## Chapter 2. Ratings for Special Purposes

#### 1. Rating Determination for Dependents Educational Assistance (DEA) Under 38 U.S.C. Chapter 35

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| Introduction | This topic contains information on the rating determination for DEA under 38 U.S.C. Chapter 35, including   * definition of DEA * who may be eligible for DEA * the definition of relationships for DEA purposes * Veteran eligibility for DEA purposes * survivor eligibility for DEA purposes under 38 U.S.C. 1318 * service member eligibility for DEA purposes * definition of a total disability * definition of a permanent disability * temporary total ratings and DEA * example of when a permanent and total (P&T) disability exists * responsibility for decision making related to DEA * when DEA is a rating issue * date of P&T disability * claim or subordinate issue * cancellation of review examination or determination that review examination should not be scheduled, and * regaining entitlement to Dependency and Indemnity Compensation (DIC) for a surviving spouse upon termination of a relationship upon which entitlement was previously precluded. |

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| Change Date | August 21, 2015 |

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| a. Definition: DEA | The [38 U.S.C. Chapter 35](https://www.law.cornell.edu/uscode/text/38/part-III/chapter-35) program, called ***Dependents Educational Assistance (DEA)***, is education or special restorative training for eligible dependents or survivors of certain Veterans and service members.  ***Reference***: For more information on DEA, see [38 CFR Part 21, Subpart C](http://www.ecfr.gov/cgi-bin/text-idx?SID=bb7e248aa6f9a23172b29e5f24e10035&node=sp38.2.21.c&rgn=div6). |

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| b. Who May Be Eligible for DEA | DEA may be awarded to a Veteran’s (or service member’s)   * child * spouse, or * surviving spouse. |

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| c. Definition of Relationships for DEA Purposes | ***Child*** means a son or daughter who meets the requirements of [38 CFR 3.57](http://www.ecfr.gov/cgi-bin/text-idx?SID=8c30dfd3d92e878a1bd55fe78a0e0752&node=se38.1.3_157&rgn=div8) except as to age and marital status.  ***Spouse*** means a person whose marriage meets the requirements of [38 CFR 3.50](http://www.ecfr.gov/cgi-bin/text-idx?SID=8c30dfd3d92e878a1bd55fe78a0e0752&node=se38.1.3_150&rgn=div8).  ***Surviving Spouse*** means a person whose marriage meets the requirements of [38 CFR 3.50(b)](http://www.ecfr.gov/cgi-bin/text-idx?SID=23b84374a1a70d2c8a2c1f615af94d92&node=se38.1.3_150&rgn=div8) or [38 CFR 3.52](http://www.ecfr.gov/cgi-bin/text-idx?SID=cb22634d82f7a9b6e99f3eb3c0820c09&node=se38.1.3_152&rgn=div8).  ***Notes***:   * As of September 4, 2013, enforcement of [38 CFR 3.50](http://www.ecfr.gov/cgi-bin/text-idx?SID=8c30dfd3d92e878a1bd55fe78a0e0752&node=se38.1.3_150&rgn=div8) ceased to the extent to allow Department of Veterans Affairs (VA) to administer spousal benefits to same-sex married couples, provided their marriages meet the requirements of [38 CFR 3.1(j)](http://www.ecfr.gov/cgi-bin/text-idx?SID=82bdb8fa7bcb7ada11d6899a98afee0f&node=se38.1.3_11&rgn=div8). * As of September 4, 2013, [38 CFR 3.52](http://www.ecfr.gov/cgi-bin/text-idx?SID=cb22634d82f7a9b6e99f3eb3c0820c09&node=se38.1.3_152&rgn=div8) permits VA to recognize certain marriages as *deemed valid marriages* for the purpose of gratuitous death benefits when those marriages are not recognized under State law. However the surviving spouse claiming benefits, among other requirements, must have entered into the marriage * without knowledge of the legal impediment to the marriage, and * one year or more before the Veteran’s death or for any period of time if a child was born of the marriage.   ***Reference***: For more information on VA recognition of marriage, and a list of States that have recognized same-sex marriage with permission and recognition dates, see the [Office of Public and Intergovernmental Affairs, Important Information on Marriage](http://www.va.gov/opa/marriage/) web site. |

