

TDVS Benefits Bulletin
22-11

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This month's bulletin is 1,238 words and will take less than 5 minutes of your time.

1 big thing: Veterans and survivors will get an 8.7% increase in benefits in 2023.

This year's cost of living adjustment or COLA will be the largest increase in 40 years. Benefit rate tables that reflect this adjustment will be published in December and will be shared in the next Benefits Bulletin.

TDVS Updates

PACT Act Toolbox – Updates

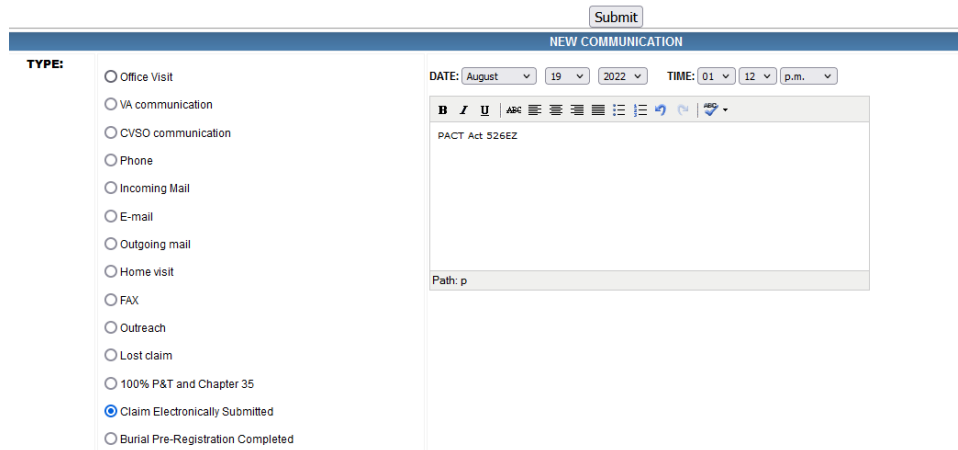
TDVS has created a [PACT Act Toolbox](#) to help you serve Tennessee Veterans and their families. It's an advocate's one-stop shop for --

- VA Fact Sheets
- VA Web Resources
- TDVS Fact Sheet
- TDVS FAQs
- Bill Text, Summaries, and More
- Training Resources

What's new: Several multimedia and outreach resources have been added to the PACT Act Toolbox.

By the numbers: Since the PACT Act was signed into law August 10, Veterans have filed nearly 125,000 PACT Act-related claims. Help us understand the impact in Tennessee by following this guidance when filing claims.

- When packaging a VA Form 21-526EZ or VA Form 21-534 EZ that involves a PACT Act contention, check the “Claim Electronically Submitted” radial button in VetraSpec Communications and note “PACT Act 526EZ **or** PACT Act 534EZ” in the text box.



Submit

NEW COMMUNICATION

TYPE:

- Office Visit
- VA communication
- CVSO communication
- Phone
- Incoming Mail
- E-mail
- Outgoing mail
- Home visit
- FAX
- Outreach
- Lost claim
- 100% P&T and Chapter 35
- Claim Electronically Submitted
- Burial Pre-Registration Completed

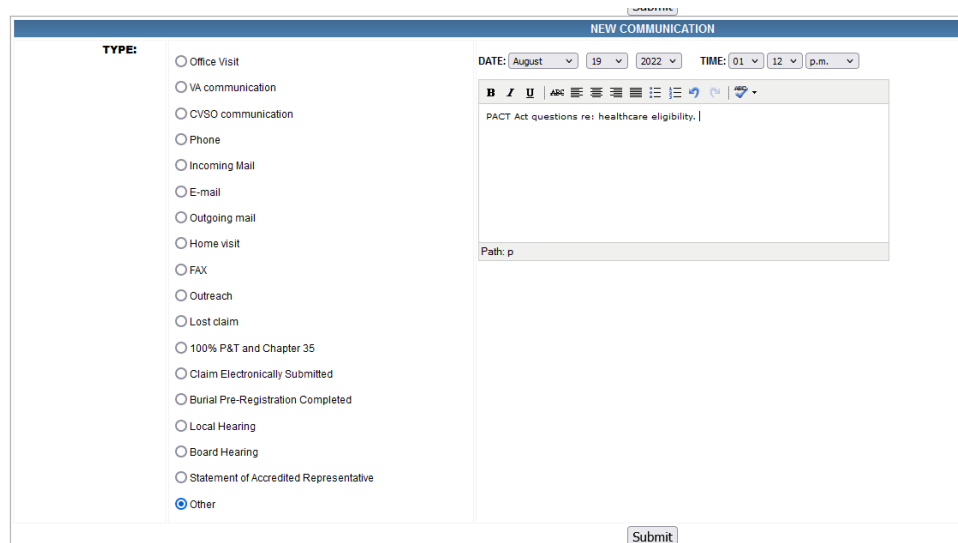
DATE: August 19 2022 TIME: 01 12 p.m.

B *I* U ABC [List of icons]

PACT Act 526EZ

Path: p

- For other PACT Act related issues such as Supplemental Claims, Higher Level Reviews, BVA Appeals, general questions, etc., check the “Other” radio button in VetraSpec Communications and note “PACT Act....and describe action.”



Submit

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- FAX
- Outreach
- Lost claim
- 100% P&T and Chapter 35
- Claim Electronically Submitted
- Burial Pre-Registration Completed
- Local Hearing
- Board Hearing
- Statement of Accredited Representative
- Other

DATE: August 19 2022 TIME: 01 12 p.m.

