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Section D. Statement of the Case (SOC) and Supplemental Statement of the Case (SSOC)

Overview

In this Section This section contains the following topics:

Topic	Topic Name	See Page
18	Jurisdiction and Cause for Issuing an SOC	5-D-2
19	Preparing an SOC	5-D-6
20	Issuing an SOC	5-D-13
21	Preparing and Issuing an SSOC	5-D-15

18. Jurisdiction and Cause for Issuing an SOC

Introduction

This topic contains a definition of a statement of the case (SOC) and information on

- when to issue an SOC
 - who may issue an SOC
 - the jurisdiction for issuing an SOC, and
 - joint issuance of an SOC.
-

Change Date

August 4, 2009

a. Definition: Statement of the Case (SOC)

A *statement of the case (SOC)* is an explanation of the decision made on the appellant's case.

An SOC provides the appellant with a complete understanding of the decision so the appellant can prepare an effective substantive appeal with specific allegations of errors of fact or law.

b. When to Issue an SOC

Issue an SOC

- if the appeal cannot be satisfied
- after review of the claims folder and all necessary development
- when the notice of disagreement (NOD) has *not* been withdrawn, or
- when the appropriate response time has passed.

If an appellant's request for a hearing is received before the SOC is issued, schedule and conduct the hearing (or informal conference) *before* sending the SOC to the appellant. This policy applies to both the traditional appellate review process and Decision Review Officer (DRO) review process.

c. Who May Issue an SOC

The activity responsible for the decision with which disagreement is expressed issues the SOC to the appellant. The Veterans Service Center Manager (VSCM) designates the individuals who may issue an SOC.

Continued on next page

18. Jurisdiction and Cause for Issuing an SOC, Continued

d. Jurisdiction for Issuing an SOC

Use the table below to determine jurisdiction for issuing an SOC when the appealable issue results from a determination done for a special purpose.

When the appeal concerns ...	Then jurisdiction falls under ...	Reference
a Veterans Service Center (VSC) rating or authorization determination denying eligibility for Veterans Health Administration (VHA) benefits	VHA.	See M21-1MR, Part III, Subpart v, 7.A.5.
a VHA medical activity determination denying any of the following benefits: <ul style="list-style-type: none"> • clothing allowance • automobile • adaptive equipment, and/or • specially adapted housing 	VHA.	See <ul style="list-style-type: none"> • M21-1MR, Part III, Subpart v, 7.A.5.k • M21-1MR, Part IX, Subpart i, 2, and • M21-1MR, Part IX, Subpart i, 3.
Department of Veterans Affairs Medical Center (VAMC) issues	VHA.	---

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18. Jurisdiction and Cause for Issuing an SOC, Continued**d. Jurisdiction for Issuing an SOC** (continued)

When the appeal concerns ...	Then jurisdiction falls under ...	Reference
an authorization determination denying basic eligibility for any of the following benefits: <ul style="list-style-type: none"> • compensation or pension issues • automobile • adaptive equipment • specially adapted housing • dependency • apportionment, and/or • income 	VSC.	See <ul style="list-style-type: none"> • M21-1MR, Part III, Subpart v, 7.A.5.k • M21-1MR, Part IX, Subpart i, 2, and • M21-1MR, Part IX, Subpart i, 3.
the Civilian Health and Medical Program of Veterans Affairs (CHAMPVA)	VSC.	See M21-1MR, Part IX, Subpart i, 4 .
a forfeiture decision	Central Office (CO), Compensation and Pension (C&P) Service.	See M21-1MR, Part III, Subpart v, 4.B.5.f .
potential payment of attorney fees	<ul style="list-style-type: none"> • Attorney Fee Coordinator, or • VSC. 	See M21-1MR, Part I, 3.C.18.h .

