



October 6, 2015

Director (02 REG)
Regulations Management
Department of Veterans Affairs
810 Vermont Ave NW, Room 1068
Washington, DC 20420

SUBJ: OMB Control No. 2900-0002, Proposed Information Collection: Income, Net Worth and Employment Statement (in Support of Claim for Total Disability Benefits) and Application for Pension

This submission presents the comments of the Veterans of Foreign Wars of the United States to the proposed information collection outlined in OMB Control No. 2900-0002: Income, Net Worth and Employment Statement (in Support of Claim for Total Disability Benefits) and Application for Pension, published in the Federal Register on August 7, 2015.

While the VFW does support some of the changes made to VA Form 21P-527EZ and 21P-527 to make income easier to report and verify, we must disagree with the requirement of a separate form without adequate explanation, the lengthening of the form, and some inconsistencies that create confusion over which sections of the form are mandatory. Changes made to the pension application forms provide simpler income reporting and provide greater detail regarding whether medical expenses may be claimed to reduce countable income for pension qualification purposes. However, by removing essential information from VA Forms 21P-527EZ and 21P-527, VBA has shifted the burden to the claimant to find the appropriate forms and risk denial of benefits or additional development. Additionally, some ambiguities still exist that may cause incomplete form submission. The following seven suggestions offer potential ways to enhance the quality, utility, and clarity of the information to be collected, while minimizing the burden of the information collection on both respondents and the Veterans Benefits Administration ("VBA").

Requiring two separate forms for the application for one benefit creates the potential for incomplete submissions and is unduly burdensome

VBA has eliminated the income requirements of the form for sources other than Social Security in a smoke and mirrors attempt to "lessen the burden on the applicant". Veterans, spouses and other dependents will still be required to complete VA Form 21P-0969 if they have

NO ONE DOES MORE FOR VETERANS.

received income other than from Social Security in the last year. This includes, for example, distributions from a private pension fund of \$25 per month, or winnings of \$100 from a raffle. This *de minimis* income should be able to be included on the pension application form rather than requiring a separate form. Income from all sources totaling less than the maximum annual pension rate (MAPR) could be included as a block total on the form, to assist the reviewer in determining the ultimate benefit eligibility quickly and easily.

The burden to fill out a completely separate form in section VII seems unduly burdensome given the range of information that may be present in this section. If a "Yes" reply is given to any of questions 29A-D, the claimant is instructed to also complete VA Form 21P-0969, Income and Asset Statement). The claimant is already given ten opportunities on the form to skip sections that do not apply. It would seem logical to include a section regarding income and assets under a certain amount, and income verified by matches with federal agencies on VA Form 21P-527EZ. This section could be skipped if the only income is from Social Security. Claimants could be instructed that if their income and assets exceed this amount, or are not able to be verified by income matches, they would then have to complete VA Form 21P-0969.

Additionally, when a veteran completes an "intent to file" (VA Form 21-0966) for pension benefits, will they receive only the VA Form 21P-527EZ or also the VA Form 21P-0969, Income and Asset Statement? It may be unrealistic to expect that these individuals have access to VA forms, when many might not even have a computer. While it may be acceptable to require VA Form 21-2680 to be submitted separately, that form is filed in connection with an application for an enhanced benefit. If a veteran is applying for basic pension or compensation, only one form should be required.

Requiring VA Forms 21P-527EZ or 21P-527 for annual income verifications is unduly burdensome for veterans in general, and particularly for those whose income has not changed

The proposed information collection states that the forms being modified will be required annually. In 2012, VA eliminated the need to provide annual eligibility verification reports if the claimant's only income was from Social Security. It is unclear whether VBA is attempting to re-instate annual income verification, even if a matching program exists with Social Security and IRS to verify this information without burdening the claimant. There is no reason to require annual verifications if the income matching programs are functioning.

We suggest that in cases where income verifications are required for income that is not independently verified, the required form be made simpler to complete. VA Form 21P-527EZ or 21P-527 should not be required for annual verifications, as they require much personal information, information about disabilities and legal information that is on average not subject to change year after year. The verification should make it easier to spot changes that may create an underpayment or overpayment to the veteran or dependent. For example, a question regarding income could be "did you have any increase or decrease in your income in the past year", and a question regarding dependents could be "did you have a change in marital status in the past year?"

Income verification matching with the Defense Finance Accounting Service and other federal agencies should be part of the pension decision process

Income which VA verifies as part of any other part of the claim process should be able to be verified for pension eligibility, whether on an initial application for pension or to verify continuing eligibility. As VA is part of the Treasury Offset program, any federal funds should be able to be matched with the veteran or claimant. Additionally, questions regarding whether the veteran received military retired or separation pay (16A-C) have been removed from proposed VA Form 21P-527EZ. If there is a match of income with the Defense Finance and Accounting Service, this should be an option similar to the questions regarding income from Social Security. In many cases, the veteran's only income may be military retired pay and Social Security benefits. If income verifications with federal agencies are not currently in place, are not reliable, or are untimely, improvements should be considered to reduce the reporting and verification process on both the claimant and VBA.

The proposed information collection creates ambiguity about which sections of the form are mandatory

The proposed income collection asks for duplicate information in Section I (Veterans Personal Information), questions 8, and Section III (Veteran's Disability(ies) and Background), questions 13A and 13B. These duplicate questions are "what disability prevents you from working"? and "when did the disability begin"? In Section III, the form notes that the claimant does not have to list disabilities if age 65 or older, unless claiming special monthly pension. However, they would have already listed disabilities in question 8 as that entire section is mandatory.

