## Section B. Determining the Issues

#### Overview

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| In This Section | This section contains the following topics: |

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| Topic | Topic Name |
| 1 (old 2) | Types of Issues and Claims |
| 2 (old 3) | Considering Subordinate Issues and Ancillary Benefits |
| 3 (old 4) | Qualifying Disabilities Under 38 CFR 3.383 |
| 4 (old 5) | Extra-Schedular Consideration |
| 5 (old 6) | Other Issues to Consider |

#### 1. Types of Issues and Claims

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| Introduction | This topic contains information about the various types of issues and claims, including* recognizing issues and claims when preparing a rating decision
* examples of issues, and
* clarifying claims and issues.
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| **Change Date** | March 24, 2015 |

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| a. Recognizing Issues and Claims When Preparing a Rating Decision | When preparing a rating decision, the Rating Veterans Service Representative (RVSR) must recognize, develop, clarify and/or decide all issues and claims, whether they are* expressly claimed
* reasonably raised, or
* unclaimed subordinate issues and ancillary benefits .

***Notes***: * A claim is defined as the submission of a VA prescribed application, whether paper or electronic, that identifies the Veteran and/or claimant, if not the Veteran, as well as the specific benefit sought.
* Reasonably raised issues encompass additional benefits for complications of the claimed condition, including those identified by the rating criteria for that condition in [38 CFR Part 4](http://www.ecfr.gov/cgi-bin/text-idx?SID=191302eb80e2550b1332bd6fb369564c&tpl=/ecfrbrowse/Title38/38cfr4_main_02.tpl).
* VA will put at issue for adjudication any ancillary benefit(s) or other unclaimed subordinate issues not expressly raised by the claimant that are related and arise as a result of the adjudication of a claimed issue.

***References***: For more information on* issues to consider when deciding claims for disability compensation, see [M21-1, Part IV, Subpart ii, 2.A.1](file:///C%3A%5CDocuments%20and%20Settings%5Cadjatoml%5CMy%20Documents%5CSharePoint%20Drafts%5Cpt04_sp02_ch02_secA.xml#IV.ii.2.A.1)
* Reasonably raised claims, see [38 CFR 3.155(d)(2)](http://www.ecfr.gov/cgi-bin/text-idx?SID=191302eb80e2550b1332bd6fb369564c&node=se38.1.3_1155&rgn=div8)
* ancillary benefits, see
* [M21-1, Part III, Subpart iv, 6.B.3](file:///C%3A%5CDocuments%20and%20Settings%5Cadjatoml%5CMy%20Documents%5CSharePoint%20Drafts%5Cpt03_sp04_ch06_secB.xml#III.iv.6.B.3), and
* [M21-1, Part IX, Subpart i](http://vbaw.vba.va.gov/bl/21/M21-1MR/m21-1mr_main.htm#pt9_spi).
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| b. Examples of Issues | The table below contains examples of different types of issues that are addressed in rating decisions.

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| **Type** | **Example** |
| Expressly claimed | Epilepsy is listed as a claimed disability on *VA Form 21-526*, *Veteran’s Application for Compensation and/or Pension*.***Reference***:For more information on handling original and new claims and claims for increased evaluation, see M21-1, Part I, 1.B.3. |
| Reasonably raised | * The Veteran’s VA examination that was requested to resolve a claim shows that his service-connected posttraumatic stress disorder (PTSD) warrants an increase to a 70 percent evaluation
* at the examination, the Veteran reported that he has been fired from several jobs due to his inability to deal with stress, and
* the VA examiner identified the Veteran’s stress management problem as a symptom of his PTSD.

***Result***: The RVSR addresses the issue of individual unemployability (IU) in the rating decision. ***Reference***: For more information on identifying reasonably raised claims for individual unemployability, see [M21-1 Part IV, Subpart ii, 2.F.25.h](http://vbaw.vba.va.gov/bl/21/M21-1MR/pt04/sp02/ch02/pt04_sp02_ch02.xml#IV.ii.2.F.25.h). |
| Unclaimed subordinate issues and ancillary benefits | * The Veteran is evaluated at 100 percent for amyotrophic lateral sclerosis (ALS) and complications, and
* the VA examination shows that he requires the daily assistance of his wife to attend to his activities of daily living.