B *I* U ABC [List of icons]

PACT Act questions re: healthcare eligibility. |

Path: p

Submit

Training Through End of Calendar Year

- Annual Examination, Friday, November 18th or Monday, November 21st
- December Lunch and Learn, December 14th, 11:30 a.m. to 12:30 p.m. CST

TDVS will host its 2nd Town Hall - Cookeville



VA and Veteran Benefit Updates

VA Delays Further Release of a New Electronic Health Record (EHR) to June 2023

VA delayed further deployment of the Oracle Center EHR until June 2023 to address challenges for VA health care personnel and Veterans.

Why it matters: For more than a decade, VA and DoD have been working jointly develop and implement an EHR that allows for interoperability or exchange of patient health care information between the Departments.

Yes but: The new EHR **has not** been deployed at any VA facilities in Tennessee, so it's unlikely any Tennessee Veterans have been impacted.

State of Play: Here's VA's [press release](#) on the delayed deployment.

NVLSP Win: Federal Court Invalidates Reg Prohibiting VA Reimbursing Vets Certain
Emergency Expenses

A Federal Court ordered VA to rewrite its regulations and reimburse Veterans for coinsurance amounts for emergency services at non-VA health care facilities.

Why it matters: VA can pay the costs of emergency medical care when received at a non-VA facility. However, it has consistently refused to reimburse Veterans for coinsurance costs following emergency medical visits.

- Coinsurance is the percentage of costs the patient must pay after meeting their deductible (i.e., 20% of covered services).
- This is the third time a Federal Court has invalidated a VA regulation that prohibited reimbursing a Veteran for coinsurance payments for non-VA emergency health care.

Here's more:

- [NVLSP Press Release](#)
- Reimbursement of Emergency Medical Expenses [Training](#) at TDVS Fall Conference 2020

VA Closes Gap in Benefits for LGBTQ+ Veterans and Their Survivors

VA will grant survivor benefits to certain surviving spouses who were unable to legally wed until after the 2015 *Obergefell v. Hodges* Supreme Court Decision.

Why it matters: Same-sex marriage bans prevented Veterans from marrying and becoming eligible for survivor benefits because the Veteran spouse died before meeting VA's length-of-marriage requirement

- This change allows VA to count the duration of a marriage from when certain surviving spouses can establish a "marriage-type" relationships to meet VA's length of marriage requirements.

Here's more:

- [VA's Press Release](#)
- [VA News](#)
- [M21-1 – Establishing Marital Relationship in Survivors Cases](#)

Practice Like a Pro

A liberalizing law or regulation – like the *PACT Act* -- allows VA to pay retroactive benefits to Veterans.

Why it matters: Generally, the effective date of a claim is the date the claim was filed. However, there are exceptions to this general rule including when there is a favorable change in statute or regulation while a claim is pending. This is sometimes referred to as a “liberalizing law” and is articulated at [38 C.F.R. 3.114](#).

Here’s how it works: On August 10, 2022, the *PACT Act* changed the law and made it easier for certain Veterans to qualify for benefits.

- This special effective date rule may allow VA to pay benefits earlier than the date VA received the claim if:
 - (1) A Veteran files a claim for disability compensation or pension;
 - (2) A liberalizing change in statute or regulation occurred while a claim was pending before VA or a court or before a claim was filed;
 - (3) The liberalizing change must be because of a change in statute (Congress) or regulation (VA);
 - (4) Evidence must show the Veteran met the requirements for the benefit both on the effective date of the change in law and when the claim was received by VA.

For a Veteran that files a claim within one year of the effective date of the law, the effective date can be the date of the change in law.

For a Veteran that files a claim more than one year after the effective date of the law, the effective date can one year prior to the date of the determination of entitlement.

For example: A Gulf War Era Veteran with is diagnosed with chronic bronchitis in August of 2010. He had never filed an Intent to File and filed a claim for bronchitis in October of 2023. VA awards benefits in April of 2024 based on the *PACT Act* presumptive. This Veterans effective date of benefits could be October 2022 – one year prior to the determination of entitlement -- even though it’s a year after he/she filed for benefits.

Up next: As VA starts making decisions on *PACT Act* claims in 2023, you will want to review the decisions to ensure VA awards the earliest possible effective date.

Advocate Spotlight

Tip your hat to Washington County Veterans Service Officer, Dawn Lucier who was recognized by a VA employee for her customer service in support of a Vietnam Veteran.

Here's the background: A VA Quality Review Specialist from the St. Petersburg Regional Office was reviewing a case for a Vietnam Veteran with boots on ground service.

- She noticed a hospital stays for a presumptive condition that was not service connected.
- The records also indicated Veteran lived alone and seemed to struggle due to his illness.

Why it matters: Partnerships matter. VA contacted Dawn for help reaching the Veteran and filing a claim.

- After leaving numerous voicemails, Dawn facilitated a wellness check to find the Veteran had been having trouble with his phone.
- She's still working with the Veteran to file his claim and has the enduring appreciation of a VA partner at the St. Petersburg Regional Office.

Bottom line: A great example of the benefits of partnership and G.R.E.A.T. customer service. Well done, Dawn!

If you have an example of teamwork between Veteran service offices/organizations across the state making a difference in the lives of Tennessee veterans, please share with your Regional Director for possible inclusion in an upcoming "Advocate Spotlight."

TDVS Benefits Bulletins Can Be Found on the [VSO Tools](#) Portion of TDVS's Website

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