

# Intent to File a Claim for Compensation and/or Pension, or Survivors Pension and/or DIC

VA Form 21-0966  
OMB 2900-0826

## 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. Title 38 U.S.C. 5102 provides that a specific claim in the form provided by the Secretary must be filed in order for benefits to be paid to any individual under the laws administered by the Secretary. The amended collection of information in the final rule 38 CFR 3.155 would require claimants and/or their authorized representatives to submit a VA-prescribed form in either paper or electronic submission, where applicable, to express a claimant's intent to file a claim for benefits in order to establish an effective date placeholder for any award granted if the claimant files a complete claim within 1 year of receipt of the intent to file a claim. The collection of information has been consolidated into VA Form 21-0966, *Intent to File a Claim for Compensation and/or Pension Benefits, or Survivors Pension and/or DIC*. Claimants and their representatives can submit their intent to file a claim in three ways: (1) on paper using VA Form 21-0966; (2) electronically through a claims submission tool within a VA Web-based electronic claims application system; or, (3) by telephone contact with VA personnel who will record the intent to file a claim on the proposed VA Form 21-0966.

VA Form 21-0966, has been revised to add a new data collection that requests the Veteran's Service Number. There are VA files in existence in which only names and service numbers are the only way to identify who the Veteran is. Due to the commonality of many names, the file cannot be retrieved by name search alone but rather by searching for the service number. By adding this data collection to the form, the VA will help ensure a more efficient way to process these forms.

### 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 21-0966 will be used by claimants and/or their authorized representatives to indicate intent to file a claim for compensation and/or disability benefits to establish an effective date for an award granted in association with a complete claim filed within 1 year of such form. VA will use this form to identify claimants in its internal business operational systems to record the date of receipt of this document for the purposes of establishing a date of claim for a complete claim that is filed within 1 year. VA also uses the information to furnish the claimant with the appropriate VA form or application for VA benefits.

### 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

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**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.**

VA Form 21-0966 is available on the One-VA Website in a fillable electronic format. VBA is currently hosting this form on a secure server. Validation edits are performed to assure data integrity. Efforts within VA are underway to provide a mechanism to allow the information to be submitted electronically with a recognized signature technology. There currently is no utility process in place that will allow the data submitted on the form to be incorporated with an existing centralized legacy database.

- 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.**

Program reviews were conducted to identify potential areas of duplication; however, none were found to exist. There is no known Department or Agency, which maintains the necessary information, nor is it available from other sources within our Department.

- 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 involve small businesses or 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.**

Less frequent collection of this information is not possible, as it involves application for a specific benefit.

- 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 is no special circumstance requiring collection in a manner inconsistent with 5 CFR 1320.6 guidelines.

- 8. a. 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**

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**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 Department notice was published in the Federal Register on February 10, 2015, Volume 80, No. 27, page 7530. Three comments were received in response to this notice.

### **COMMENT #1:**

A comment was received from Mary Ellen McCarthy. The comment states that this form does not comply with the requirements of 38 U.S.C. Section 5101, allowing certain persons, other than the individual seeking benefits, to sign forms. The form does not collect required information for the signature of a person who signs on behalf of another or the required Social Security number or TIN of such signer. The form should also include a check-off box to indicate if the individual seeking benefits has not attained the age of 18 years, is mentally incompetent, or is physically unable to sign the form. This form and related regulations should be revised to comply with the statute.

### **RESPONSE FOR #1:**

VA Form 21-0966, *Intent to File a Claim for Compensation and/or Pension, or Survivors Pension and/or DIC*, is not a claim form for benefits and is therefore not subject to 38 USC 5101 provisions regarding form requirements. The plain language of the statute pertains to benefit claim forms. Sec. 5101(a)(1) states at the outset that “[a] specific claim in the form prescribed by the Secretary ... must be filed in order for benefits to be paid or furnished to any individual under the laws administered by the Secretary,” indicating that the provisions of the statute pertain strictly to claims for benefits. Paragraph (a)(2), which addresses persons who may sign on behalf of another, relates directly back to the paragraph (a)(1) “specific claim” language. Moreover, the following two paragraphs, (b)(1) and (2), address “[a] claim by a [person other than a Veteran] ...” Even paragraph (c), which does not directly relate to a claim, is limited to obtaining the social security number or TIN of “[a]ny person who applies for, signs a form on behalf of an individual to apply for, or is in receipt of any compensation or pension benefit...”, and only where it is requested by the Secretary.

