

Custom Federal Regulations Service™

**This is supplemental material
for Book D of your set of
Federal Regulations**

Title 38, Parts 6, 7, 8, 8a and 9

Insurance

Veterans Benefits Administration

Supplement No. 33

Covering period of *Federal Register* issues
through February 1, 2019

Need Assistance?

Questions concerning **MISSING SUPPLEMENTS**, need for **ADDITIONAL BOOKS**, and other **DISTRIBUTION LIST** issues for this loose-leaf service should be directed to:

Department of Veterans Affairs
Veterans Benefits Administration
Administration
Mail Code: 20M33
810 Vermont Avenue, N.W.
Washington DC 20420
Telephone: 202/273-7588
Fax: 202/275-5947
E-mail: coarms@vba.va.gov

Questions concerning the **FILING INSTRUCTIONS** for this loose-leaf service,
or the reporting of **SUBSTANTIVE ERRORS** in the text,
may be directed to:

Jonathan Publishing
660 Laurel Street, B-103
Baton Rouge LA 70802
Telephone: 225-205-5873
Fax: 702-993-6003
E-mail: info@jonpub.com

Copyright © 2019 Jonathan Publishing

GENERAL INSTRUCTIONS

Custom Federal Regulations Service™

Supplemental Materials for *Book D*

Code of Federal Regulations
Title 38, Part 6, 7, 8, 8a and 9

Insurance

Veterans Benefits Administration

Supplement No. 33

5 February 2019

Covering the period of Federal Register issues
through February 1, 2019

When **Book D** was originally prepared, it was current through final regulations published in the *Federal Register* of 28 April 1992. These supplemental materials are designed to keep your regulations up to date. You should file the attached pages immediately, and record the fact that you did so on the *Supplement Filing Record* which begins on page D-8 of Book D, *Adjudication*.

**To ensure accuracy and timeliness of your materials,
it is important that you follow these simple procedures:**

1. Always file your supplemental materials immediately upon receipt.
2. Before filing, always check the Supplement Filing Record (page D-8) to be sure that all prior supplements have been filed. If you are missing any supplements, contact the Veterans Benefits Administration at the address listed on page D-2.
3. After filing, enter the relevant information on the Supplement Filing Record sheet (page D-8)—the date filed, name/initials of filer, and date through which the *Federal Register* is covered.
4. If as a result of a failure to file, or an undelivered supplement, you have more than one supplement to file at a time, be certain to file them in chronological order, lower number first.
5. Always retain the filing instructions (simply insert them at the back of the book) as a backup record of filing and for reference in case of a filing error.
6. Be certain that you *permanently discard* any pages indicated for removal in the filing instructions in order to avoid confusion later.

To execute the filing instructions, simply remove *and throw away* the pages listed under *Remove These Old Pages*, and replace them in each case with the corresponding pages from this supplement listed under *Add These New Pages*. Occasionally new pages will be added without removal of any old material (reflecting new regulations), and occasionally old pages will be removed without addition of any new material (reflecting rescinded regulations)—in these cases the word *None* will appear in the appropriate column.

FILING INSTRUCTIONS

**Book D, Supplement No. 33
February 5, 2019**

*Remove these
old pages*

*Add these
new pages*

*Section(s)
Affected*

**Do not file this supplement until you confirm that
all prior supplements have been filed**

D-11 to D-12

D-11 to D-12

Book D Lead Material

8.30-1 to 8.31-1

8.30-1 to 8.31-1

§8.30

**Be sure to complete the
Supplement Filing Record (page D-8)
when you have finished filing this material.**

HIGHLIGHTS

Book D, Supplement No. 33 February 5, 2019

Note: Where substantive changes are made in the text of regulations, the paragraphs of *Highlights* sections are cited at the end of the relevant section of text. Thus, if you are reading §3.263, you will see a note at the end of that section which reads: “Supplement *Highlights* references—6(2).” This means that paragraph 2 of the *Highlights* section in Supplement No. 6 contains information about the changes made in §3.263. By keeping and filing the *Highlights* sections, you will have a reference source explaining all substantive changes in the text of the regulations.

Supplement frequency: This Book D (*Insurance*) was originally supplemented twice a year, in April and October. Beginning 1 August 1995, supplements will be issued *every month* during which a final rule addition or modification is made to the parts of Title 38 covered by this book. Supplements will be numbered consecutively as issued.

