



# **Lesson 24**

## **AMA Overview**

*The American Legion DSO School*  
*March 2022*

# Lesson 24 Learning Objectives

Understand the basics of the Appeals Modernization Act, or AMA:

- Understand the goals behind the development of AMA.
- Understand an overview of the different review and appeal lanes.
- Check in on progress of AMA after three years.

# Veterans Appeals Improvement and Modernization Act - AMA

## AMA Highlights

- Signed into law August 23, 2017.
- Implemented February 19, 2019.
- Created based on collaboration between VA and stakeholders, including Veteran organizations.
- Goal of faster appeals.
- Goal of ending “churning” in processing appeals.



## Quiz

Click the **Quiz** button to edit this object

(This question does not count toward your grade)

How many years, on average, did it take for the Board to issue a decision in the legacy system?

- Five Years
- Seven years
- One Year
- Three Years

# Answer

## Seven Years

- On average, VA's Board of Veterans' Appeals (Board) took seven years to issue a decision to a Veteran in the legacy system.
- VA often took even longer, 7 to 10 years, to issue a decision if the Veteran sought a hearing with a Veterans Law Judge at the Board.

# AMA Goals

## AMA Goals:

- Simplify appeals process when VA makes an error.
- Protect the Veteran's effective date.
- Improve VA's rating decisions by listing how and why VA decided the claim.
- Provide the Veteran with more options to address VA's errors.
- Allow VA to specialize work to handle appeals.
- Create feedback to identify systemic VA errors.
- Create data to allow VA to improve training and accuracy.



# New Process of Reviewing Decisions

- AMA is effective for all claims when VA's rating decision was mailed *on or after* **February 19, 2019**.
- The old system is known as "legacy."
- VA does not automatically convert from legacy to AMA.
- Veterans with legacy decision may opt-in at the Statement of the Case or Supplemental Statement of the Case.
- AMA defines "Review" as readjudication at VBA.
- AMA defines "Appeal" to mean adjudication by the Board.

# AMA Changed Procedure

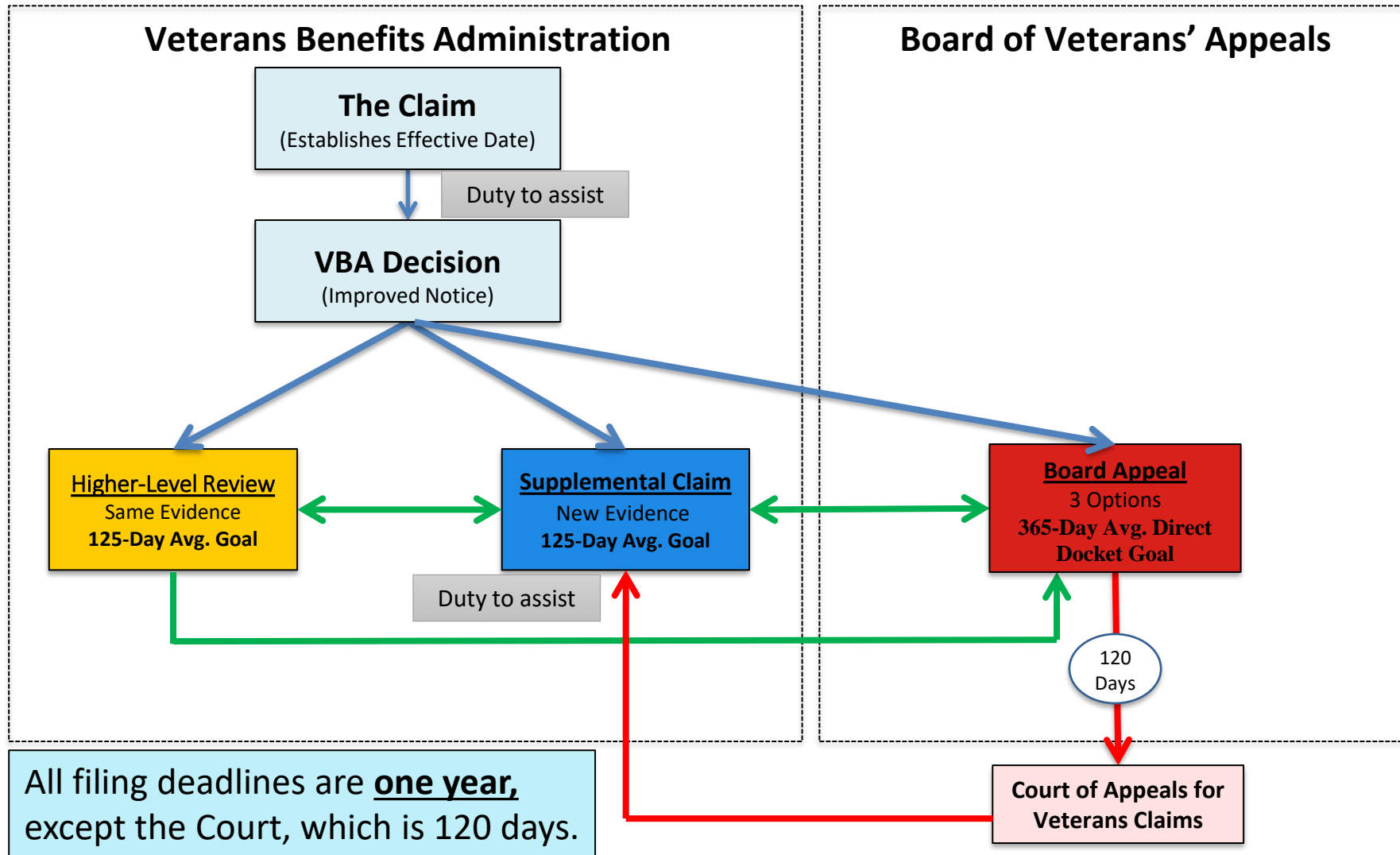
**Reminder: AMA does NOT change VA's laws or regulations about a Veteran's *entitlement* to VA benefits.**