As stated in the Proposed Information Collection Activity Notice abstract, VA Form 21-0966 will be used by claimants and/or their authorized representatives to indicate an intent to file a claim for compensation and/or disability benefits to establish an effective date for an award granted in association with a complete claim filed within 1 year of such form. An “intent to file” is inherently not a claim for benefits, and therefore, VA Form 21-0966 is not a claim form. There are no substantive rights impacted by VA Form 21-0966, without a subsequent claim form. The information collected by this form merely establishes a placeholder for a potential effective date for any grant of benefits when a claim is received within a year. The form also allows VA to provide the claimant with the appropriate claim form.

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Although VA disagrees with the commenter's assertion that 38 USC 5101 applies to VA Form 21-0966, we believe that the primary concern raised is encompassed by the form in its present state. The commenter notes in general that the form is lacking the ability for persons other than the individual seeking benefits to sign the form. VA notes that block 12A allows an authorized representative to sign on behalf of the claimant and block 13 allows for information regarding the attorney, agent, or veteran's service organization. These entities may sign a VA Form 21-0966 provided a valid power of attorney is of record with VA. While VA acknowledges that the form does not include a place for a valid agent's social security number or TIN, nor does it include a checkbox for minors, incompetents or physically disabled, the submission of VA Form 21-0966 will trigger VA's duty to provide a 38 USC 5101 compliant form, where such information will be collected if the claimant decides to submit a claim. Therefore, no action will be taken on this comment at this time.

### **COMMENT #2:**

A comment was received from Mr. James LaPointe. The comment states: "My concerns relate to the glaring omission of a cross reference to existing rules at 38 CFR 3.153 regarding a claim for Social Security benefits as a claim for VA benefits. Without such a reference their [sic] can be no discussion of the need for this intent to file since existing information would already exist in the SSA form. Granted, the new 21-534ez has abandoned the concept of such a claim for one is a claim for both (the prior form had SSA Form 24 attached and the Adjudication Manual M21-1MR had procedures for handling these claims). Stated simply, why would VA need to obtain this information to support an intent to file when the widow's application for SSA benefits would provide more information and actually constitute a claim under existing law? Unless the intent to file in conjunction with the 534ez means the VA will no longer respect the existing rule at 3.153. I do not recall seeing any revocation of 3.153 in the applicable regulation (which removed 3.157). If the information in the SSA claim constitutes a VA claim then there is no reason for VA to collect this information on an "Intent to File a Claim" form since such information would have no value to VA and the data would be redundant. A claim has been made."

### **RESPONSE FOR #2:**

VA Form 21-0966, *Intent to File a Claim for Compensation and/or Pension, or Survivors Pension and/or DIC*, is not a claim form for survivor's benefits. As stated in the Proposed Information Collection Activity Notice abstract, the VA Form 21-0966 will be used by claimants and/or their authorized representatives to indicate an intent to file a claim for benefits to establish an effective date for an award granted in association with a complete claim filed within 1 year of such form. The information collected by this form merely establishes a placeholder for a potential effective date for any grant of benefits when a claim is received within a year. The form also allows VA to provide the claimant with the appropriate claim form.

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The commenter correctly notes that 38 CFR 3.153 was not revoked under VA's recent regulatory amendments requiring VA prescribed claim forms. Section 3.153 allows a claim for social security benefits to serve as a claim for VA survivor's death benefits, maintaining the date the claim was filed with the Social Security Administration (SSA) as the effective date for any subsequently awarded VA survivor's benefits. The information submitted on a VA Form 21-0966 merely identifies the claimant, the veteran (if different from the claimant), the benefit sought (in this case, survivor's pension and/or DIC), and establishes a placeholder for an earlier effective date if the claimant submits a claim in accordance with § 3.153 or § 3.155 on a prescribed VA form within a year the intent to file was received by VA. The commenter also notes that if the information in the SSA claim constitutes a VA claim then there is no reason for VA to collect this information on the VA Form 21-0966 and that such information would be redundant. As previously stated, the intent to file is not a claim for benefits. A SSA claim that is subject to § 3.153 would need to follow the VA Form 21-0966 for the intent to file to take effect. Therefore, the information would not be redundant.

