#### Department of Veterans Affairs M21-1, Part IV, Subpart ii

**Veterans Benefits Administration May 13, 2015**

**Washington, DC 20420**

#### Transmittal Sheet

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| Changes Included in This Revision | The table below describes the changes included in this revision of Veterans Benefits Manual M21-1, Part IV, “Compensation, DIC, and Death Compensation,” Subpart ii, “Compensation.”  ***Notes***: Minor editorial changes have also been made to   * remove references to rescinded portions of M21-1 * update incorrect or obsolete hyperlink references * update the term “veteran” to “Veteran” * update obsolete terminology, where appropriate * reassign alphabetical designations to individual blocks and repaginate, where necessary, to account for new and/or deleted blocks within a topic * to re-number topics to account for new topics and begin the section with topic 1 * clarify block labels and/or block text, and * bring the documents into conformance with M21-1 standards. |

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| Reason(s) for the Change | Citation |
| To provide guidance that compensation for paired organs under 38 U.S.C. 1160 may be awarded if compensation is paid for a disability under the authority of 38 U.S.C. 1151 and there is a non-service-connected (NSC) manifestation of the disability under 38 U.S.C. 1160. | M21-1, Part IV, Subpart ii, Chapter 2, Section K, Topic 1, Block b (IV.ii.2.K.1.b) |
| To add a new Block d with guidance that clarifies what other benefits a Veteran is eligible for and what benefits a Veteran is not eligible for based on entitlement to disability compensation under 38 U.S.C. 1160. | IV.ii.2.K.1.d |
| To provide clarifying information on willful misconduct as due to intoxication. | IV.ii.2.K.2.a |
| To add a new Block c providing a definition of alcohol abuse with reference. | IV.ii.2.K.2.c |
| * To incorporate the holding of *Allen v. Principi* that compensation is precluded for primary alcohol abuse disabilities that arise during service and for secondary disabilities that result from primary alcohol abuse. * To incorporate the holding of *Allen v. Principi* that an alcohol or drug abuse disability that is secondary to, or is a symptom of a service-connected (SC) disability and where alcohol or drug abuse is not due to willful misconduct may be granted on a secondary basis. * To add definition of primary as it pertains to primary alcohol abuse disabilities as defined by the Federal Circuit in *Allen v. Principi*. | IV.ii.2.K.2.h |
| To incorporate the language of 38 CFR 3.301 concerning types of drug use that are not considered willful misconduct. | IV.ii.2.K.3.a |
| To add a new Block b with the definition of drug abuse in 38 CFR 3.301. | IV.ii.2.K.3.b |
| * To move content on drug use for therapeutic purposes to IV.ii.2.K.3.a as a new bullet. * To incorporate the holding of *Allen v. Principi* that service connection may be awarded for alcohol or drug abuse if secondary to, or a symptom, of a service-connected disability. | IV.ii.2.K.3.d |
| To add a new topic incorporating Training Letter (TL) 07-04 regarding diving-related disabilities. | IV.ii.2.K.5 |
| To add a new Block a with guidance describing diving techniques and associated risks. | IV.ii.2.K.5.a |
| To add a new Block b with guidance describing decompression sickness and arterial gas emboli with potential chronic disabilities. | IV.ii.2.K.5.b |
| To add a new Block c to incorporate a table describing the toxic effects of gases in diving. | IV.ii.2.K.5.c |
| To add a new Block d to incorporate a table describing the potential long-term effects of diving. | IV.ii.2.K.5.d |
| To add a new Block e with guidance concerning rating of disabilities related to diving injuries. | IV.ii.2.K.5.e |
| To add a new Block f with guidance on when to obtain medical opinions in rating claims for disabilities based on diving injuries. | IV.ii.2.K.5.f |
| To add a new topic that explains revision of the rating schedule, regulation, or statute while claim is pending. | IV.ii.2.K.6 |
| To add a new Block a and incorporate AO81 definitions of a pending claim as a claim that has not been finally adjudicated and a final claim as a claim that VA adjudicates as allowed or disallowed followed by the earlier of expiration of the time frame to file a Notice of Disagreement or disposition of appellate review. | IV.ii.2.K.6.a |
| To add a new Block b with guidance that the effective date of a favorable rating based on rating schedule change cannot be earlier than the date of the rating schedule change. | IV.ii.2.K.6.b |
| To add a new Block c with guidance that a new statute enacted or regulation issued that is applicable to a pending claim cannot be retroactively applied to the claim prior to the date of the enactment of the statute or issuance of the regulation unless specifically provided for by the statute or regulation. | IV.ii.2.K.6.c |
| To add a new Block d with guidance concerning the binding effect of precedential court decisions. | IV.ii.2.K.6.d |

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| Rescissions | TL 07-04 |

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| Authority | By Direction of the Under Secretary for Benefits |

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| Signature | Thomas J. Murphy, Director  Compensation Service |

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