***Reference***:For more information* on subordinate issues and ancillary benefits, see M21-1, Part III, Subpart iv, 6.B.3.
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| c. Clarifying Issues and Claims | Whenever the intent of the claimant is unclear, and/or the benefit sought is not clearly identified, ask the claimant to clarify the issue to ensure appropriate development and accurate decisions. Inform the claimant that VA will take no action pending clarification of intent.***Note***: Until the claimant clarifies the issue, do not* establish end product (EP) control, or
* initiate development.
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#### 2. Considering Subordinate Issues and Ancillary Benefits

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| Introduction | This topic contains information about considering subordinate issues and ancillary benefits, including* the definition of
* ***subordinate issues,*** and
* ***ancillary benefits***
* types of ancillary benefits, and
* when to address subordinate issues and ancillary benefits.
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| Change Date | August 3, 2011 |

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| a. Definition: Subordinate Issues | A ***subordinate issue*** is derived from the consideration or outcome of related claimed issues. Often the primary and subordinate issues share the same fact pattern. |

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| b. Definition: Ancillary Benefits | ***Ancillary benefits*** are secondary benefits that are considered when evaluating claims for* compensation
* pension, or
* Dependency and Indemnity Compensation (DIC) entitlement.

Eligibility for ***ancillary benefits*** is derived from a Veteran’s entitlement to disability benefits or the circumstances of the Veteran’s death. |

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| c. Types of Ancillary Benefits | Some types of ancillary benefits are * Dependents’ Educational Assistance under [38 U.S.C. Chapter 35](http://www.law.cornell.edu/uscode/html/uscode38/usc_sup_01_38_10_III_20_35.html)
* specially adapted housing under [38 CFR 3.809](http://www.benefits.va.gov/warms/docs/regs/38CFR/BOOKB/PART3/S3_809.DOC)
* special housing adaptation grants under [38 CFR 3.809a](http://www.benefits.va.gov/warms/docs/regs/38CFR/BOOKB/PART3/S3_809.DOC)
* automotive and adaptive equipment under [38 CFR 3.808](http://www.benefits.va.gov/warms/docs/regs/38CFR/BOOKB/PART3/S3_808.DOC)
* vocational rehabilitation and employment (VR&E), and
* loan guaranty for surviving spouses under [38 CFR 3.805](http://www.benefits.va.gov/warms/docs/regs/38CFR/BOOKB/PART3/S3_805.DOC).

***Reference***: For more information on ancillary benefits, see [M21-1, Part IX, Subpart i](http://vbaw.vba.va.gov/bl/21/M21-1MR/m21-1mr_main.htm#pt9_spi). |