AMA changed VA's ***procedure*** for reviewing claims where the Veteran disagrees with VA's decision at the Regional Office (RO) or at VA's Board of Veterans Appeals (Board).



# AMA Basic Structure



# Higher-Level Review

## **VA Form 20-0996 – Review by RO**

- Veteran submits argument(s) why VA made a mistake deciding claim.
- Veteran cannot submit evidence.
- VA uses a different employee to decide.
- VA has **NO** Duty to Assist the Veteran with obtaining evidence.
- VA's goal is to respond with a new rating decision within 125 days.



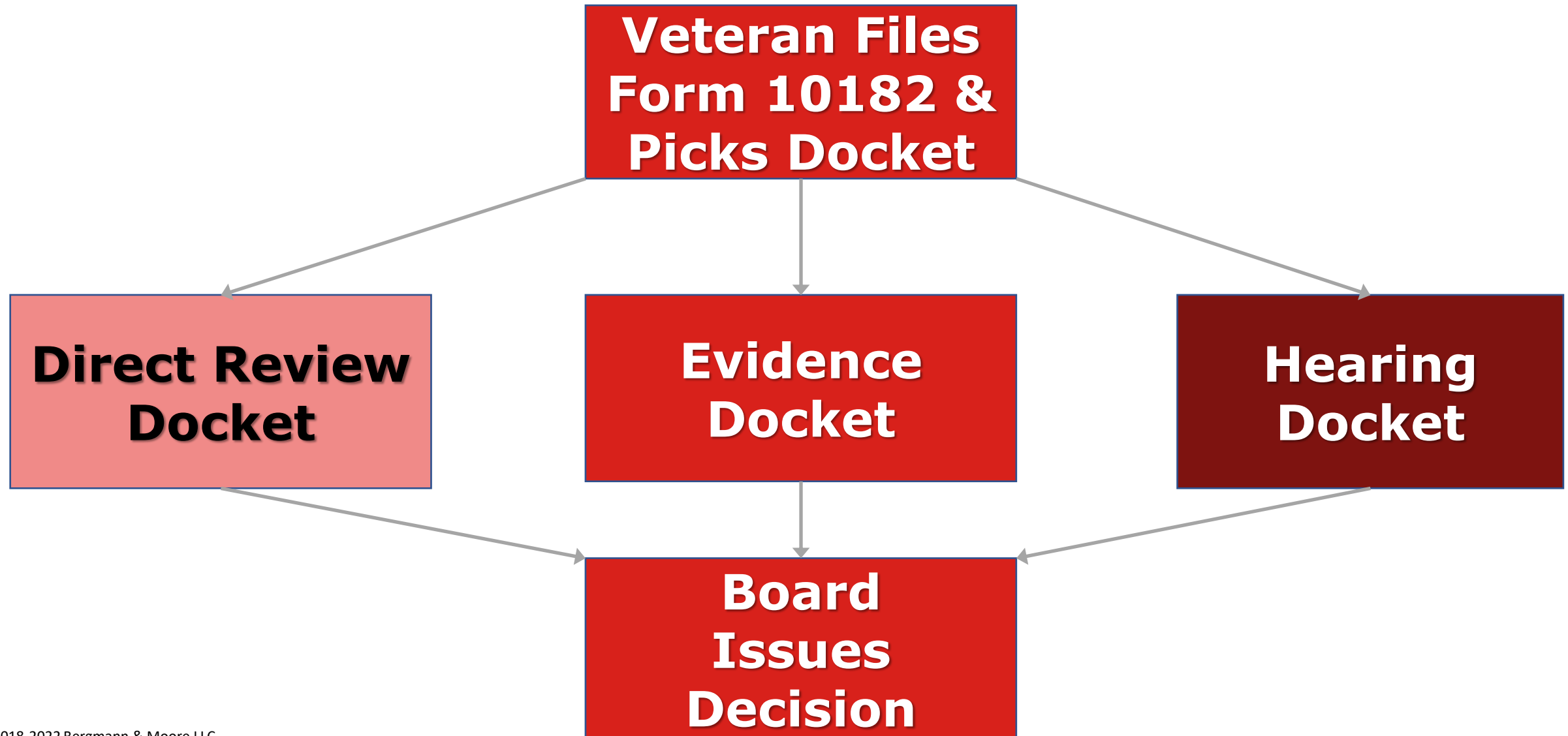
# Supplemental Claim



## **VA Form 20-0995 – Review by RO**

- Veteran can submit argument(s) why VA made a mistake.
- Veteran must ***also*** submit new and relevant evidence.
- VA uses a different employee to decide.
