## Chapter 7. Clothing Allowance

#### Overview

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

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| Topic | Topic Name |
| 1 | Eligibility for the Annual Clothing Allowance |
| 2 | Payment of the Annual Clothing Allowance |
| 3 | Payment of the Annual Clothing Allowance for Incarcerated Veterans |
| 4 | Processing Notices of Disagreement (NODs) or Substantive Appeals |

#### 1. Eligibility for the Annual Clothing Allowance

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| Introduction | This topic contains information on the eligibility requirements for the annual clothing allowance, including* annual clothing allowance payment (ACAP) eligibility requirements
* jurisdiction of clothing allowance claims processing
* informing Veterans of potential eligibility for the annual clothing allowance
* continued eligibility to the annual clothing allowance
* what constitutes a claim for the annual clothing allowance, and
* annual clothing allowance eligibility for hospitalized Veterans.
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| a. ACAP Eligibility Requirements | The regulatory authority for annual clothing allowance payment (ACAP) is [38 CFR 3.810](http://www.ecfr.gov/cgi-bin/text-idx?SID=595e860cb188f2eee2b040832434b415&node=se38.1.3_1810&rgn=div8). An ACAP is payable, on application when * ***prosthetic or orthopedic appliances***, such as an artificial limb, rigid extremity brace, wheelchair, or crutches, worn or used by a Veteran, for a disability or disabilities for which [38 U.S.C. Chapter 11](http://www.law.cornell.edu/uscode/text/38/part-II/chapter-11) disability compensation has been established, tend to ***wear and tear clothing***, and/or
* ***physician-prescribed medication,*** used by a Veteran for a skin condition for which [38 U.S.C. Chapter 11](http://www.law.cornell.edu/uscode/text/38/part-II/chapter-11) disability compensation has been established, causes ***irreparable damage*** to the ***outer garments***.

[38 U.S.C. Chapter 11](http://www.law.cornell.edu/uscode/text/38/part-II/chapter-11) disability compensation means:* service connected (SC) disability, or
* disability under [38 U.S.C. § 1151](http://www.law.cornell.edu/uscode/html/uscode38/usc_sec_38_00001151----000-.html) that is compensated as if SC.

[38 CFR 3.810](http://www.ecfr.gov/cgi-bin/text-idx?SID=595e860cb188f2eee2b040832434b415&node=se38.1.3_1810&rgn=div8) provides for entitlement to ***more than one*** ACAP. Multiple allowances are permitted when multiple qualifying appliances and/or medications affect ***distinct*** qualifying types of clothing articles. ***Example***: Multiple allowances may be awarded if a prosthetic leg used for a service-connected amputation causes wear and tear to pants ***and*** a physician-prescribed medication for a SC skin disorder irreparably damages shirts.***Two allowances*** may be paid for a ***single type of affected garment*** if* more than one appliance,
* medication for more than one skin condition, or
* an appliance and a skin medication

independently qualify for an ACAP and together tend to wear and tear and/or irreparably damage the single type of garment at a greater rate than either would independently. For an ACAP to be paid the requisite findings must be established by medical evidence.* In cases seeking an ACAP based on use of ***prosthetic or orthopedic appliances*** where there is ***special monthly compensation*** for loss of use of an upper or lower extremity at a rate specified in 38 CFR 3.350(a-d) or (f), a ***Department of Veterans Affairs (VA*) *examination*** (or equivalent hospital or examination report) must establish that the qualifying appliance(s) tend to cause wear and tear to clothing.
* In cases seeking an ACAP based on use of ***prosthetic or orthopedic appliances*** necessitated by ***another qualifying disability*** the Under Secretary for Health or a designee (***VA Outpatient Clinic (OPC) Director***) must certify that the qualifying appliance(s) tend to cause wear and tear to clothing.
* In cases seeking an ACAP based on ***physician prescribed medication***, the Under Secretary for Health or a designee (***VA OPC Director***) must certify that the prescribed qualifying medication causes irreparable damage to the outer garments.

