u>Parent of a veteran</u>	<u>Birth certificate of veteran with name of parent</u>
<u>Person in place of parent to a veteran</u>	<u>Public record or statements from the veteran or other knowledgeable people, showing that the applicant stood in place of a parent to the veteran for five years immediately preceding the veteran's wartime service</u>

4.10: Changes in Circumstances of the Recipient Following Initial Award of Benefits

The regulations relating to the procedures to be followed by the veterans' agent when there are any changes in circumstances of the recipient, following the initial award of benefits, may be found in 108 CMR 8.01.

When a recipient's benefits are to be changed or terminated for any reason, the ~~veterans' services agent~~ veterans' agent shall send a Notice of Intent to the applicant at least 14 days before the issuance of a Notice of Action in accordance with 108 CMR 8.02 and 8.03. If the recipient does not address and/or correct the issues that form the basis for the Notice of Intent ~~within~~ Intent within 14 days of receipt of the Notice of Intent, the veterans' agent shall send a Notice of Action in accordance with 8.03. The veterans' agent shall, upon the request of the recipient and for good cause, permit a reasonable extension of time in which the recipient may correct the issues that form the basis for the Notice of Intent.

REGULATORY AUTHORITY

108 CMR 4.00: M.G.L. c.115

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