- VA has a Duty to Assist the Veteran with finding evidence.
- VA's goal is to respond within 125 days.

# Overview of Board Appeal Options



# 10182-Direct Review

## **VA Form 10182 – Box 11A**

- This is the Direct Review docket at the Board.
- Veteran may only submit argument(s) why VA made a mistake.
- Veteran may ***not*** submit evidence.
- VA has ***NO*** Duty to Assist.
- VA's goal is to decide in one year.



# 10182-Evidence



## **VA Form 10182 – Box 11B**

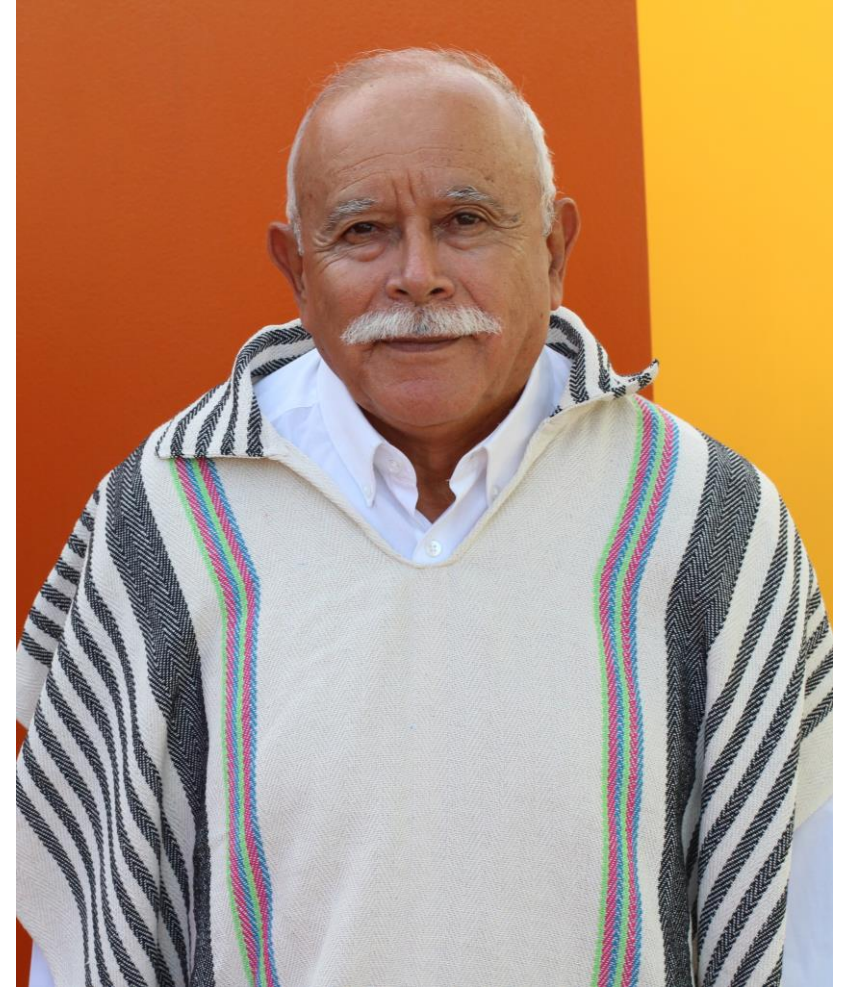
- This is the Evidence docket at the Board.
- Veteran can add new evidence with the VA Form 10182 or within 90 days of filing the Form.
- Veteran may also submit argument(s) on why VA made a mistake.
- VA has **NO** Duty to Assist.
- VA's goal is to decide in one and half years.