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| d. When to Address Subordinate Issues and Ancillary Benefits  | The table below contains examples of when to address entitlement to subordinate issues and ancillary benefits at issue in a rating decision.***Note***: In general, address entitlement to a subordinate issue or ancillary benefit only when entitlement can be granted. Do not put a benefit at issue merely to deny it.***Exceptions***: Consider the following issues in all applicable ratings, regardless of whether benefits are granted or denied: * a ten percent evaluation under [38 CFR 3.324](http://www.benefits.va.gov/warms/docs/regs/38CFR/BOOKB/PART3/S3_323.DOC), and
* service connection for hypertension as secondary to diabetes mellitus with diabetic nephropathy.
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| If … | Then address entitlement to … |
| a total and permanent service-connected evaluation is established * on a schedular basis, or
* based on entitlement to individual unemployability
 | Dependents’ Educational Assistance.***Note***: Also consider entitlement to Dependents’ Educational Assistance whenever permanency of a total evaluation is subsequently established. Do *not* put entitlement at issue merely to deny it.***Reference***: For more information on determining entitlement to Dependents’ Educational Assistance, see [M21-1, Part IX, Subpart ii, 2.1](pt09_sp02_ch02.xml#IX.ii.2.1).  |
| there is a severe degree of disability involving* the loss or loss of use of an extremity or sensory organ, or
* any other functional loss providing entitlement to special monthly compensation (SMC).
 | SMC. |
| a single 100 percent evaluation is assigned in a compensation or pension case | Aid and attendance (A&A).***Note***: Do *not* put A&A benefits at issue if the evidence does not show entitlement. |
| * a single 100 percent evaluation is assigned in a compensation or pension case, and
* A&A is not payable
 | Housebound.***Note***: Do *not* address entitlement to Housebound benefits if the evidence does not show entitlement exists. |
| retroactive disability pension is not claimed, but a qualifying disability may exist | retroactive benefits.***Note***: Advise the claimant that retroactive benefits may be payable.***Reference***: For more information on retroactive pensions, see [38 CFR 3.400(b)(1)(ii)(B)](http://www.benefits.va.gov/warms/docs/regs/38CFR/BOOKB/PART3/S3_400.DOC). |
| a pension claimant fails to meet the schedular requirements for permanent and total disability | extra-schedular consideration under [38 CFR 3.321(b)(2)](http://www.benefits.va.gov/warms/docs/regs/38CFR/BOOKB/PART3/S3_321.DOC). |
| a Veteran has* no compensable evaluation(s), and
* more than one non-compensable evaluation(s)
 | a ten percent rating under [38 CFR 3.324](http://www.warms.vba.va.gov/regs/38CFR/BOOKB/PART3/S3_323.DOC).***Important***: This benefit *must* be considered in all applicable ratings, including confirmed ratings, even when entitlement is denied. |
| a claim for service connection is denied for* a psychosis based on wartime service, or
* any mental disorder based on Gulf War service.

***Reference***: For information on periods of war, see [38 CFR 3.2](http://www.benefits.va.gov/warms/docs/regs/38CFR/BOOKB/PART3/S3_2.DOC). | treatment under [38 U.S.C. 1702](http://assembler.law.cornell.edu/uscode/html/uscode38/usc_sec_38_00001702----000-.html). |
| * there is a reasonable probability that the Veteran’s death may be SC whether from
* disease
* injury, or
* self-infliction, and
* a claim for death benefits is received
 | DIC.  |
| * at the time of death the Veteran was rated 100 percent disabled due to SC disabilities or entitled to individual unemployability, and
* a claim for death benefits is received
 | * DIC under [38 USC 1318](http://assembler.law.cornell.edu/uscode/html/uscode38/usc_sec_38_00001318----000-.html) , if service connection for cause of death cannot be granted, and
* Dependents’ Educational Assistance under [38 U.S.C. Chapter 35](http://www.law.cornell.edu/uscode/html/uscode38/usc_sup_01_38_10_III_20_35.html).
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| a rating initially establishes service connection for permanent and total disability due to * the loss or loss of use (L/LOU) of
* one lower extremity, requiring the use of braces, crutches, canes, or a wheelchair for mobility due to
* the L/LOU of the other lower extremity
* the L/LOU of an upper extremity, or
* another organic condition that affects balance or propulsion
* one lower extremity plus bilateral vision loss, with only light perception
* both upper extremities at or above the elbows, or
* full thickness or subdural burns that have resulted in contractures with limitation of motion of
* two or more extremities, or
* at least one extremity and the trunk
 | Specially Adapted Housing***Reference***: For more information on entitlement to Specially Adapted Housing, see* [38 U.S.C. 2101(a)](http://assembler.law.cornell.edu/uscode/html/uscode38/usc_sec_38_00002101----000-.html)
* [38 CFR 3.809](http://www.benefits.va.gov/warms/docs/regs/38CFR/BOOKB/PART3/S3_809.DOC), and
* [M21-1, Part IX, Subpart i, 3](pt09_sp01_ch03.xml#IX.i.3).
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| a rating initially establishes service connection for permanent and total disability due to * bilateral vision loss, with visual acuity of 5/200 or less
* L/LOU of both hands
* full thickness or subdermal burns that have resulted in contracture(s) with limitation of motion of one or more extremities or the trunk, or
* residuals of an inhalation injury, including, but not limited to
* pulmonary fibrosis
* asthma, and
* chronic obstructive pulmonary disease
 | Special Housing Adaptation grant.***Reference***: For more information on entitlement to the Special Housing Adaptation grant, see* [38 U.S.C. 2101(b)](http://assembler.law.cornell.edu/uscode/html/uscode38/usc_sec_38_00002101----000-.html)
* [38 CFR 3.809a](http://www.benefits.va.gov/warms/docs/regs/38CFR/BOOKB/PART3/S3_809a.DOC), and
* [M21-1, Part IX, Subpart i, 3](pt09_sp01_ch03.xml#IX.i.3).
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| a rating initially establishes service connection for permanent and total disability due to* L/LOU of a hand or foot
* bilateral vision loss with corrected acuity 20/200 or worse in the better eye, or
* bilateral vision loss with field constricted to 20 degrees in the better eye
 | * automobile, and
* automobile adaptive equipment.