Modifications in this supplement include the following:

1. On 18 January 2019, the VA published a final rule, effective 18 February 2019, to amend its claims adjudication, appeals, and Rules of Practice of the Board of Veterans' Appeals (Board) regulations. In addition, this rule revises VA's regulations with respect to accreditation of attorneys, agents, and Veterans Service Organization (VSO) representatives; the standards of conduct for persons practicing before VA; and the rules governing fees for representation. This rulemaking implements the Veterans Appeals Improvement and Modernization Act of 2017 (AMA), which amended the procedures applicable to administrative review and appeal of VA decisions on claims for benefits, creating a new, modernized review system. Unless otherwise specified in this final rule, VA amends its regulations applicable to all claims processed under the new review system, which generally applies where an initial VA decision on a claim is provided on or after the effective date or where a claimant has elected to opt into the new review system under established procedures. Change:

- Revised §8.30.

Index 1 — by Section Number

Part 6

United States Government life insurance

6.1	Misstatement of age	6.1-1
6.2	Premium rate	6.2-1
6.3	Incontestability of United States Government life insurance.....	6.3-1
6.4	Proof of age, relationship and marriage	6.4-1
6.5	Conditional designation of beneficiary	6.5-1
6.6	Change of beneficiary	6.6-1
6.7	Claims of creditors, taxation	6.7-1
6.8	Selection, revocation, and election	6.8-1
6.9	Election of optional settlement by beneficiary.....	6.9-1
6.10	Options.....	6.10-1
6.11	How dividends are paid	6.11-1
6.12	Special dividends	6.12-1
6.13	Policy loans	6.13-1
6.14	Cash value; other than special endowment at age 96 plan policy.....	6.14-1
6.15	Cash value; special endowment at age 96 plan policy	6.15-1
6.16	Payment of cash value in monthly installments	6.16-1
6.17	Collection of any indebtedness	6.17-1
6.18	Total permanent disability benefits.....	6.18-1
6.19	Evidence to establish death of the insured	6.19-1
6.20	Jurisdiction.....	6.20-1
6.21	Guardian: definition and authority.....	6.21-1

Part 7

Soldiers' and Sailors' Civil Relief

7.2	Certification of military service	7.2-1
7.3	The policy	7.3-1
7.4	The premium.....	7.4-1
7.5	Application.....	7.5-1
7.6	Benefits	7.6-1
7.7	Maturity.....	7.7-1
7.8	Beneficiary or assignee	7.8-1

Part 8

National Service Life Insurance

8.0 Definitions of terms used in connection with title 38 CFR, part 8,
National Service Life Insurance..... 8.0-1

8.1 Effective date for an insurance policy issued under §1922(a) of title 38
U.S.C. (Service-Disabled Veterans’ Insurance)..... 8.1-1

8.2 Payment of premiums 8.2-1

8.3 Revival of insurance 8.3-1

8.4 Deduction of insurance premiums from compensation,
retirement pay, or pension..... 8.4-1

8.5 Authorization for deduction of insurance premiums from compensation,
retirement pay, or pension..... 8.5-1

8.6 Calculation of time period 8.6-1

8.7 Reinstatement of National Service Life Insurance except insurance
issued pursuant to §1925 of title 38 U.S.C. 8.7-1

8.8 Health requirements 8.8-1

8.9 Application and medical evidence 8.9-1

8.10 How paid..... 8.10-1

8.11 Cash value and policy loan 8.11-1

8.12 Payment of the cash value of National Service Life Insurance in monthly
installments under §1917(e) of title 38 U.S.C. 8.12-1

8.13 Policy loans 8.13-1

8.14 Provision for extended term insurance—other than 5-year level premium
term or limited convertible 5-year level premium term policies..... 8.14-1

8.15 Provision for extended insurance; other than 5-year level premium
term or limited convertible 5-year level premium term policies..... 8.15-1

8.16 Conversion of a 5-year level premium term policy as provided for under
§1904 of title 38 U.S.C. 8.16-1

8.17 Discontinuance of premium waiver 8.17-1

8.18 Total disability–speech 8.18-1

8.19 Beneficiary and optional settlement changes 8.19-1

8.20 Proof of death, age, relationship and marriage 8.20-1

8.21 Misstatement of age 8.21-1

8.22 Examination of applicants for insurance or reinstatement..... 8.22-1

8.23 Examination in connection with total disability benefits..... 8.23-1

8.24 Expenses incident to examinations for insurance purposes 8.24-1

8.25 Options 8.25-1

8.26 Renewal of National Service Life Insurance on the 5-year level premium
term plan 8.26-1

8.27 Conditional designation of beneficiary 8.27-1

8.28 Application for reinstatement of total disability income provision 8.28-1

8.29 Policy provisions..... 8.29-1

8.30 Review of Decisions and Appeal to Board of Veterans’ Appeals 8.30-1

8.31 Total disability for twenty years or more 8.31-1

8.32 Authority of the Guardian 8.32-1

8.33 Cash value for term-capped policies 8.33-1

Appeals

§8.30 Review of Decisions and Appeal to Board of Veterans' Appeals.