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| d. Veteran Eligibility for DEA Purposes | For there to be basic eligibility to DEA based on the service of a Veteran, there must be *either*   * an other than dishonorable discharge, ***or*** * death in service.   ***In addition***, there must be *any* of the following   * permanent and total (P&T) service-connected (SC) disability * P&T SC disability on the date of the Veteran’s death, or * death resulting from an SC disability.   ***Note***: Disability or death under [38 U.S.C. 1151](http://www.law.cornell.edu/uscode/38/1151.html) does ***not*** establish eligibility. |

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| **e. Survivor Eligibility for DEA Purposes Under 38 U.S.C. 1318** | When Dependency and Indemnity Compensation (DIC) is awarded to a surviving spouse or child under [38 U.S.C. 1318](https://www.law.cornell.edu/uscode/text/38/1318), presume permanence of disability, *unless* the Veterans Benefits Administration (VBA) has specific evidence to the contrary, and award entitlement to DEA.  Do *not* develop for service connection (SC) of the cause of death in these cases. |

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| f. Service Member Eligibility for DEA Purposes | For there to be basic eligibility to DEA based on the service of an active duty member of the Armed Forces, there must be *either* of the qualifying factors listed below   * the service member * has been determined by VA to have a total disability permanent in nature incurred or aggravated in the line of duty during active military, naval, or air service * is hospitalized or receiving outpatient medical care, services, or treatment for such disability * is likely to be discharged or released from such service for such disability, and * the pursuit of a course of education for which benefits under [38 U.S.C. Chapter 35](https://www.law.cornell.edu/uscode/text/38/part-III/chapter-35) are sought by the individual's spouse or child occurred after December 22, 2006, ***or*** * the service member currently has one of the following statuses for a period of more than 90 days * missing in action * captured in the line of duty by a hostile force, or * forcibly detained or interned in the line of duty by a foreign Government or power. |

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| g. Definition: Total Disability | ***Total disability*** for purposes of DEA means     * schedular or extraschedular evaluations of 100 percent under, or by analogy to, any diagnostic code (DC) in [38 CFR Part 4](http://www.ecfr.gov/cgi-bin/text-idx?SID=433083b6a1e6e00f64b71b3d179f2442&tpl=/ecfrbrowse/Title38/38cfr4_main_02.tpl) * a combined evaluation of 100 percent, or * a total evaluation on the basis of individual unemployability (IU).   ***Reference***: For more information on a total disability evaluation for the loss  of paired organs or extremities under [38 U.S.C. 1160](http://www.law.cornell.edu/uscode/38/1160.html), see *[Kimberlin v.](http://vbaw.vba.va.gov/bl/21/Advisory/CAVCDAD.htm" \l "bmk)*  *[Brown](http://vbaw.vba.va.gov/bl/21/Advisory/CAVCDAD.htm" \l "bmk)*, 5 Vet.App. 174 (1993). |

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| h. Definition: Permanent Disability | ***Permanent disability*** means disabling manifestations reasonably certain to continue throughout the lifetime of the individual. |