***Reference***: For more information on entitlement to an automobile or automobile adaptive equipment, see * [38 CFR 3.808](http://www.benefits.va.gov/warms/docs/regs/38CFR/BOOKB/PART3/S3_808.DOC), and
* [38 U.S.C. 3902](http://assembler.law.cornell.edu/uscode/html/uscode38/usc_sec_38_00003902----000-.html).
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| service connection is established for ankylosis of the hip or knee | automobile adaptive equipment. |
| * service connection is established for
* diabetes mellitus, and
* diabetic nephropathy, and
* there is a diagnosis of hypertension
 | service connection for hypertension as secondary to diabetes mellitus.***Important***: This benefit *must* be considered in all applicable ratings, even when entitlement is denied.***Reference***: For information on evaluating an inferred claim for hypertension, see [M21-1, Part III, Subpart iv, 4.F.22.e](pt03_sp04_ch04_secF.xml#III.iv.4.F.22.e). |
| * the schedular disability requirements for IU under [38 CFR 4.16(a)](http://www.benefits.va.gov/warms/docs/regs/38CFR/BOOKC/PART4/S4_16.DOC) are met, *and*
* there is evidence in the Veteran’s file or under VA control that indicates he/she may be unemployable due to SC disability.
 | IU.***Reference***: For more information on reasonably raised claims for IU, see* [*Norris v. West*](http://vbaw.vba.va.gov/bl/21/Advisory/CAVCDAD.htm#bmn), 12 Vet. App. 304 (1999), and
* [M21-1, Part IV, Subpart ii, 2.F.25.h](pt04_sp02_ch02_secF.xml#IV.ii.2.F.25.h).
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| ***Reference***: For information on raising the issue of competency while evaluating other evidence, see [M21-1, Part III, Subpart iv, 8.A.2.a](pt03_sp04_ch08_secA.xml#III.iv.8.A.2.a). |

#### 3. Qualifying Disabilities Under 38 CFR 3.383

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| Introduction | This topic contains information about qualifying disabilities under 38 CFR 3.383, including* the provisions of 38 CFR 3.383, and
* qualifying disabilities under 38 CFR 3.383.
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| Change Date | August 3, 2011 |

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| a. Provisions of 38 CFR 3.383 | Under [38 CFR 3.383](http://www.benefits.va.gov/warms/docs/regs/38CFR/BOOKB/PART3/S3_383.DOC), special consideration for paired organs and extremities is payable for various combinations of service connected (SC) and non-service connected (NSC) disabilities, provided the NSC disability was not the result of the Veteran’s own misconduct. |

