## Chapter 2. Automobile and Adaptive Equipment Allowance Under 38 U.S.C. Chapter 39

#### 1. Eligibility for Automobile and Adaptive Equipment Allowance

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| Introduction | This topic contains information on eligibility for automobile and adaptive equipment allowance, including* [the eligibility requirements for financial assistance for a conveyance](#FinancialAssistance)
* [issuing a certificate of eligibility](#EligibilityCertificate)
* [the eligibility requirements for adaptive equipment](#AdaptiveEquipment)
* [the definition of the term ***adaptive equipment***](#AEDefinition)
* [Veterans who do not qualify for benefits](#DontQualify)
* [eligibility for 38 U.S.C. Chapter 31 beneficiaries](#CH31Beneficiaries), and
* [reduction of benefits due to a tort judgment or settlement](#TortReduction).
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| Change Date | February 25, 2015 |

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| a. Eligibility Requirements for Financial Assistance for a Conveyance | To be eligible for financial assistance in purchasing a new or used automobile (or other conveyance), a Veteran or serviceperson must have acquired one of the following disabilities as a result of injury or disease incurred or aggravated during active military service, or as a result of medical treatment or examination, vocational rehabilitation, or compensated work therapy provided by the Department of Veterans Affairs (VA) ([38 U.S.C. 1151](http://www.law.cornell.edu/uscode/html/uscode38/usc_sec_38_00001151----000-.html)):* loss, or permanent loss of use, of one or both feet;
* loss, or permanent loss of use, of one or both hands;
* permanent impairment of vision in both eyes with a
* central visual acuity of 20/200 or less in the better eye with corrective glasses, or
* central visual acuity of more than 20/200 if there is a field defect in which the peripheral field has contracted to such an extent that the widest diameter of visual field has an angular distance no greater than 20 degrees in the better eye;
* a severe burn injury defined as a disability caused by deep partial thickness or full thickness burns resulting in scar formation that causes contractures and limits motion of one or more extremities or the trunk and precludes effective operation of an automobile; or,
* amyotrophic lateral sclerosis (ALS).
* ***Notes***:
* Per [VAOPGCPREC 60-09](http://www4.va.gov/ogc/docs/1990/PREC_60-90.doc), eligibility for an automobile grant may be based on functional as well as organic loss of use of an extremity or blindness. ***Example***: A conversion reaction may cause functional, as opposed to organic, blindness.
* Eligibility based on burn injury only applies to claims filed on or after October 1, 2011.

***References***: For more information on the eligibility requirements for the automobile allowance and adaptive equipment, see * [38 CFR 3.808](http://www.ecfr.gov/cgi-bin/retrieveECFR?gp=1&SID=44deb65ebe00fe3c2cf78ebeab831c58&ty=HTML&h=L&r=SECTION&n=se38.1.3_1808)
* [38 U.S.C. Chapter 39](http://www.law.cornell.edu/uscode/html/uscode38/usc_sup_01_38_10_III_20_39.html), and
* Public Law (PL) 111-275, *Veterans Benefits Act of 2010.*
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| b. Issuing a Certificate of Eligibility | A certificate of eligibility for financial assistance in the purchase of a new or used automobile or other conveyance (such as a van, truck, jeep, or station wagon) may be made to a Veteran* once in his/her lifetime
* in an amount not exceeding the amount specified in [38 U.S.C. 3902](http://www.law.cornell.edu/uscode/html/uscode38/usc_sec_38_00003902----000-.html), and
* if the eligibility requirements are met.

***Note***: The law prohibits Department of Veterans Affairs (VA) from making payments for automobile grants directly to Veterans. VA is required to pay the benefit to the seller of the automobile. |

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| c. Eligibility Requirements for Adaptive Equipment | A Veteran or serviceperson who qualifies for the automobile allowance also qualifies for adaptive equipment. To be eligible to receive *only* adaptive equipment (as opposed to the automobile allowance), the Veteran or serviceperson must be entitled to disability compensation for ankylosis of one or both knees or hips based on* the establishment of service connection, or
* entitlement under [38 U.S.C. 1151](http://www.law.cornell.edu/uscode/html/uscode38/usc_sec_38_00001151----000-.html) as the result of
* VA treatment or examination
* compensated work therapy, or
* vocational training under [38 U.S.C. Chapter 31](http://law.cornell.edu/uscode/html/uscode38/usc_sup_01_38_10_III_20_31.html)