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| i. Temporary Total Ratings and DEA | The mere existence of a total disability evaluation is not sufficient. There must be a P&T disability in order to award DEA. Total evaluations assigned under the following provisions are temporary   * prestabilization ([38 CFR 4.28](http://www.ecfr.gov/cgi-bin/text-idx?SID=433083b6a1e6e00f64b71b3d179f2442&node=se38.1.4_128&rgn=div8)) * extended VA hospitalization ([38 CFR 4.29](http://www.ecfr.gov/cgi-bin/text-idx?SID=433083b6a1e6e00f64b71b3d179f2442&node=se38.1.4_129&rgn=div8)) * convalescence ([38 CFR 4.30](http://www.ecfr.gov/cgi-bin/text-idx?SID=433083b6a1e6e00f64b71b3d179f2442&node=se38.1.4_130&rgn=div8)), and * any DC that provides for a limited period of total disability for convalescence such as joint replacements or cardiac procedures.   ***Exceptions***:   * Veterans who are considered P&T disabled prior to the assignment of a 100-percent evaluation under a DC with a limited duration and future examination will be considered permanently disabled during the total evaluation. The status of permanency is reconsidered following completion of the examination. ***Example***: A Veteran who is considered permanently and totally disabled because of a heart disorder based on metabolic equivalents (METs) undergoes cardiac transplantation surgery. The Veteran would continue to be considered P&T disabled for the duration of the one-year convalescent period under [38 CFR 4.104, DC 7019](http://www.ecfr.gov/cgi-bin/text-idx?SID=433083b6a1e6e00f64b71b3d179f2442&node=se38.1.4_1104&rgn=div8). * A temporary total evaluation on the date of death will establish a P&T disability. Total disability did persist from the date assigned until the end of the person’s life. |

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| j. Examples of When a P&T Disability Exists | In the following fact patterns, a P&T disability exists:   * Evidence at the time of evaluation affirmatively shows that the total disability will continue for the remainder of the person’s life. * Evidence at the time of evaluation does not specifically support that the total disability will continue for the remainder of the person’s life but does not show that the condition is likely to improve pursuant to [38 CFR 3.327(b)(2)](http://www.ecfr.gov/cgi-bin/text-idx?SID=433083b6a1e6e00f64b71b3d179f2442&node=se38.1.3_1327&rgn=div8). In such cases, a future examination control is inappropriate so the total disability rating is static; in the absence of re-evaluation, total disability is likely to continue for the remainder of the person’s life. * At or before the time of maturation of a future examination diary pertinent to the continuation of total disability, the future examination control is canceled because * the future examination control was erroneous under [38 CFR 3.327(b)(2)](http://www.ecfr.gov/cgi-bin/text-idx?SID=433083b6a1e6e00f64b71b3d179f2442&node=se38.1.3_1327&rgn=div8), or * evidence is received that changes the prior assessment that the condition was likely to improve. * Total disability has been in effect for 20 or more years per [38 CFR 3.951](http://www.ecfr.gov/cgi-bin/text-idx?SID=433083b6a1e6e00f64b71b3d179f2442&node=se38.1.3_1951&rgn=div8). In such cases, the total disability is protected and is therefore static and will continue for the remainder of the person’s life. * A qualifying individual with total disability dies. In such cases, the total disability is permanent because it persisted until the end of the person’s life.   ***Note***: For historical purposes, it should be noted that cases in which there is a 100-percent evaluation under the 1925 rating schedule also meet the criteria of a “total disability, permanent in nature,” for DEA, per [38 CFR 3.952](http://www.ecfr.gov/cgi-bin/text-idx?SID=433083b6a1e6e00f64b71b3d179f2442&node=se38.1.3_1952&rgn=div8). |

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| k. Responsibility for Decision Making Related to DEA | The DEA program is administered by Education Service which makes the ultimate determination on entitlement and payment of benefits.  The regional office (RO) completes the ***initial rating decision***, as defined by [38 CFR 21.3021(q)](http://www.ecfr.gov/cgi-bin/text-idx?SID=1ade2a2aaa470a921b0a3f407296613c&node=se38.2.21_13021&rgn=div8), establishing the basic eligibility factors such as SC for the cause of death or an SC P&T disability.  The RO does not actually determine the effective date of the DEA benefit. It makes a determination on the date of commencement of a P&T disability. [38 CFR 21.3021(r)](http://www.ecfr.gov/cgi-bin/text-idx?SID=1ade2a2aaa470a921b0a3f407296613c&node=se38.2.21_13021&rgn=div8) defines ***effective date of the P&T rating*** as the date from which VA considers that P&T disability commenced for the purpose of VA benefits as determined in the initial rating decision. |