# 10182-Hearing

## VA Form 10182 – Box 11C

- This is the Hearing docket at the Board.
- VA schedules a hearing before a Veterans Law Judge (VLJ) who works for VA.
- Veterans can submit new evidence at the hearing, or within 90 days of the hearing.
- VA has **NO** Duty to Assist.
- VA's goal is to decide these appeals in two years.



# New for AMA: Favorable Findings

- For VA Regional Office and Board decisions, if VA makes a favorable finding, then that finding is binding on future VA RO and Board decisions.
- If there is a favorable finding, then Veterans and VSOs do not need to argue that point again.
- For example:
  - A VA rating decision finds the Veteran has a hearing loss condition, yet VA denies the claim for a lack of a nexus.
  - For the Veteran's appeal, the Veteran only needs to provide VA a nexus opinion. The Veteran does not need to submit any more evidence about the current hearing loss condition.





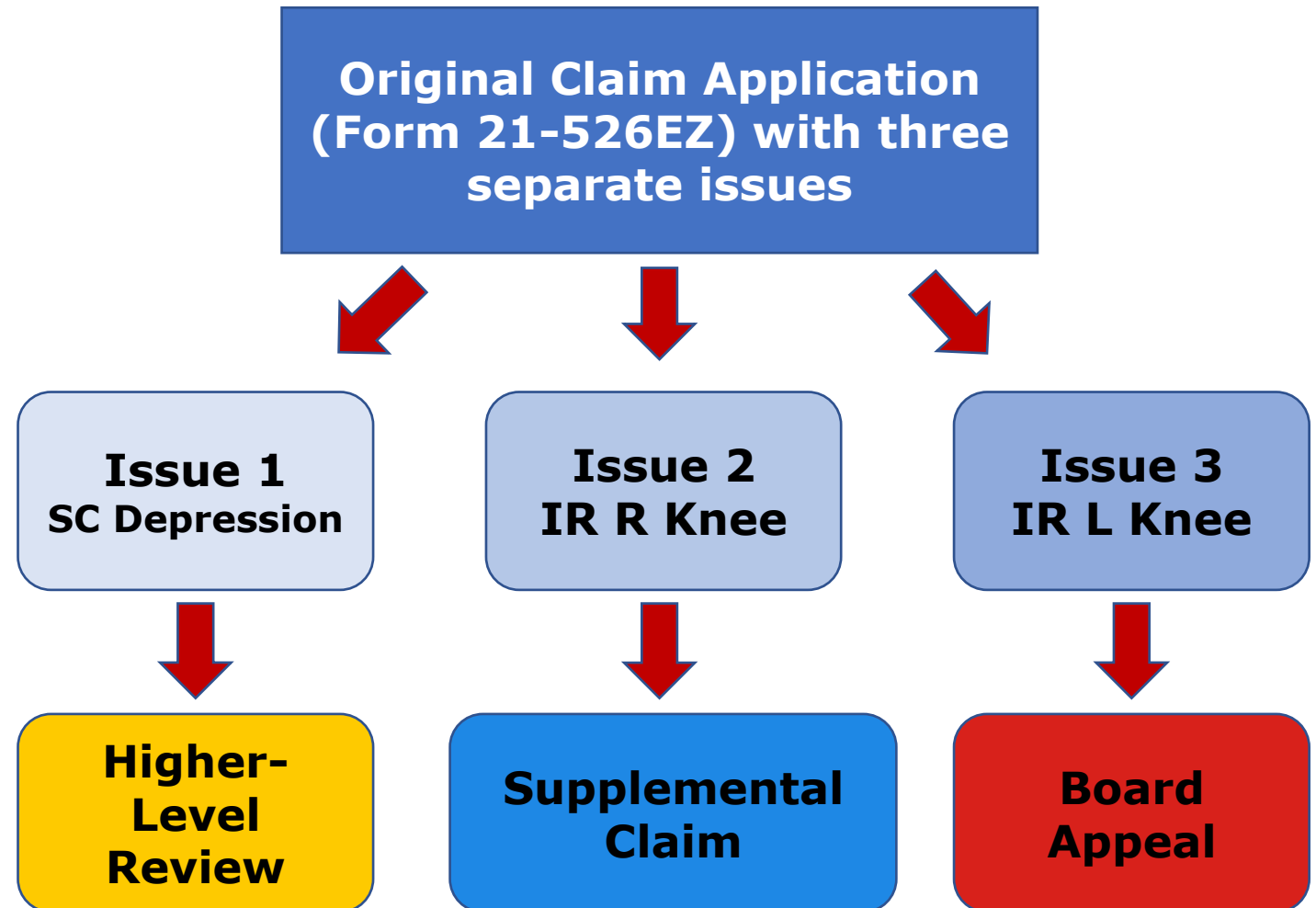
# New for AMA: Favorable Findings

- Veterans can rely on a favorable VA finding not changing absent clear and unmistakable error.
- Veterans need to provide VA only the missing evidence or argument necessary to win the claim.
- VA avoids having to review the same evidence more than once and, thus, saves everyone time.

**Advocacy Tip:** Carefully review VA's Rating Decision and focus on submitting the argument and/or evidence needed to win.

# Separate Issues and Separate Lanes

**Veterans have options under AMA. For example, different issues from the same claim can be split into separate review / appeal lanes depending on what is needed to win each issue.**



# New Term: Continuous Pursuit

- If a Veteran files a review / appeal, and if a Veteran still believes VA made a mistake with VA's new decision, then a Veteran can continue seeking another review / appeal.