The adaptive equipment benefit may be paid more than once, and it may be paid to either the seller or the Veteran.***Reference***: For more information on ankylosis of one (or both) knees or hips, see [38 U.S.C. 3902(b)(2)](http://www.law.cornell.edu/uscode/html/uscode38/usc_sec_38_00003902----000-.html). |

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| d. Definition: Adaptive Equipment | The term ***adaptive equipment*** includes, but is not limited to* power steering
* power brakes
* power window lifts
* power seats, and
* special equipment necessary to assist the eligible person into and out of the automobile or other conveyance.
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| e. Veterans Who Do Not Qualify for Benefits  | Even though compensation for disability of paired service-connected (SC) and nonservice-connected (NSC) organs is payable under [38 CFR 3.383](http://www.benefits.va.gov/warms/docs/regs/38CFR/BOOKB/PART3/S3_383.DOC), Veterans do *not* qualify for the automobile and adaptive equipment allowance based on bilateral visual impairment if the impairment of vision in one eye is due to a nonservice-connected (NSC) disease or injury.***Notes***: * Entitlement to the automobile and adaptive equipment allowance may be based on disability of paired *extremities* under [38 CFR 3.383](http://www.benefits.va.gov/warms/docs/regs/38CFR/BOOKB/PART3/S3_383.DOC) because eligibility under [38 U.S.C. Chapter 39](http://www.law.cornell.edu/uscode/html/uscode38/usc_sup_01_38_10_III_20_39.html) requires the SC loss, or loss of use, of only one hand or one foot.
* Public Law 108-454 effective December 10, 2004, extended eligibility for the automobile and adaptive equipment allowance to Veterans with qualifying disability under [38 U.S.C. 1151](http://www.law.cornell.edu/uscode/html/uscode38/usc_sec_38_00001151----000-.html).

 ***Reference***: For more information on entitlement to compensation for loss of paired SC and NSC organs or extremities, see [38 U.S.C. 1160](http://www.law.cornell.edu/uscode/html/uscode38/usc_sec_38_00001160----000-.html). |

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| f. Eligibility for 38 U.S.C. Chapter 31 Beneficiaries | Automobile adaptive equipment may be furnished to a beneficiary under [38 U.S.C. Chapter 31](http://www.law.cornell.edu/uscode/html/uscode38/usc_sup_01_38_10_III_20_31.html) if Vocational Rehabilitation and Employment (VR&E) determines that the equipment is necessary to* overcome an employment handicap to which a SC disability materially contributes, and
* achieve the goals of the program of rehabilitation.

***Reference***: For more information on eligibility, see [38 CFR 21.216(a)(3)](http://www.benefits.va.gov/warms/docs/REGS/38CFR/BOOKG/PART21/s21_216.doc). |

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| g. Reduction of Benefits Due to Tort Judgment or Settlement | Automobile or adaptive equipment benefits must be reduced by an “offset amount” in cases where a judgment or settlement of a tort claim against the United States is granted for disability established under [38 U.S.C. 1151](http://www.law.cornell.edu/uscode/html/uscode38/usc_sec_38_00001151----000-.html), if the tort judgment or settlement* becomes final
* on or after December 10, 2004, but
* before the date VA awards the automobile or adaptive equipment allowance, and
* includes an amount specifically designated for automobiles or adaptive equipment.

***Notes***:* Contact local Regional Counsel to determine whether a judgment or settlement qualifies for offset.
* If the offset amount exceeds the amount of the automobile or equipment benefits awarded, the excess amount is offset against VA compensation.