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| b. Qualifying Disabilities Under 38 CFR 3.383 | Qualifying disabilities for special consideration under [38 CFR 3.383](http://www.warms.vba.va.gov/regs/38CFR/BOOKB/PART3/S3_383.DOC) include* SC impairment of vision in one eye and NSC impairment of vision in the other eye when
* visual acuity of each eye is rated at 20/200 or less, or
* the peripheral field of vision for each eye is 20 degrees or less
* SC L/LOU of one kidney and NSC impairment of the other kidney
* SC hearing impairment compensable to a degree of 10 percent or more in one ear and NSC hearing impairment that meets the provisions of [38 CFR 3.385](http://www.benefits.va.gov/warms/docs/regs/38CFR/BOOKB/PART3/S3_385.DOC) in the other ear
* SC L/LOU of one hand and NSC L/LOU of the other hand
* SC L/LOU of one foot and NSC L/LOU of the other foot, and
* permanent SC impairment of one lung, rated 50 percent disabling, and NSC impairment of the other lung.
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#### 4. Extra-Schedular Consideration

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| Introduction | This topic contains information about extra-schedular consideration, including* extra-schedular evaluations in compensation claims
* approving extra-schedular evaluation in compensation claims
* submitting compensation claims for extra-schedular evaluation
* extra-schedular consideration in pension claims, and
* preparing copies of rating decisions.
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| Change Date | August 3, 2011 |

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| a. Extra-Schedular Evaluations in Compensation Claims | Consider the issue of entitlement to an extra-schedular evaluation in compensation claims under * [38 CFR 3.321(b)(1)](http://www.benefits.va.gov/warms/docs/regs/38CFR/BOOKB/PART3/S3_321.DOC) only where
* the issue is expressly raised by the Veteran, or
* there is evidence of exceptional or unusual circumstances indicating that the rating schedule may be inadequate to compensate for the average impairment of earning capacity due to disability (for example, marked interference with employment or frequent periods of hospitalization)
* [38 CFR 4.16(b)](http://www.benefits.va.gov/warms/docs/regs/38CFR/BOOKC/PART4/S4_16.DOC)
* whenever
* the issue is expressly stated, or
* there is evidence that the Veteran may be unable to secure or follow a substantially gainful occupation because of a service-connected disability, and
* total disability based on individual unemployability (IU) cannot be granted on a schedular basis.

***Reference***: For more information on total disability claims, see * [VAOGCPREC 6-96](http://vbaw.vba.va.gov/bl/21/Advisory/PRECOP/96op/Prc06_96.doc) dated August 16, 1996
* [*Floyd v. Brown*](http://vbaw.vba.va.gov/bl/21/Advisory/CAVCDAD.htm#bmf)*,* 9 Vet. App. 88 (1996), and
* [*Bagwell v. Brown*](http://vbaw.vba.va.gov/bl/21/Advisory/CAVCDAD.htm#bmb)*,* 9 Vet. App. 337 (1996).
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| b. Approving Extra-Schedular Evaluation in Compensation Claims | Only the Director of the Compensation and Pension (C&P) Service (211B) may approve extra-schedular evaluations in compensation cases submitted under [38 CFR 3.321(b)(1)](http://www.benefits.va.gov/warms/docs/regs/38CFR/BOOKB/PART3/S3_321.DOC) and [38 CFR 4.16(b)](http://www.benefits.va.gov/warms/docs/regs/38CFR/BOOKC/PART4/S4_16.DOC). |

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| c. Submitting Compensation Claims for Extra-Schedular Consideration | Submit compensation claims to C&P Service for extra-schedular consideration under [38 CFR 3.321(b)(1)](http://www.benefits.va.gov/warms/docs/regs/38CFR/BOOKB/PART3/S3_321.DOC) or [38 CFR 4.16(b)](http://www.benefits.va.gov/warms/docs/regs/38CFR/BOOKC/PART4/S4_16.DOC) if* the schedular evaluations are considered to be inadequate for an individual disability, or
* a total rating cannot be assigned solely because
* the minimum schedular requirements of [38 CFR 4.16](http://www.benefits.va.gov/warms/docs/regs/38CFR/BOOKC/PART4/S4_16.DOC) of the rating schedule are not met, and
* a total rating is considered warranted.