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18. Jurisdiction and Cause for Issuing an SOC, Continued

d. Jurisdiction for Issuing an SOC (continued)

When the appeal concerns ...	Then jurisdiction falls under ...	Reference
a special allowance under 38 U.S.C. 1312(a)	<ul style="list-style-type: none"> • VSC for appealed Department of Veterans Affairs (VA) determinations, or • Social Security Administration (SSA) for appealed SSA determinations. 	See M21-1MR, Part IX, Subpart ii, 1.D.15.

e. Joint Issuance of an SOC

In some situations, two jurisdictions may have contributed to the decision being appealed.

Use the table below to determine joint issuance of an SOC when two or more jurisdictions contributed to a decision.

If the decision being appealed is ...	And the ...	Then both the ...
an unfavorable character of discharge decision	<ul style="list-style-type: none"> • rating activity determined that the veteran was not insane, and • authorization and rating activities contributed to the decision 	authorization and rating activities should jointly issue the SOC.
the validity of a debt	denial of waiver of the debt is appealed simultaneously	authorization activity and the Committee on Waivers and Compromises (COWC) should jointly issue the SOC.

19. Preparing an SOC

Introduction This topic contains information on preparing an SOC, including

- the SOC format
 - limiting SOC content
 - the guidelines for disclosing evidence in an SOC
 - the matters not to be disclosed in an SOC
 - disclosing information to the appellant’s representative
 - the submission of new and material evidence
 - evidence that is not considered new and material, and
 - the SOC printing and filing requirements.
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Change Date February 6, 2012

a. SOC Format The table below describes the sections of an SOC and the actions required when completing each section.

Section	Description	Action
Cover Letter to Applicant	Indicates the appellant’s name, address, claim number and representative.	If there is no representative, enter the word “None.”
Issue	Identifies the issue(s) covered by the SOC.	If there are multiple issues, state and number each issue.
Evidence	Summarizes all evidence relative to the issues being considered. <i>Example:</i> Medical records, places and circumstances of service, service medical records.	Use short sentences, when appropriate, for clarity and accuracy. Note: Specify any VA treatment records contained in the electronic folder (eFolder) in Virtual VA.
Adjudicative Actions	Cites only those rating and authorization actions relevant to the issues raised.	List entries in chronological order.

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19. Preparing an SOC, Continued

a. SOC Format (continued)

Section	Description	Action
Pertinent Laws and Regulations	Summarize the provisions in the statute(s) or regulation(s) that govern the decision(s) rendered.	Quote verbatim only those relevant portions of all regulations and U.S.C. sections that are pertinent to the issues.
Decision	States the decision.	If there are multiple issues, number each to correspond to the number shown in the issue section of the SOC.
Reasons for Decision	<ul style="list-style-type: none"> • Includes the reasons for the decision • explains how the evidence supports the underlying decision • states the analysis of the evidence of record under the applicable legal principles governing the decision, and • indicates why most of the evidence is against the claim. 	<ul style="list-style-type: none"> • Discuss the laws and regulations cited and explain how they relate to the adverse decision • address all the appellant's contentions • attempt to clarify and reduce the reasoning to simple terms so the reader will understand the precise basis for the decision, and • number the <i>Reasons for Decision</i> to correspond with the issues and decisions.

Continued on next page

19. Preparing an SOC, Continued

a. SOC Format (continued)

Section	Description	Action
Signature and Review	<p>The person who prepared the original SOC must sign it.</p> <p><i>Note:</i> At the discretion of the VSCM, a second person may review and approve the SOC.</p>	<p>Review and sign the SOC. This applies to any SOC, whether prepared by a</p> <ul style="list-style-type: none"> • Veterans Service Representative (VSR) • Rating Veterans Service Representative (RVSR), or • DRO.

b. Limiting SOC Content

Limit an SOC to content relevant to the issue(s) with which the appellant expressly disagrees. If a decision is considered a full or partial grant of an issue under appeal, prepare a separate rating decision that addresses the issue(s) granted and enclose it with the SOC. Limit the content of the SOC to only the issue(s) continued on appeal because they remain denied or only partially granted.