### **COMMENT #3:**

A comment was received from Howard Townsend, from Paralyzed Veterans of America (PVA). PVA is writing to provide comment on the notice published by the Department of Veterans Affairs (VA) regarding VA Form 21-0966. This form is used by claimants and/or their authorized representatives to indicate an 'intent to file' a claim for compensation and/or pension, or survivors pension and/or Dependency and Indemnity Compensation. The notice was officially published for comment on February 10, 2015.

The information VA is collecting through VA Form 21-0966 is the result of VA's new standardized claims forms process. While we have serious reservations about this process, we want to ensure that the information collected through this form clearly notifies VA of a veteran's, dependent's or survivor's intent to file a claim for benefits. Although not directly related to the information collected on this form, we also want to make sure that any VA follow up subsequent to the form clearly notifies the claimant, and the accredited representative of record if applicable, that the onus is on the claimant to file a fully developed claim for benefits.

After reviewing VA's form, we have a few comments and suggestions that we believe will help clarify the information collected on VA Form 21-0966:

- Section I: General Benefit Election. The box to be checked by the surviving dependent of a veteran should be edited to include reference to accrued benefits. Thus, we believe that the election should read, "Survivors Pension, Dependency and Indemnity Compensation (DIC), and/or Accrued Benefits."
- Section II: Claimant's Identification, Item 7. This question should be edited to add a box that says, "Unknown," as some veterans or their survivors may not know whether a claim has ever been filed with VA.
- Section II: Claimant's Identification, Item 8. This item should be edited to say "if known" as some survivors and veterans may not know this information.

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We appreciate the opportunity to comment on this notice.

### **RESPONSE FOR #3:**

For ease of comprehension, we will take each of the commenter's concerns and suggestions in order, beginning with the commenter's general concerns. The VA Form 21-0966 is designed to capture only the minimum information necessary to identify the claimant, the veteran, if other than the claimant, and the general benefit sought. The paper form was designed to place a minimal respondent burden specifically on claimants who do not have access to or prefer not to use electronic or telephonic means of communicating this information. Once provided, this information is sufficient for VA to recognize in its claims processing systems a claimant's intent to file a claim for the general benefit(s) indicated on the form. With regard to the commenter's concern that "the form clearly notifies the claimant, and the accredited representative of record if applicable, that the onus is on the claimant to file a fully developed claim for benefits," VA notes that the box labeled "Important" in Section I of the form provides the claimant with information regarding VA's notification of the appropriate form needed to complete a claim. This section also refers the claimant to eBenefits, VA's online electronic application system. In addition, the box under Section III titled, "Declaration of Intent," states clearly that the form is not itself a claim for benefits and that a complete claim for each general benefits noted must be submitted within one year of the date VA received the VA Form 21-0966. Indeed, the claimant and/or an authorized representative, agent, or attorney must acknowledge receipt of such information in Items 12A and/or 13. Moreover, VA notes that the title of the form itself, Intent to File a Claim for Compensation and/or Pension, or Survivors Pension and/or DIC, is not a claim form; rather it is a form to indicate "Intent to File a Claim..." Therefore, VA believes that the VA Form 21-0966 addresses the commenter's general concerns.

Taking each suggestion in turn, VA begins by addressing the suggestion to amend VA Form 21-0966 to include accrued benefits as an additional general benefit to be included with survivor's pension and/or DIC. VA notes that 38 CFR 3.1000(c) already includes a built in provision that is similar to the intent to file process, without the need to submit a VA Form 21-0966 (or via other intent to file method) for accrued benefits. Specifically, § 3.1000(c) states in part that "[a]pplication for accrued benefits must be filed within 1 year after the date of death." In addition, paragraph (c)(1) of that section requires VA to notify the claimant of information necessary to complete any incomplete application for accrued benefits and that "if VA does not receive the required information within 1 year of the date of the original VA notification of information required, no benefits will be awarded on the basis of that application." The authority for the one year period is 38 USC 5152, which 38 CFR 3.1000 mirrors in substance. Because the law specifically allows a one year period to submit a completed claim for accrued benefits, which is similar to the intent to file process, the VA Form 21-0966 is inapplicable to claims for accrued benefits. If VA allowed claimants to submit intent to file for accrued benefits, claimants could have almost two years to submit a completed claim, which goes beyond the plain language of the statute. VA has not expanded Congress' intent with regard to processing claims for accrued benefits when VA created the intent to file process.