***Note***: Prepare a memorandum to accompany the claims folder providing a full statement of the * issue(s) to be resolved, including the recommended evaluation
* Veteran’s SC disabilities
* employment history
* education and vocational attainment, and
* all other pertinent factors.
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| d. Extra-Schedular Consideration in Pension Claims | In pension claims consider the issue of entitlement to an extra-schedular evaluation under [38 CFR 3.321(b)(2)](http://www.benefits.va.gov/warms/docs/38CFR/BOOKB/PART3/S3_321.DOC) whenever a Veteran fails to meet the schedular requirements for permanent and total disability. If approval is recommended, forward the rating decision and file to the VSCM or designee for signature. |

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| e. Preparing Copies of Rating Decisions | When rating decisions are approved under the provisions of [38 CFR 3.321(b)(2)](http://www.benefits.va.gov/warms/docs/regs/38CFR/BOOKB/PART3/S3_321.DOC)* prepare an extra copy of the rating decision
* maintain the copy in the VSCM’s office for a period of two years, and
* then destroy the copy.
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#### 5. Other Issues to Consider

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| Change Date | March 24, 2015 |

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| a. Other Issues to Consider When Evaluating Evidence | The table below provides information about other issues to consider when evaluating the evidence submitted with a claim. |

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| If the issue is … | Then consider … |
| service connection | * service connection for expressly claimed conditions, and
* soliciting claims for unclaimed, chronic disabilities shown by the evidence.

***Note***: * The mere presence of medical evidence does not constitute a claim because there is no intent to apply for benefits shown.
* Solicit the Veteran to determine whether he/she wishes to pursue the unclaimed issues by submitting a claim on a prescribed VA form. Provide the Veteran with information about how to obtain the prescribed form.

***References***: For more information on * the types of claims for service connection, see [M21-1, Part III, Subpart iv, 6.B.2.c](pt03_sp04_ch06_secB.xml#III.iv.6.B.2.c), and
* considering a claimant’s intent to file a claim, see
* [*Brannon v. West*](http://vbaw.vba.va.gov/bl/21/Advisory/CAVCDAD.htm#bmb)*,* 12 Vet. App. 32 (1998), and
* [*Criswell v. Nicholson*](http://vbaw.vba.va.gov/bl/21/Advisory/CAVCDAD.htm#bmc)*,* 20 Vet. App. 501 (2006)**.**
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| secondary service connection | whether the* NSC condition is the direct result of the SC condition, or
* SC condition has permanently worsened the NSC condition and, if so, what was the baseline level of disability prior to aggravation and what is the level currently.

***Examples***:* A Veteran has an SC left knee injury. As a result of favoring the left knee, a right knee disability develops that is secondary to the original SC disability.
* A Veteran develops a heart condition or impotence secondary to SC diabetes.

***Reference***: For more information on claims for secondary service connection based on the permanent worsening of an NSC condition, see* [*Allen v. Brown*](http://vbaw.vba.va.gov/bl/21/Advisory/CAVCDAD.htm#bma)*,* 7 Vet. App. 439 (1995), and
* [M21-1, Part IV, Subpart ii, 2.B.6](pt04_sp02_ch02_secB.xml#IV.ii.2.B.6).
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| service connection for posttraumatic stress disorder (PTSD) | whether the claimed stressor* may be established on the basis of the Veteran’s lay testimony alone under [38 CFR 3.304(f)](http://www.benefits.va.gov/warms/docs/regs/38CFR/BOOKB/PART3/S3_304.DOC), or
* must be corroborated with additional evidence.

***Reference***: For more information on rating PTSD claims, see [M21-1, Part III, Subpart iv, 4.H.31](http://10.220.1.4/bl/21/M21-1MR/index.asp?id=pt03_sp04_ch04_secH.xml#III.iv.4.H.31). |
| service connection for an undiagnosed illness (Gulf War) | evidence of* active military, navy, or air service in the Southwest Asia theater of operations during the Gulf War
* the manifestation of one or more signs or symptoms of undiagnosed illness
* objective indications of chronic disability during the relevant period of service, or to a degree of disability of ten percent or more within the specified presumptive period, and
* a nexus between the chronic disability and the undiagnosed illness.