Notes:

- On a claim for an increased evaluation, prepare an SOC on the issue if a rating decision awards less than the
 - schedular maximum evaluation, or
 - evaluation requested by the Veteran on appeal.
- An SOC is *not* required on an issue if the appellant provides a statement that he/she is
 - satisfied with the grant, or
 - withdrawing the issue.

c. Guidelines for Disclosing Evidence in an SOC

Due process requires that an SOC cite the evidence pertinent to the issues raised by the disagreement; however, an SOC *cannot* disclose matters contrary to [38 U.S.C. 5701](#) or to the public interest per [38 U.S.C. 7105\(d\)\(2\)](#).

Reference: For more information on matters not to be disclosed in an SOC, see [M21-1MR, Part I, 5.D.19.d](#).

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19. Preparing an SOC, Continued

d. Matters Not to Be Disclosed in an SOC

Do *not* include matters in an SOC of a sensitive nature that would be injurious to the physical or mental health of the appellant, including

- matters considered by responsible medical authority to be injurious to the appellant’s health
- references to
 - a prognosis of “poor” or “terminal,” or
 - conditions of misconduct, unless the specific misconduct is relevant to the issue, or
- discussions of evidence in a way that might provoke feelings of hostility, resentment, or rejection on the part of the appellant or his/her family.

e. Disclosing Information to the Appellant’s Representative

All matters can be disclosed to the appellant’s designated representative *unless* disclosure to the representative would be as harmful as if made to the appellant. Therefore, in some cases, two different versions of the SOC may be prepared when it is permissible to furnish full information to the representative.

Use the table below when disclosing information to the appellant’s representative.

If the appellant ...	And the ...	Then ...
has a representative	matters omitted from the appellant’s SOC <i>may</i> be released to his/her representative	<ul style="list-style-type: none"> • prepare a <i>separate</i> SOC for the appellant and omit matters not to be disclosed • furnish copies of the edited SOC to both the representative and the appellant, and • annotate the representative’s copy and the original SOC (full statement) to show what portions were deleted from the copy sent to the appellant. <p><i>Note:</i> Annotate the statements to the effect that the material omitted from the appellant’s SOC is not to be revealed to him/her.</p>

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19. Preparing an SOC, Continued

e. Disclosing Information to the Appellant's Representative (continued)

If the appellant ...	And the ...	Then ...
has a representative	matters omitted from the appellant's SOC <i>may not</i> be released to his/her representative, because the information might provoke feelings of hostility, resentment, or rejection on the part of the representative	<ul style="list-style-type: none"> • prepare a modified statement omitting these matters • furnish copies of the edited SOC to the appellant and his/her representative, and • annotate the original SOC to show that matters not to be disclosed to the appellant or his/her representative were omitted from their copies.
does <i>not</i> have a representative	SOC contains matters <i>not</i> to be disclosed to the appellant	<ul style="list-style-type: none"> • eliminate those specific references from the SOC that will be furnished to the appellant, and • annotate the original SOC (full statement) to show what portions were deleted from the copy sent to the appellant.

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19. Preparing an SOC, Continued

f. Submission of New and Material Evidence

If the evidence is considered both new and material, then the claim is successfully reopened and must be adjudicated on its merits.

However, if the evidence on the reopened claim does *not* change the prior decision based on that evidence, the issue in any SOC resulting from that decision is the continued denial of the benefit claimed. The evidence, pertinent laws, and regulations cited in the SOC must support the decision.

In this situation, the SOC includes the

- date of the original denial
- date of notification of that denial
- date that denial became final
- regulations covering new and material evidence and finality of decisions
- summary of the evidence pertinent to the merits and adjudication
- decision on the merits, and
- reasons for the decision.

This obviates the necessity of a remand if the Board of Veterans' Appeals (BVA) determines the evidence was not new and material and bases its appellate decision on that determination.

Reference: For more information on the submission of new and material evidence, see

- [38 CFR 3.156](#), and
- [38 CFR 3.104](#).

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19. Preparing an SOC, Continued

g. Evidence Not New and Material

If an appellant disagrees with the decision that the evidence submitted to reopen a claim is *not* new and material, the rating should explain why the evidence considered does not meet the new and material standard as defined in [38 CFR 3.156\(a\)](#).