***Reference***: For more information on the offset of benefits, see M21-1, Part IV, Subpart iii, 3.D.13. |

#### 2. Application for Automobile and Adaptive Equipment Allowance

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| Introduction | This topic contains information on applications for automobile and adaptive equipment allowance, including * [applying for the automobile allowance](#AutoAllowanceApp)
* [applying for adaptive equipment](#AEAppOnly), and
* [handling incomplete applications for the automobile allowance or adaptive equipment](#IncompleteApps).
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| Change Date | July 24, 2009 |

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| a. Applying for Automobile Allowance | A formal claim on *VA Form 21-4502, Application for Automobile or Other Conveyance and Adaptive Equipment,* is required if the Veteran or serviceperson is applying for the automobile allowance.The application for an automobile or other conveyance is considered an application for the adaptive equipment specified for the claimant’s disability by directive of the Chief Medical Director. The instructions on the *VA Form 21-4502* contain a list of adaptive equipment that has been preapproved for particular disabilities.***Notes***: * There is no time limit for filing a claim.
* Upon receipt of the application, before referring the claim to the rating activity
* establish end product (EP) 290, and
* send the claimant the notice required under [38 U.S.C. 5103](http://www.law.cornell.edu/uscode/html/uscode38/usc_sec_38_00005103----000-.html).
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| b.  Applying for Adaptive Equipment Only | A formal claim on a *VA Form 10-1394, Application for Adaptive Equipment – Motor Vehicle,* is required if the Veteran is entitled to adaptive equipment only. Typically this form is provided by the outpatient clinic to the Veteran for forwarding to finance activity, or submitted by the prosthetics department on his/her behalf to the local finance activity.A *VA Form 10-1394* is also required for approval of equipment not specified on the *VA Form 21-4502* for the Veteran’s particular disability.***Notes***: * There is no time limit for filing a claim for adaptive equipment based on ankylosis.
* Upon receipt of the application, before referring the claim to the rating activity
* establish end product (EP) 290, and
* send the [38 U.S.C. 5103](http://www.law.cornell.edu/uscode/html/uscode38/usc_sec_38_00005103----000-.html) notice.
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| c. Handling Incomplete Applications for the Automobile Allowance or Adaptive Equipment | If an application from a person on active duty is incomplete in any essential part or the medical evidence or service status is insufficiently documented* return the application to the VA prosthetics department, if it is responsible for the deficiency; otherwise
* advise the serviceperson of the deficiency, and
* ask him/her to obtain the necessary evidence.
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#### 3. Rating Claims for Automobile and Adaptive Equipment Allowance

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| Introduction | This topic contains information on rating claims for automobile or adaptive equipment allowance, including* [referring automobile or adaptive claims to the rating activity](#RFD)
* [when to prepare a rating decision for automobile or adaptive equipment eligibility](#PreparingRD)
* definition of deep partial thickness and full thickness burns, and
* determining eligibility based on burn injury
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| Change Date | September 16, 2014 |

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| a. Referring Automobile or Adaptive Equipment Claims to the Rating Activity | If prior rating decisions do *not* establish the existence of qualifying SC disability, refer the claim to the rating activity after any necessary development. |

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| b. When to Prepare a Rating Decision for Automobile or Adaptive Equipment Eligibility | Prepare a rating decision whenever* a claim for automobile or adaptive equipment is received from a Veteran or a serviceperson and the issue has not been previously considered, or
* the issue of eligibility for automobile or adaptive equipment is inferred from a disability rating that fulfills the applicable disability criteria.
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| **c. Definition: Deep Partial Thickness and Full Thickness Burns** | ***Deep partial thickness burns*** occur when there is complete destruction of the epidermis and severe damage to the dermal layer. ***Full-thickness burns*** occur when there is complete destruction of the epidermis and dermis. There may also be damage to the underlying subcutaneous fat layer. |

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| **d. Determining Eligibility Based on Burn Injury** | To determine eligibility for financial assistance in the purchase of an automobile or other conveyance and adaptive equipment based on burn injury, RVSRs should * look for any full thickness or deep partial thickness scars that cause contracture and limit motion of one or more extremities or the trunk and
* review medical and lay statements for credible evidence that the burn injury precludes effective operation of an automobile.

***Notes*:** * If the extent or cause of the limitation is not clear, request an examination for the joint or joints affected to clarify the extent of the disability and/or its link to the SC injury.
* Do not request a medical opinion as to whether the functional limitation of the severe burn scar prevents effective operation of an automobile. This is a legal, rather than a medical, determination.