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The commenter also suggests amending Item 7 of VA Form 21-0966, which asks the claimant “Has the veteran ever filed a claim with VA?” Presently, Item 7 allows only a yes or no response. The commenter suggests including an “unknown” checkbox. Similarly, Item 8 asks the claimant for the veteran’s VA file number. The commenter suggests amending Item 8 to clarify “if known.” Neither items 7 or 8 of VA Form 21-0966 are necessarily required for processing the form. This can be intuited by the fact that if the answer to Item 7 is “No,” then neither Items 7 nor 8 would be used by VA to identify veteran records. The additional information requested by these items is useful when other information, such as the claimant’s name and social security number, are insufficient to associate the form with the appropriate records; however, these are not the only additional items that can be cross-referenced for proper identification. VA may be able use a combination of any other information provided by the form, such as address and phone numbers to identify the appropriate records. Item 7 also includes a parenthetical note that states “(If “Yes,” provide your file number in Item 8).” This parenthetical note indicates that Item 8 need not be completed if the answer to Item 7 is no. Regardless, VA does take the commenters meaning that additional clarification may be useful in these instances and will take these suggestions under advisement in the next iteration of the form, if any. Because VA does not find these suggestions detrimental to the processing of information provided in the current VA Form 21-0966, no action will be taken at this time.

- b. Describe efforts to consult with persons outside the agency to obtain their views on the availability of data, frequency of collection, clarity of instructions and recordkeeping, disclosure or reporting format, and on the data elements to be recorded, disclosed or reported. Explain any circumstances which preclude consultation every three years with representatives of those from whom information is to be obtained.**

This submission does not involve any recordkeeping costs.

- 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 have been 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 58VA21/22/28, “Compensation, Pension, Education, and Rehabilitation Records—VA” as set forth in Privacy Act Issuances, 1993 compilation found in 74 Fed. Reg. 117 (June 19, 2009).

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- 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 Respondents is estimated at 724,561 annually
- b. The time estimate to complete the form is 15 minutes.
- c. The annual hour burden is estimated at 181,140 hours.
- d. **If this request for approval covers more than one form, provide separate hour burden estimates for each form and aggregate the hour burdens in Item 13 of OMB 83-I.**

This request covers VA Form 21-0966. Frequency of Response is one time for each form.

- e. **Provide estimates of annual cost to respondents for the hour burdens for collections of information. The cost of contracting out or paying outside parties for information collection activities should not be included here. Instead, this cost should be included in Item 14 of the OMB 83-I.**

According to the U.S. Bureau of Labor Statistics, Average Hourly Earnings, the cost to the respondent is \$24 per hour, making the total cost to the respondents an estimated \$4,347,360 (181,140 burden hours x \$24 per hour).

- 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).**

- a. There is no capital, start-up, operation or maintenance costs.
- b. Cost estimates are not expected to vary widely. The only cost is that for the time of the respondent.
- c. There are no anticipated capital start-up cost components or requests to provide information.

- 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**

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**information. Agencies also may aggregate cost estimates from Items 12, 13, and 14 in a single table.**

Estimated Costs to the Federal Government:

- |   |             |
|---|-------------|
| a. Processing/Analyzing costs                                   | \$5,079,173 |
| (GS-9/5 @ \$28.04 x 724,561 x 15/60 minutes = \$5,079,173)      |             |
| b. Forms are available on the VA inter/intranet forms websites. |             |
| c. Printing and production cost (\$90/thousand)                 | \$56,435    |
| d. Total cost to government                                     | \$5,135,608 |

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

There is no change in the reporting burden. VA Form 21-0966, has been revised to add a new data collection that requests the Veteran's Service Number. There are VA files in existence in which only names and service numbers are the only way to identify who the Veteran is. Due to the commonality of many names, the file cannot be retrieved by name search alone but rather by searching for the service number. By adding this data collection to the form, the VA will help ensure a more efficient way to process these forms.

**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 collection is not for publication or tabulation use.

**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 approval to omit the expiration date for OMB approval.

**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 contain any exceptions to the certification statement.

**B. Collection of Information Employing Statistical Methods**

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No statistical methods are used in this data collection.