***Notes***:* Irreparable damage does *not* include stains that are removable through regular laundering or dry cleaning.
* A Veteran does not lose ACAP eligibility after returning to active duty and may receive the payment concurrently with active service pay, as per [VAOPGCPREC 4-2010](http://www.va.gov/OGC/docs/2010/Prec4_2010.pdf).
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| b. Jurisdiction of Clothing Allowance Claims Processing | In August 2003, the Veterans Benefits Administration (VBA) transitioned the processing of annual clothing allowance claims to the Veterans Health Administration (VHA).Any clothing allowance claims received by a regional office should be forwarded to the VA Medical Center (VAMC) or OPC of jurisdiction, for the attention of the Prosthetic and Sensory Aids Service.***Exception***: Claims for accrued clothing allowance are to be processed by the Pension Management Center of jurisdiction. For additional information on accrued clothing allowance, see M21-1, Part IX.i.7.2.e. |

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| c. Informing Veterans of Potential Eligibility for the Annual Clothing Allowance | If a rating decision establishes SC for the anatomical loss or loss of use of a hand or foot, the decision notice must* inform the Veteran of potential eligibility for the clothing allowance
* enclose *VA Form 10-8678, Application for Annual Clothing Allowance*
* provide contact information for the VAMC or OPC of jurisdiction, and
* inform the Veteran to return the application to the VAMC or OPC, for the attention of Prosthetic and Sensory Aids Service.
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| d. Continued Eligibility to the Annual Clothing Allowance  | Consider a Veteran to have continued eligibility to the annual clothing allowance if * SC has been established for anatomical loss or loss of use of a hand or foot, and
* the disability requires use of a prosthetic or orthopedic device that wears out or tears clothing.

***Note***: Process initial payments of the ACAP to include master record code to provide recurring annual payments without the need for the Veteran to submit supplemental claims. |

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| e. What Constitutes a Claim for the Annual Clothing Allowance  | A claim for ACAP may be any communication from a Veteran that * describes the device or medication used because of a SC or [38 U.S.C. 1151](http://www.law.cornell.edu/uscode/text/38/1151) disability/condition, and
* requests payment of the clothing allowance.

***Notes***: If an application for ACAP is received, but no claim for compensation has been filed* forward *VA Form 21-526EZ, Application for Disability Compensation and Related Compensation Benefits,* to the claimant, and
* inform the Veteran that a prerequisite for consideration of entitlement to the ACAP is that the Veteran be SC for
* a disability requiring the use of a prosthetic or orthopedic device, or
* a skin condition.
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| f. Annual Clothing Allowance Eligibility for Hospitalized Veterans | A hospitalized Veteran, competent or incompetent, remains eligible for ACAP. |

#### 2. Payment of the Annual Clothing Allowance

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| Introduction | This topic contains information on making payments of the annual clothing allowance, including* pay date for ACAP
* pay date for authorized recurring ACAPs
* payment to Veterans in receipt of military retired pay
* payment in Philippine cases, and
* payment of the accrued clothing allowance.
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| a. Pay Date for ACAP | ACAP is issued to Veterans who have existing eligibility as of August 1st. ACAP eligibility must be determined by VHA no later than July 31 of the payment year and not prior to August 1 of the preceding year. ***Example***: A Veteran eligible as of August 1, 2013, is entitled to receive the 2013 ACAP.Generally, the ACAP is paid on or about September 1st. The ACAP may be paid upon processing of the clothing allowance transaction if processing after the last processing cycle in August of the ACAP year. |

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| b. Pay Date for Authorized Recurring ACAPs | The pay date for authorized recurring ACAPs is September 1st.  |

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| c. Payments to Veterans in Receipt of Military Retired Pay | A Veteran receiving military retired pay is *not* required to waive any portion of his/her military retired pay to receive the clothing allowance.***Note***: Authorization of the ACAP to Veterans who are not receiving compensation because they have not waived their military retired pay can be made only for the current annual payment. A re-determination of eligibility on the basis of a subsequent claim is *not* required if the initial approval was based on a static qualifying disability. |