***Reference***: For more information on service connection for disabilities associated with Gulf War service, see [M21-1, Part IV, Subpart ii, 2.D](http://10.220.1.4/bl/21/M21-1MR/index.asp?id=pt04_sp02_ch02_secD.xml#IV.ii.2.D). |
| entitlement to compensation under [38 U.S.C. U.S.C. 1151](http://assembler.law.cornell.edu/uscode/html/uscode38/usc_sec_38_00001151----000-.html) | whether * hospital, medical, or surgical treatment or vocational rehabilitation was rendered by VA, and
* an increase in disability occurred and, if so, was it due to an
* instance of fault of VA, or
* event not reasonably foreseeable, such as an accident.

***Reference***: For more information on compensation under [38 U.S.C. 1151](http://assembler.law.cornell.edu/uscode/html/uscode38/usc_sec_38_00001151----000-.html), see [M21-1, Part IV, Subpart ii, 2.G](pt04_sp02_ch02_secG.xml#IV.ii.2.G). |
| evaluation of a disability | * old and new criteria, if applicable (see [M21-1, Part III, Subpart iv, 7.B.3.b](pt03_sp04_ch07_secB.xml#III.iv.7.B.3.b))
* [*DeLuca v. Brown*](http://vbaw.vba.va.gov/bl/21/Advisory/CAVCDAD.htm#bmd)*,* 8 Vet.App. 202 (1995), if applicable to the musculoskeletal condition, and
* whether a referral for consideration of an extra- schedular evaluation is warranted.
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| entitlement to pension  | whether the disabilities meet the schedular requirements.***Note***: The extra-schedular provisions of [38 CFR 3.321(b)(2)](http://www.benefits.va.gov/warms/docs/regs/38CFR/BOOKB/PART3/S3_321.DOC) must also be considered if schedular requirements are not met.***Reference***: For more information on schedular requirements, see * [38 CFR 4.16](http://www.benefits.va.gov/warms/docs/regs/38CFR/BOOKC/PART4/S4_16.DOC), and
* [38 CFR 4.17](http://www.benefits.va.gov/warms/docs/regs/38CFR/BOOKC/PART4/S4_17.DOC).
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| entitlement to retroactive pension | entitlement under [38 CFR 3.400(b)(1)(ii)](http://www.benefits.va.gov/warms/docs/regs/38CFR/BOOKB/PART3/S3_400.DOC), if a qualifying disability exists. |
| disallowance of maximum evaluation | assigning the next higher evaluation. |
| a disability falling between schedular grades | * entitlement to the higher evaluation under [38 CFR 4.7](http://www.benefits.va.gov/warms/docs/regs/38CFR/BOOKC/PART4/S4_3.DOC), if the disability picture more nearly approximates the criteria required for the higher rating, or
* assigning the lower evaluation.
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| individual unemployability | whether* entitlement was claimed, or
* there is evidence of disability supporting IU entitlement not specifically claimed.

***Reference***: For more information on a total disability evaluation on the basis of individual unemployability, see [*Rice v. Shinseki*](http://vbaw.vba.va.gov/bl/21/Advisory/CAVCDAD.htm#bmr), 22 Vet. App. 447 (2009). |
| a death case | accrued benefits if * *VA Form 21-534, Application for Dependency and Indemnity Compensation, Death Pension and Accrued Benefits by a Surviving Spouse or Child (Including Death Compensation if Applicable),* is filed, and
* a disability claim was pending at the time of death.

***Reference***: For more information on accrued benefits, see [M21-1, Part VIII](http://vbaw.vba.va.gov/bl/21/M21-1MR/m21-1mr_main.htm#part-8). |
| a disability pension claim that was previously denied but is being reopened due to* evidence of new disabilities, or
* a change in the evaluation of any previously evaluated disabilities
 | the issue with a formal coded rating. |