In this situation

- limit the SOC, based on that decision, to the issue of whether or not new and material evidence was submitted
- cite in the “Adjudicative Actions” section the
 - date of the original denial
 - date of notification of that denial
 - identification and date of receipt of the evidence submitted to reopen the claim
 - date of the finding that the evidence was not considered to be new and material, and
 - date of notification of that decision, and
- cite the regulations
 - covering new and material evidence, and
 - pertaining to finality of decisions.

References: For more information on

- new and material evidence, see [38 CFR 3.156](#)
 - finality of decisions, see [38 CFR 3.104](#), and
 - rating new and material evidence, see [M21-1MR, Part III, Subpart iv, 2.B.5](#).
-

h. SOC Printing and Filing Requirements

When preparing an SOC

- use plain bond paper to
 - print an original, and
 - make any copies, as necessary, and
- maintain the original as a file copy.

Note: The SOC may be printed on both sides of the paper, provided that the reverse side is printed head to foot.

20. Issuing an SOC

Introduction This topic contains information on

- issuing an SOC
- the transmittal letter requirements, and
- issuing an SOC to appellants in the Philippines.

Change Date August 19, 2005

a. Issuing an SOC Use the table below to issue an SOC to the appellant, his/her representative, or fiduciary at the last address of record.

If you are issuing an SOC to the ...	Then ...
appellant or his/her fiduciary	<ul style="list-style-type: none"> • issue <ul style="list-style-type: none"> – the appropriate transmittal letter – an unsigned copy of the SOC, and – <i>VA Form 9, Appeal to Board of Veterans' Appeals</i>, and • update the Veterans Appeals Control and Locator System (VACOLS).
appellant's representative <i>Example:</i> An agent, attorney, or accredited representative.	<ul style="list-style-type: none"> • issue a copy of the SOC, which may or may <i>not</i> be identical to the one sent to the appellant, and • update VACOLS.

References: For more information on

- preparing the SOC transmittal letter, see [M21-1MR, Part I, 5.D.20.b](#)
- *VA Form 9*, see [M21-1MR, Part I, 5.E.22](#), and
- VACOLS, see the [VACOLS User Guide](#).

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20. Issuing an SOC, Continued

b. Transmittal Letter Requirements

The transmittal letter must contain

- a notice of the right to file a substantive appeal
- the time within which the appeal must be filed
- information regarding the right to a hearing and the right to representation, and
- advise that, if the appellant still desires appellate review by BVA after reading the SOC, he/she should state on *VA Form 9* which specific fact or law cited he/she believes to be in error and for what issue.

Reference: For more information on substantive appeal time limits, see [M21-1MR, Part I, 5.E.22.c.](#)

c. Issuing an SOC to Appellants in the Philippines

When issuing an SOC to an appellant residing in the Philippines, attach the following statement to the letter of transmittal:

HEARING ON APPEAL

A hearing on appeal should not be requested unless the appellant actually intends to make a personal appearance before a hearing agency at Manila. Any expense involved in connection with a hearing, including expenditures for transportation to and from Manila, lodging, food, etc., may not be borne by the Government. Hearings are not required. All the evidence of record, including any statements or affidavits submitted by the appellant or in his/her behalf, receives the same thorough consideration whether or not a hearing is held.

21. Preparing and Issuing an SSOC

Introduction This topic contains a definition of supplemental statement of the case (SSOC) and information on

- when to issue an SSOC
 - when *not* to issue an SSOC
 - how to prepare an SSOC
 - the additions to an SSOC if a substantive appeal is not filed
 - the items *not* included in an SSOC
 - using an SSOC to replace a decisional document, and
 - when *not* to use an SSOC to replace a decisional document.
-

Change Date September 27, 2011

a. Definition: Supplemental Statement of the Case (SSOC) A *supplemental statement of the case (SSOC)* presents the appellant with changes or additions to the SOC. These changes and additions are usually based on additional evidence received after the issuance of the SOC, before or after receipt of a substantive appeal, or after a remand.