***Reference***: For more information on considering subordinate issues and ancillary benefits, see M21-1 Part III, Subpart iv,6.B.3. |

#### 4. Notifying Claimants

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| Introduction | This topic contains information on notifying claimants of awards and denials, including * [potential automobile allowance eligibility](#PotentialEligibility), and
* [the reason for the denial of the automobile allowance claim](#DenialNotification).
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| Change Date | November 16, 2004 |

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| a. Notifying Claimants of Potential Automobile Allowance Eligibility | Use the table below to inform the claimant of potential eligibility after receiving the rating decision. |

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| If the Veteran or serviceperson is eligible for … | Then … |
| the automobile allowance | * furnish *VA Form 21-4502* in duplicate, if one is not of record, and
* instruct the claimant to complete and return both copies of the form.
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| adaptive equipment only | * furnish *VA Form 10-1394*, if available, and
* instruct the claimant to
* complete all items in Section I, except items 5 and 6
* specify the disability upon which the claim is based in item 7E, and
* return the completed form to the nearest VA medical facility.

***Note***: If *VA Form 10-1394* is not available, refer the claimant to the nearest VA prosthetics department. |

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| b. Notifying Claimants of the Reason for Denial of the Automobile Claim | If an application is *not* approved, fully inform the claimant of the* evidence considered, and
* reason for denial.

***Reference***: For more information on notice of disagreements (NODs), see M21-1, Part IX, Subpart i, 2.7. |

#### 5. Processing Claims for Automobile and Adaptive Equipment Allowance

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| Introduction | This topic contains information on processing claims for automobile and adaptive equipment allowance, including * [reviewing *VA Form 21-4502* and determining prior payment status](#Review4502)
* [applying for “other” types of conveyance](#OtherApps)
* [processing applications for “other” types of conveyance](#ProcessingOtherApps)
* [releasing *VA Form 21-4502* and *VA Form 10-1394* to the applicant for a conveyance](#Releasing4502)
* [entitlement based on vehicle lease](#VehicleLease), and
* [determining whether the vehicle is purchased or leased](#VehicleStatus).
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| Change Date | August 6, 2008 |

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| a. Reviewing VA Form 21-4502 and Determining Prior Payment Status | Follow the steps in the table below to review *VA Form 21-4502*, with Section I, *Application*, completed by the Veteran or serviceperson, and to determine whether prior payment has been made. |

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| Step | Action |
| 1 | Upon receipt of *VA Form 21-4502*, review the claims folder to determine whether it contains a copy of a prior *VA Form 21-4502* annotated by the finance activity indicating prior payment of the automobile allowance.* If *yes*, go to Step 5.
* If *no*, go to Step 2.

***Important***: Although a previously processed *VA Form 21-4502* is generally filed in the left flap of a claims folder, it is important to review the entire claims folder. |
| 2 | Does the Benefits Delivery Network (BDN)/Share M15 screen (or the equivalent in the Veterans Service Network ([VETSNET](http://vbaw.vba.va.gov/bl/21/Systems/vetsnet.htm))) display* a “*Y*” in the Auto Allowance Paid field, or
* the terminal digit of the year in which the last payment was made in the Auto Adaptive Equipment field?
* If *yes*, go to Step 5.
* If *no*, go to Step 3.
 |
| 3 | Review the *VA Form 21-4502* with the claims folder to determine whether a prior rating decision established entitlement to the automobile or adaptive equipment allowance.* If *yes*, go to Step 6.
* If *no*
* send a [38 U.S.C. 5103](http://www.law.cornell.edu/uscode/html/uscode38/usc_sec_38_00005103----000-.html) notice to the claimant
* refer the claim to the rating activity for consideration after the duty-to-notify/assist response period has expired, and
* go to Step 4.
 |
| 4 | Did the rating activity establish entitlement to either the automobile or adaptive equipment allowance?* If *yes*, go to Step 6.
* If *no*
* disallow the claim, and
* notify the claimant accordingly.
 |
| 5 | If the claim is for* an automobile or conveyance
* prior payment disqualifies the application, and
* inform the claimant accordingly, or
* adaptive equipment
* prior payment does *not* necessarily disqualify the application, and
* go to Step 6.
 |
| 6 | Does *any one* of the following situations exist?* The claimant was rated with the qualifying disability more than five years prior to receipt of *VA Form 21-4502.*
* The claims folder was recently transferred from another RO.
* There is indication that adaptive equipment payments have been made.
* If *yes*
* refer the claim to finance activity to review for prior payment, and
* after finance activity completes the review and returns the claim to authorization, go to Step 7.
* If *no*, go to Step 8.
 |
| 7 | Does finance activity’s review show that a prior payment for an automobile or conveyance was made?* If *yes*, disallow the claim.
* If *no*, go to Step 8.
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| 8 | Complete *VA Form 21-4502*, Section II, *Certificate of Eligibility,* by entering all the qualifying disabilities. |