(a) *Decisions.* This section pertains to insurance decisions involving questions arising under parts 6, 7, 8, and 8a of this chapter, to include the denial of applications for insurance, total disability income provision, or reinstatement; disallowance of claims for insurance benefits; and decisions holding fraud or imposing forfeiture. The applicant or claimant and his or her representative, if any, will be notified in writing of such a decision, which must include, in the notice letter or enclosures or a combination thereof, all of the following elements:

- (1) Identification of the issues adjudicated.
- (2) A summary of the evidence considered.
- (3) A summary of the applicable laws and regulations relevant to the decision.
- (4) Identification of findings that are favorable to the claimant.
- (5) For denials, identification of the element(s) not satisfied that led to the denial.
- (6) An explanation of how to obtain or access the evidence used in making the decision.
- (7) A summary of the applicable review options available for the claimant to seek further review of the decision.

(b) *Favorable findings.* Any finding favorable to the claimant or applicant is binding on all subsequent agency of original jurisdiction and Board of Veterans' Appeals adjudicators, unless rebutted by evidence that identifies a clear and unmistakable error in the favorable finding.

(c) *Review of decisions.* Within one year from the date on which the agency of original jurisdiction issues notice of an insurance decision as outlined in paragraph (a) of this section, applicants or claimants may elect one of the following administrative review options by timely filing the appropriate form prescribed by the Secretary:

(1) *Supplemental claim review.* The nature of this review will accord with §3.2501 of this title to the extent the terms used therein apply to insurance matters.

(2) *Request for a higher-level review.* The nature of this review will accord with §3.2601 of this title to the extent the terms used therein apply to insurance matters. Higher-level reviews will be conducted by an experienced adjudicator who did not participate in the prior decision. Selection of a higher-level adjudicator to conduct a higher-level review is at VA's discretion.

(3) *Appeal to Board of Veterans' Appeals.* See 38 CFR part 20.

(d) *Part 3 provisions.* See §3.2500(b) through (d) of this chapter for principles that generally apply to a veteran's election of review of an insurance decision.

(e) *Applicability.* This section applies where notice of an insurance decision was provided to an applicant or claimant on or after the effective date of the modernized review system as provided in §19.2(a) of this chapter, or where an applicant or claimant has elected review of a legacy claim under the modernized review system as provided in §3.2400(c) of this title.

(f) *Unpaid premiums.* When a claimant or applicant elects a review option under paragraph (c) of this section, any unpaid premiums, normally due under the policy from effective date of issue or reinstatement (as appropriate), will become an interest-bearing lien, enforceable as a legal debt due the United States and subject to all available collection procedures in the event of a favorable result for the claimant or applicant.

(g) *Premium payments.* Despite a claimant's or applicant's election of a review option under paragraph (c) of this section, where the agency of original jurisdiction's decision involved a change in or addition to insurance currently in force, premium payments must be continued on the existing contract.

(h) *Section 1984.* Nothing in this section shall limit an applicant's or claimant's right to pursue actions under 38 U.S.C. 1984. (Authority: 38 U.S.C. 501, 1901-1929, 1981-1988)

[33 FR 3176, Feb. 20, 1968. Redesignated at 61 FR 29290, June 10, 1996; redesignated at 65 FR 7437, Feb. 15, 2000. Redesignated at 67 FR 54739, Aug. 26, 2002; 84 FR 173, Jan. 18, 2019]

Supplement *Highlights* references: 9(4), 16(1), 33(1).

[Reserved]

§8.31 Total disability for twenty years or more.

Where the Disability Insurance Claims activity has made a finding of total disability for insurance purposes and it is found that such disability remained continuously in effect for 20 or more years, the finding will not be discontinued thereafter, except upon a showing that such a determination was based on fraud. The 20-year period will be computed from the date the continuous total disability commenced, as determined by the Disability Insurance Claims activity.

[27 FR 11893, Dec. 1, 1962. Redesignated at 61 FR 29290, June 10, 1996; redesignated at 65 FR 7437, Feb. 15, 2000. Redesignated at 67 FR 54739, Aug. 26, 2002]

Supplement *Highlights* references: 9(4), 16(1).