Note: If an appellant has not yet filed a substantive appeal, he/she still needs to respond to an SSOC by filing a substantive appeal, usually on VA Form 9, in order to perfect the appeal.

b. When to Issue an SSOC

Issue an SSOC to the appellant and his/her representative when

- the SOC or SSOC was prepared *before* receipt of additional evidence unless the evidence is duplicate or unrelated to the issue under appeal
- the new evidence does *not* result in a total grant of the issue under appeal
- the appellant appeared for a personal hearing
- an amended decision has been made, or
- a material error is discovered in the SOC.

Note: This also applies if BVA remands the appeal based on instructions from the Court of Appeals for Veterans Claims (CAVC).

Reference: For more information on CAVC remanded appeals, see [M21-1MR, Part I, 5.I.45](#).

Continued on next page

21. Preparing and Issuing an SSOC, Continued

c. When Not to Issue an SSOC

Do *not* issue an SSOC if

- the evidence
 - duplicates evidence already of record, or
 - is not relevant to the issue(s) on appeal, or
- a new issue is introduced into the appellate process.

Notes:

- Non-duplicative evidence *not* accepted as part of the appeal will be treated as a reopened claim.
 - If new issues are introduced to the appellate process, use an SOC and include *VA Form 9*.
-

d. How to Prepare an SSOC

Prepare an SSOC in the same format as an SOC and use the appropriate transmittal letter.

Limit the SSOC to those changes or additions to the SOC needed to give complete information to the appellant. For those issues that have undergone a change, repeat in full the

- issue
- decision, and
- reasons and bases.

Reference: For more information on preparing an SOC, see [M21-1MR, Part I, 5.D.19](#).

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21. Preparing and Issuing an SSOC, Continued

e. Additions to an SSOC if a Substantive Appeal is Not Filed

If the appellant has not filed a substantive appeal at the time the SSOC is released

- provide another *VA Form 9* with the appropriate transmittal letter
- include information about the time limit for submitting a substantive appeal, and
- refer the case for updating in VACOLS.

Notes:

- If an SSOC is sent before the receipt of the substantive appeal, then the claimant has until the later of either 60 days from the mailing of the SSOC, or the remainder of the one year period from the date of the original notification to perfect the appeal with a *VA Form 9* or substantive appeal.
- If an SSOC is sent after the receipt of the substantive appeal, then the claimant has 30 days from the mailing of the SSOC to respond before VA certifies the appeal to BVA.

References: For more information on

- *VA Form 9*, see [M21-1MR, Part I, 5.E.22](#)
 - VACOLS, see the [VACOLS User Guide](#), and
 - certifying substantive appeals, see [M21-1MR, Part I, 5.F.26](#).
-

f. Items Not Included in an SSOC

Do not

- repeat evidence cited in the SOC
 - include the “Pertinent Laws and Regulations” section unless an additional statute or regulation is relied upon, or
 - use the phrase *as previously stated* in any of the sections.
-

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21. Preparing and Issuing an SSOC, Continued

g. Using an SSOC to Replace a Decisional Document

In some cases, an SSOC constitutes a decisional document when the rating activity or the DRO confirms a decision at issue in the appellate process.

In this situation

- a separate confirmed rating or DRO decision will *not* be required, and
- the SSOC will be subject to the same review procedures by local service organizations as other rating decision documents.

Reference: For more information on review by local service organizations, see [M21-1MR, Part I, 3.B.12](#).

h. When Not to Use an SSOC to Replace a Decisional Document

If a decision is considered a full or partial grant of an issue under appeal, prepare a separate rating decision addressing the issues granted, and enclose it with the SSOC. Do *not* incorporate the decision into the SSOC itself.

Notes:

- The SSOC will address only the issues still continued on appeal because they remain denied or only partially granted.
 - Any issue outside the ongoing appellate process will be addressed separately in a rating decision and does *not* go into the SSOC.
-