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| d. Payment in Philippine Cases | Claims authorized for Veterans of the U.S. Army and Regular Scouts are paid in dollars.Persons who enlisted under, Section 14 *Public Law (PL) 79-190* (The Armed Forces Voluntary Recruitment Act of October 6, 1945), include other Philippine Scouts, Commonwealth Army of the Philippines, Guerilla Service. These persons are to be paid at a rate in Philippine pesos equivalent to $.50 for each dollar authorized under law.***Note***: The Manila Treasury Disbursing Office makes the payment. |

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| e. Payment of the Accrued Clothing Allowance | If a rating decision or evidence in file at the date of death indicates that the Veteran met the eligibility requirements as of the August 1st date prior to death, then the lump-sum clothing allowance is due and payable.***Note***: The full lump-sum is payable without pro rata accumulation for any portion of a year.***Reference***: For more information on payment of accrued benefits, see M21-1, Part VIII. |

#### 3. Payment of the Annual Clothing Allowance for Incarcerated Veterans

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| Introduction | This topic contains information on the payment of the annual clothing allowance for incarcerated Veterans, including * provisions of Section 502 of *PL 104-275*
* payment during the initial period of incarceration
* payment when the Veteran is incarcerated for the entire clothing allowance year, and
* payment when the Veteran is released from incarceration during the clothing allowance year.
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| a. Provisions of Section 502 of PL 104-275 | *PL 104-275*, Section 502, limits the clothing allowance for Veterans incarcerated for over 60 days if they receive clothing at no cost from the penal institution.***Note***: In the absence of evidence to the contrary, presume that incarcerated Veterans receive clothing at no cost from the penal institution. |

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| b. Payment During the Initial Period of Incarceration | General Counsel has held that the restriction on the payment of clothing allowance does *not* apply for the initial 60 days of any separate period of incarceration.Therefore, the annual clothing allowance amount must be reduced by 1/365th for each day of incarceration after the initial 60 days of incarceration during the 12-month period preceding the August 1st determination of clothing allowance eligibility. |

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| c. Payment When the Veteran is Incarcerated for the Entire Clothing Allowance Year | If the Veteran is incarcerated for the entire clothing allowance year (August 1st through July 31st), do *not* pay the Veteran for that year, assuming the Veteran’s incarceration commenced more than 60 days prior to August 1st. |

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| d. Payment When the Veteran is Released From Incarceration During the Clothing Allowance Year | If the Veteran is initially incarcerated or is released from incarceration during the clothing allowance year, pay the Veteran a partial clothing allowance.***Note***: Partial clothing allowance payments for years during which the Veteran is incarcerated are *not* subject to rounding to even dollars. Therefore, partial year payments are made in dollars and cents.***Reference***: For information on calculating the partial year payment, see M21-1, Part IX.i.7.3.b. |

#### 4. Processing ACAP Notices of Disagreement (NODs) or Substantive Appeals

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| Introduction | This topic contains information on processing a notice of disagreement (NOD) or substantive appeal regarding ACAP, including * responsibility for furnishing statements of the case (SOC) and certifying appeals, and
* handling NODs and substantive appeals.
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| a. Responsibility for Furnishing SOCs and Certifying Appeals | The VAMC or OPC is responsible for furnishing statements of the case (SOC) and certifying appeals arising from decisions denying or terminating eligibility* on the basis that no SC conditions exist
* on the basis that the device does not wear out or tear clothing, or
* in cases involving an issue of effective date of entitlement.
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| b. Handling NODs and Substantive Appeals | If a notice of disagreement (NOD) is filed, the VAMC or OPC of jurisdiction will be responsible for preparing and furnishing the SOC.If a substantive appeal is filed, the VAMC or OPC of jurisdiction will be responsible for * processing the substantive appeal
* certifying the appeal
* completing *VA Form 1-8, Certification of Appeal*, and
* forwarding the appeal to the Board of Veterans’ Appeals.

***Reference***: For more information on the provisions of NODs or substantive appeals, see [38 U.S.C. 7105](http://www.law.cornell.edu/uscode/text/38/7105). |