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| l. When DEA Is a Rating Issue | Basic eligibility to DEA is a rating issue if   * there is a claim for DEA or Chapter 35 benefits * a beneficiary requests a determination on P&T disability * an SC total disability (schedular or total disability due to IU) is awarded or confirmed/continued, and permanency is also established (to include the determination that a future examination is not warranted) * a previously-set future examination control is canceled or discontinued while there is total disability * SC for the cause of death is awarded, or * in connection with a claim for death benefits, the Veteran was rated 100-percent disabled due to SC disabilities or entitled to IU on the date of death.   ***Exceptions***:   * Do not consider basic eligibility to DEA when that matter has been previously established, but do ensure eligibility is properly reflected in all systems. However, when evaluating a claim for survivors benefit(s), include DEA as an issue in the rating decision even though DEA was awarded on another basis during the Veteran’s lifetime. * When an SC total disability is awarded or confirmed and continued, you must consider whether there is basic entitlement to DEA. However, if permanency of disability is not proven, do not create a separate issue and make a decision that there is no basic eligibility. To show consideration, discuss in the evaluation issue that permanency of disability was not established or that improvement was indicated. * Do not consider basic eligibility to DEA when the qualifying disability is awarded P&T under [38 U.S.C. 1151](https://www.law.cornell.edu/uscode/text/38/1151).   ***Notes***:   * Not assigning a future examination control on a total disability, or canceling a future examination when there is total disability, implies that improvement is not indicated and that the disability is static. * A rating decision *must* be prepared whenever permanency of a disability is established, whether the permanency is based on new evidence and/or on cancellation of a future examination regardless of whether or not there appear to be any potentially eligible dependents. * Veterans Benefits Management System – Rating (VBMS-R) automatically establishes the ancillary issue of DEA/Chapter 35 entitlement when there is a combined evaluation of 100 percent and no future examination identified. * Consider entitlement to DEA without a rating decision when SC is granted for the cause of death without a rating decision   ***Reference***: For more information on the automatic establishment of the ancillary issue of DEA/Chapter 35 in VBMS-R, see the [*VBMS-R User Guide*](http://vbaw.vba.va.gov/VBMS/Resources_Technical_Information.asp). |

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| m. Date of P&T Disability - Claim or Subordinate Issue | Basic eligibility based on a P&T SC disability is only established when all criteria are met (SC, total disability, and permanence of disability).  Therefore, when DEA basic eligibility is established, the date of P&T disability is the ***later of***     * the date of claim, ***or*** * the date that the final criterion is factually established.   ***Note***: Attribute examination or other findings dated after the date of claim back to the date of claim *unless* there is specific evidence there was a change to total disability or to permanence of disability between the date of claim and the date of the evidence. ***Example***: A VA examination finding that contains an opinion on permanence of disability would be attributed to the date of claim *unless* there was specific evidence dated on or after the date of claim, and prior to the VA examination date, indicating that the total disability was likely to improve, in which case the date of permanence would be the date of examination. |

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| n. Date of P&T Disability - Cancellation of Review Examination or Determination That Review Examination Should Not Be Scheduled | Use the table below to determine the date of P&T disability when     * there is total disability but no indication of permanence based on an established future or review examination control, and * a DEA determination is subsequently necessitated by one of the following actions * cancellation of the future examination control prior to maturation, or * determination that a review examination should not be scheduled at the time the future examination control matures. |

