PART 3—ADJUDICATION

Subpart A—Pension, Compensation, and Dependency and Indemnity Compensation

1. The authority citation for part 3, subpart A continues to read as follows:

Authority: 38 U.S.C. 510(a), unless otherwise noted.

2. Section 3.256 is revised to read as follows:

§ 3.256 Eligibility reporting requirements.

- (a) Obligation to report changes in factors affecting entitlement. Any individual who has applied for or receives pension or parents' dependency and indemnity compensation must promptly notify the Secretary in writing of any change affecting entitlement in any of the following:
 - (1) Income:
 - (2) Net worth or corpus of estate;
 - (3) Marital status:
 - (4) Nursing home patient status;
- (5) School enrollment status of a child 18 years of age or older; or
- (6) Any other factor that affects entitlement to benefits under the provisions of this Part.
- (b) Eligibility verification reports. (1) For purposes of this section the term eligibility verification report means a form prescribed by the Secretary that is used to request income, net worth (if applicable), dependency status, and any other information necessary to determine or verify entitlement to pension or parents' dependency and indemnity compensation.

(2) The Secretary shall require an eligibility verification report under the following circumstances:

(i) If the Social Security Administration has not verified the beneficiary's Social Security number and, if the beneficiary is married, his or her spouse's Social Security number;

(ii) If there is reason to believe that the beneficiary or, if the spouse's income could affect entitlement, his or her spouse may have received income other than Social Security during the current or previous calendar year; or

(iii) If the Secretary determines that an eligibility verification report is necessary to preserve program integrity.

(3) An individual who applies for or receives pension or parents' dependency and indemnity compensation as defined in §§ 3.3 or 3.5 of this part shall, as a condition of receipt or continued receipt of benefits, furnish the Department of Veterans Affairs an eligibility verification report upon request.

(c) If VA requests that a claimant or beneficiary submit an eligibility

verification report but he or she fails to do so within 60 days of the date of the VA request, the Secretary shall suspend the award or disallow the claim.

(Authority: 38 U.S.C. 1315(e) and 1506)

3. Section 3.277 is amended by revising the heading and paragraphs (b) and (c); and by adding paragraph (d) as follows:

§ 3.277 Eligibility reporting requirements.

- (b) Obligation to report changes in factors affecting entitlement. Any individual who has applied for or receives pension must promptly notify the Secretary in writing of any change affecting entitlement in any of the following:
 - Income;
 - (2) Net worth or corpus of estate;
 - (3) Marital status;
 - (4) Nursing home patient status;
- (5) School enrollment status of a child 18 years of age or older; or
- (6) Any other factor that affects entitlement to benefits under the provisions of this Part.
- (c) Eligibility verification reports. (1) For purposes of this section the term eligibility verification report means a form prescribed by the Secretary that is used to request income, net worth, dependency status, and any other information necessary to determine or verify entitlement to pension.
- (2) The Secretary shall require an eligibility verification report under the following circumstances:
- (i) If the Social Security Administration has not verified the beneficiary's Social Security number and, if the beneficiary is married, his or her spouse's Social Security number;
- (ii) If there is reason to believe that the beneficiary or his or her spouse may have received income other than Social Security during the current or previous calendar year; or

(iii) If the Secretary determines that an eligibility verification report is necessary to preserve program integrity.

- (3) An individual who applies for or receives pension as defined in § 3.3 of this part shall, as a condition of receipt or continued receipt of benefits, furnish the Department of Veterans Affairs an eligibility verification report upon request.
- (d) If VA requests that a claimant or beneficiary submit an eligibility verification report but he or she fails to do so within 60 days of the date of the VA request, the Secretary shall suspend the award or disallow the claim.

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38 CFR Part 20

RIN 2900-AH57

Rules of Practice—Advancement on the Docket

AGENCY: Department of Veterans Affairs. **ACTION:** Final rule.

SUMMARY: This document amends the Rules of Practice of the Board of Veterans' Appeals (the Board) to provide that an appeal may be advanced on the Board's docket where administrative error results in significant delay in docketing the appeal. The Board's current Rules of Practice do not address the problem of administrative error with respect to advancement on the docket. The Rules of Practice are also amended to provide that the Board may advance a case on the docket on its own motion, the motion of the appellant, or the motion of the appellant's representative.

EFFECTIVE DATE: October 4, 1995.

FOR FURTHER INFORMATION CONTACT: Steven L. Keller, Chief Counsel, Board of Veterans' Appeals, Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420 (202–565– 5978).

SUPPLEMENTARY INFORMATION: The Board of Veterans' Appeals (the Board) decides appeals of claims for veterans' benefits. At the close of Fiscal Year 1994, more than 47,000 appeals were pending at the Board.

Generally, the law requires that the Board consider each case in regular order according to the case's place on the Board's docket. 38 U.S.C. 7107(a)(1). The Board assigns docket numbers. Prior to 1994, docket numbers were assigned when the claims file was physically transferred from the agency of original jurisdiction (typically one of the Department's 58 regional offices) to the Board's offices in Washington, D.C. Beginning in 1994, the Board instituted a new procedure under which docket numbers are assigned as soon as the agency of original jurisdiction forwards a photocopy of the notice of appeal (VA) Form 9) to the Board.

The law permits a case to be "advanced on the docket" upon motion only if it involves interpretation of law of general application affecting other claims or for other sufficient cause shown. 38 U.S.C. 7107(a)(2). Because of the large numbers of appeals—on average, the Board receives from 35,000 to 40,000 per year—the Board has taken a restrictive view of its authority to advance cases on the docket. The current regulation, 38 CFR 20.900(c), provides just two examples of "other