- If a Veteran files the correct form **within one year** of VA's most recent decision, **then the effective date of the claim will be preserved.** – This is called “continuous pursuit.”
- For Example:
  - If a Veteran filed a Higher-Level Review and VA denied the claim again, then a Veteran can file a 10182 to the Board.
  - If a Veteran filed a 10182 with the Board and the Board denied the appeal, then a Veteran can file a Supplemental Claim with the RO.

# Continuous Pursuit, continued

- There are limitations to Continuous Pursuit:
  - A Veteran cannot seek another Higher-Level Review directly after VA denied a Higher-Level Review.
  - After a Board decision, a Veteran can seek further review by VA **only** by filing a Supplemental Claim.
  - A Veteran can seek further review outside VA by appealing to the Court of Appeals for Veterans Claims.
- Otherwise, a Veteran has no limit on the number of reviews / appeals a Veteran can be filed.
  - Because the effective date is preserved, this could mean that the time period on appeal could become multiple years. If a Veteran wins, then the retroactive benefit for a Veteran could be substantial.

# AMA Processing Time at RO

- VBA completes Higher-Level Reviews and Supplemental Claims faster than the goal of 125 days:
  - Higher-Level Review: average 35 days\*
  - Supplemental Claim: average 108 days\*

\*Data through December 2021.



# AMA Processing Time at Board



- The wait for Board appeals is increasing:
  - Direct: 314 days
  - Evidence : 353 days
  - Hearing: 643 days
- Expect the wait for Board appeals to increase before improving.

\*Data through December 2021.

- This presentation is complete.
- A PDF version of these slides will be provided to you at the conclusion of the school for future reference.