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| 9 | Have *VA Form 21-4502* signed by the Veterans Service Center Manager (VSCM) or by a designee no lower than coach. |
| 10 | * Release the original *VA Form 21-4502* to the applicant and send him/her a notification letter, unless referral to an outpatient clinic is required, and
* clear the pending EP 290.

***Reference***: For more information on the requirement of referring claims to an outpatient clinic, see M21-1, Part IX, Subpart i, 2.6.f. |
| 11 | Place a copy of the form in the claims folder. |

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| b. Applying for “Other” Types of Conveyance | Prior to taking any action on the application, if the Type of Conveyance Applied For field on *VA Form 21-4502* is checked “Other,” make a determination of approval or disapproval of the type of conveyance in the form of an administrative decision in the format prescribed in M21-1, Part III, Subpart v, 1.A.2 for the approval of the VSCM or a designee no lower than a coach. |

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| c. Processing Applications for “Other” Types of Conveyances | Follow the steps in the table below when the applicant is found eligible for a conveyance other than an automobile or similar vehicle and has submitted a *VA Form 21-4502* with Section I, *Application*, completed. |

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| Step | Action |
| 1 | Complete and approve Section II, *Certificate of Eligibility*, of *VA Form 21-4502*. |
| 2 | Refer the form to the outpatient clinic with a copy of the rating decision.  |
| 3 | Annotate the copy of *VA Form 21-4502* to show the date and place of referral. |
| 4 | File a copy of *VA Form 21-4502* in the claims folder. |

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| d. Releasing VA Forms 21-4502 and 10-1394 to the Applicant for a Conveyance | After determination of any adaptive equipment for a conveyance other than an automobile or similar vehicle, the outpatient clinic must release *VA Form 21-4502* and supplemental authorization on *VA Form 10-1394* to the applicant. The applicant must send the forms to finance activity for payment. |

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| e. Entitlement Based on Vehicle Lease | The transfer of possession of a vehicle under a contract amounting to a lease does *not* qualify for the automobile allowance under [38 U.S.C. 3902(a)](http://www.law.cornell.edu/uscode/html/uscode38/usc_sec_38_00003902----000-.html). |

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| f. Determining Whether the Vehicle Is Purchased or Leased | Use the table below to determine whether the vehicle is purchased or leased. |

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| When the … | Then the agreement is a … |
| applicant and vendor are absolutely bound at the outset to a purchase and sale | purchase. |
| * applicant
* retains the option of considering the payments as rent, and
* is not obligated to purchase the vehicle at the end of the lease period, or
* dealer retains the right to take the car back even after the applicant meets all the payments due
 | lease. |

#### 6. Processing and Paying Eligibility Requests and Certificates of Eligibility

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| Introduction | This topic contains information on processing and paying eligibility requests and certificates of eligibility, including information on* [making payment if the vehicle was purchased before adjudicative action established eligibility](#PriorPurchase)
* [receiving eligibility requests for vehicles acquired prior to receipt of allowance](#ReceivingRequestsPrior)
* [processing eligibility requests for vehicles acquired prior to receipt of allowance](#ProcessingRequestsPrior)
* [finance activity’s recording and reporting on claims](#FinanceResponsibility)
* [preventing duplicate payment](#PreventDuplicate), and
* [referring adaptive equipment claims to the finance activity](#ReferringToFinance).
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| Change Date | November 16, 2004 |