It is unclear whether questions 8 and 9 are used to identify potential claims for dual entitlement to compensation benefits or unemployability benefits, as well as pension benefits. That would be a favorable use of this question. Still, the wording creates confusion about what information is actually required to be listed.

Additionally, the worksheets at the back of the form are attached after the claimant's signature, implying that they are optional. However, the worksheets note to complete if claiming expenses for in-home care, or an assisted living facility, adult day care or similar facility. Given that these worksheets require signatures, and many claimants filling out the worksheets would also have to get doctor's statements regarding whether custodial and medical care is required due to disability, the total time burden is much greater for these forms than specified. Will VBA take the word of the certifying official on these forms, or will additional development still be required? The increased time burden to complete these forms should be weighed against the utility: if completed worksheets will significantly reduce the time for development and decision, the extra time may be worthwhile.

The proposed information collection inappropriately asks claimants to handwrite information without leaving adequate space in which to do so

The instructions on page 4 of VA Form 21P-527EZ ask the veteran to complete VA Form 21-526EZ if claiming disability compensation or related compensation benefits, and specify that if the veteran cannot access the form, they should write "Will claim compensation – send VA Form 21-526EZ" under Item 9 or at the top of the attached application. While the intent is admirable, it is unclear how this instruction will work when VBA automates Form 21P-527EZ into readable fields. Additionally, there is a "remarks" section on VA Form 21P-527 which leaves free space for writing. It would not be unduly burdensome to include a much shorter "remarks" section on VA Form 21P-527EZ and place such a request in a more consistent location for the benefit of all claimants.

Estimated time of completion is inaccurate, given the ambiguity of some terms related to medical expenses, the addition of three pages to the form and completion of additional forms that may be required

The worksheet for in-home attendant expenses provides greater detail on which health care expenses may be deducted from countable income for pension purposes. However, it still fails to define "health care provider" and the wording regarding "primary responsibility" is confusing as to family members who may not be trained medical professionals.

Step 4 on the worksheet for in-home attendant expenses states that if the disabled person does not *require* health care services or custodial care due to disability that the in-home attendant provides, the attendant must be a health care provider. However, the form fails to define health care provider. Elsewhere on the form, certain types of health care professionals are listed in who may complete the form "Exam for Housebound Status or Permanent Need for Regular Aid and Attendance" (VA Form 21-2680), so it is absolutely possible to define this term on the form.

This definition is important to making correct determinations of pension eligibility based on whether the veteran's expenses are deductible from income. For example: is an adult child who provides custodial care, assistance with all ADLs and IADLs a health care provider for purposes of in-home attendant expenses? If not, are their expenses still deductible if the veteran requires health care services or custodial care due to disability?

Additionally, page 5, Section III may give incorrect instructions as it asks that the veteran complete and attach VA Form 21-2680 if claiming special monthly pension, and states that a Physician Assistant (PA), Certified Nurse Practitioner (CNP) or Clinical Nurse Specialist (CNS) may complete and sign this form. However, the language on VA Form 21-2680 asks for the examining *physician* to sign the form. If VA is making a policy change to accept VA Form 21-2680 from a Physician Assistant, Certified Nurse Practitioner, or Clinical Nurse Specialist, then VA Form 21-2680 must also be amended.

The estimated time of completion is now 25 minutes for VA Form 21P-527EZ, and one hour for the 21P-527. The accuracy of VBA's estimate of the burden of the proposed collection of information is questionable given the ambiguity created by the definitions listed above and the additional required information listed in fine print on VA Form 21P-527EZ and in the instructions. The worksheets to determine whether unreimbursed medical expenses may be counted require signatures from health care providers, and doctors' statements in cases where custodial or health care is required due to disability. The time burden required on the claimant to discuss the forms and receive signatures from health care providers is far in excess of 25 minutes.

Marital status instructions should be updated to reflect the decision in *Obergefell v. Hodges*

It appears that some changes may have been made to VA Form 21P-527EZ to reflect the decision in *Obergefell v. Hodges*. For example, gender has been removed from the Veteran's

Personal Information section on Page 5 of VA Form 21P-527EZ. The instructions for VA Form 21P-527EZ on page 4 state that additional guidance is available on when VA recognized marriages on its website. However, a final decision still has not been made regarding effective dates for marriages not previously recognized by certain states.

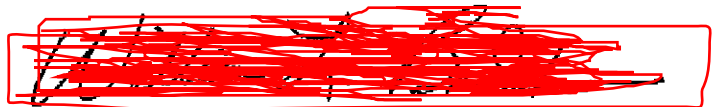
If possible, we believe it would be more efficient to revise VA Form 21P-527EZ when a final rule is published regarding amendments to VA's Pension Regulations, as well as when a policy or regulatory change conforming to *Obergefell v. Hodges* is complete. Current VA Form 21P-527EZ is dated June 2014, therefore it would not need to be re-approved until 2017.

The claim form should be designed to be compatible with optical recognition scanning and eventually, made available to submit electronically

It would enhance the quality, utility, and clarity of the information to be collected if VBA designs VA Form 21P-527EZ to be compatible with optical recognition scanning and electronic submission. Over five million users (veterans and dependents) are currently registered on the information and claims portal e-Benefits, which supports electronic submission of VA Form 21-526EZ. Likewise, accredited veterans service organization representatives, agents and attorneys may assist veterans with submitting claims for compensation on the electronic portal Stakeholder Enterprise Portal. Veterans may also file online for education benefits. Adding an electronic submission option to the pension program would help VBA by processing more readable forms, as well as reducing the burden on the claimant by providing an easier way to fill out and submit claim forms.

We appreciate the opportunity to offer our suggestions on the proposed information collection for Applications for Pension and Income, Net Worth and Employment Statement.

Sincerely,



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