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| a. Payment if the Vehicle was Purchased Before Adjudicative Action Established Eligibility | Ordinarily, an application on *VA Form 21-4502* is completed and approved by authorization activityto certify eligibility before the claimant takes possession of, or title to, the vehicle.However, payment of the automobile allowance is *not* precluded if the vehicle was purchased before the adjudicative action establishing eligibility, provided the claimant was actually eligible on the date on which the claimant signed the sales contract. The claimant’s eligibility is controlled by the effective date of the qualifying disability. |

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| b. Receiving Eligibility Requests for Vehicles Acquired Prior to Receipt of Allowance | The Veterans Service Center (VSC) receives requests in duplicate for eligibility data for reimbursement of adaptive equipment for a vehicle acquired prior to receipt of the automobile allowance from the medical center or outpatient clinic.The request identifies the claimant and the reason for the request.***Example***: *“Was claimant eligible under 38 U.S.C. 3902 on* **[Date expense was incurred for purchase, installation, repair, or reinstallation of adaptive equipment]***?*” |

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| c. Processing Eligibility Requests for Vehicles Acquired Prior to Receipt of Allowance | After receiving eligibility requests for vehicles acquired prior to receipt of the automobile allowance, use the table below to determine eligibility.  |

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| If … | Then … |
| the claimant has *not* previously filed a claim for the automobile allowance and adaptive equipment | determine basic eligibility as described in M21-1, Part IX, Subpart i, 2.1. |
| * there is evidence of entitlement or nonentitlement on record, or
* a determination of basic eligibility has already been made
 | * determine the eligibility of the claimant for an automobile allowance on the date furnished by the medical facility
* annotate the request form to show *“Claimant (was) (was not) eligible on* **[date furnished by the medical facility]***”*
* file the copy of the eligibility request in the claims folder, and
* return the original to the requester.
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| a request for eligibility for adaptive equipment only is received (based on SC ankylosis) | review the claims folder to determine if the Veteran is entitled. * If the Veteran is entitled, annotate the request to show
* eligibility because of SC ankylosis (loss of use) of one or both knees or hips, or
* that the Veteran is not eligible, and
* if eligibility is *not* established, furnish a copy of the rating decision.
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| d. Finance Activity Responsibility to Record and Report the Payment | When the original *VA Form 21-4502* with Section III completed by the claimant is returned and scheduled for payment, the finance activity* prominently annotates the copy of the application in the claims folder to show the
* date
* amount authorized for payment, and
* initials of the voucher auditor
* records the payment in the master record, and
* forwards a copy of the completed *VA Form 21-4502* to the outpatient clinic of jurisdiction.
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| e. Preventing Duplicate Payment | The VSC permanently retains the annotated copy of *VA Form 21-4502* in the award section of the claims folder to prevent duplicate payment in the event a subsequent claim is received. |

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| f. Referring Adaptive Equipment Claims to the Finance Activity | Refer all claims for adaptive equipment to the finance activity. It will determine if the adaptive equipment is preapproved for reimbursement based upon the effective date of entitlement, the Veteran’s SC disability, or if it is specifically authorized by the local VA outpatient clinic. If it is not, then the finance activity will forward the claim to the outpatient clinic serving the applicant's residence. The designee of the Chief Medical Director will consider the claim. The prosthetic department will signify its approval by completing *VA Form 10-1394*. This form is then returned to finance for payment.These claims may be independent of any initial application for an automobile, and may involve repair, replacement, or reinstallation of adaptive equipment. |

#### 7. Processing Notice of Disagreements (NODs) or Substantive Appeal

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| Change Date | November 16, 2004 |

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| a. Processing an NOD or Substantive Appeal | Use the table below to determine the next steps when the claimant files an NOD or substantive appeal relating to the denial of a claim for automobile and adaptive equipment allowance. |

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| If … | Then … |
| the disallowance resulted from the denial of basic eligibility | authorization furnishes the statement of the case (SOC) and certifies the appeal when the substantive appeal is received. |
| * the claimant has established basic eligibility to the automobile allowance and adaptive equipment, and
* the issue is the result of disallowance by the medical activity for certain adaptive equipment
 | * authorization transfers the claims folder to the medical facility for preparation of an SOC, and
* the medical facility returns the SOC and claims folder to authorization for release of the SOC.
 |
| a substantive appeal is filed because of disallowance by the medical activity | authorization forwards the claims folder to the medical activity for processing and certification of the appeal. |