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| When the action is based on ... | Then ... |
| a determination that the examination control was initially set up in *error*  ***Example***: In violation of [38 CFR 3.327(b)(2)](http://www.ecfr.gov/cgi-bin/text-idx?SID=a7e84d65cc8feca65617c401cd0039f4&node=se38.1.3_1327&rgn=div8), a future examination control is set for a condition, like amyotrophic lateral sclerosis (ALS), that can only be rated at 100 percent and is, by its nature, permanent. | set the date of P&T disability ***as if the future examination control was never established***.  ***Explanation***: The examination control was erroneous; therefore, the condition was static at the time of the rating decision establishing SC. |
| a difference in judgment rather than a specific error in the initial future examination control  ***Example***: The rating activity determines, prior to scheduling, that a review examination should not be scheduled as planned because the conclusion of likely future improvement used to set the future examination control was not well justified by the facts. | use the ***date of review*** or the ***date of cancellation*** for the date of P&T disability.  ***Explanation***: This is essentially a new determination of permanency on the date of review caused by reexamination of the facts. |
| new evidence that changes the prior assessment that the total disability is likely to improve, as indicated by a future examination control | usethe ***date that the new evidence is received*** for the date of P&T disability.  ***Exception***: When the new evidence consists of a VA medical record generated after the date of the rating in which the future examination control was set, use the date of the record. |

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| o. Regaining Entitlement to DIC for a Surviving Spouse Upon Termination of a Relationship Upon Which Entitlement Was Previously Precluded | Under the provisions of [38 U.S.C. 1311(e)](http://www.law.cornell.edu/uscode/html/uscode38/usc_sec_38_00001311----000-.html), a surviving spouse who is ineligible for DIC because he/she has remarried or is living with someone and holding himself/herself out openly as a spouse, may regain eligibility for DIC upon the termination of such relationships.  [VAOPGCPREC 13-98](http://www.va.gov/ogc/docs/1998/prc13-98.doc) held that eligibility for DIC regained under these provisions did not entitle the surviving spouse to Civilian Health and Medical Program (CHAMPVA) benefits, DEA, or loan guaranty benefits. However, *Public Law (PL) 106-117*, effective November 30, 1999, explicitly restored eligibility for these ancillary benefits.  ***Note***: These benefits are not payable for the period from October 1, 1998, to November 30, 1999.  ***Reference***: For more information on reinstatement of eligibility to DEA after November 30, 1999, see M21-1, Part IV, Subpart iii, 3.D.11.j. |

#### 2. Dental Treatment Purposes Ratings

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| Introduction | This topic contains general information on dental treatment purposes ratings, including   * interpreting claims raising dental issues * outpatient dental treatment classifications by the Veterans Health Administration (VHA) * [VHA and VBA roles in dental treatment eligibility determinations](#_c.__VHA) * determinations VBA makes for dental treatment purposes * when to prepare a rating for dental treatment purposes * service trauma for dental treatment purposes * conditions SC only for dental treatment purposes * dental conditions not considered SC even for treatment purposes * separate consideration of each condition for dental treatment purposes * dental conditions on service entry and aggravation for treatment purposes * [SC for dental treatment](#_k._SC_for) * [noted at entry and treated during service](#_k._SC_for), and * [extracted teeth from chronic periodontal disease](#_l._SC_for) * processing dental treatment claims involving multiple periods of service * tooth numbering systems * use of Navy dental records in determinations of SC * use of Army dental records to determine defective or missing teeth at enlistment, and * dental examinations in treatment claims. |

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| a. Interpreting Claims Raising Dental Issues | Use the table below to interpret claims raising dental issues. |

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| If the claim... | Then ... |
| seeks “service connection” or “compensation” for a ***dental disability*** | the issue is entitlement to SC for compensation purposes of the specified dental disability.  ***Note***: A ***dental*** ***disability*** denotes   * a disorder that can be * SC for compensation purposes, and * evaluated under, or by appropriate analogy to, the [38 CFR 4.150](http://www.ecfr.gov/cgi-bin/text-idx?SID=6b1ff7246870c3cd131925c19c59d381&node=se38.1.4_1150&rgn=div8), 9900-series DCs, and * a disorder that is not listed in [38 CFR 3.381(b)](http://www.ecfr.gov/cgi-bin/text-idx?SID=6b1ff7246870c3cd131925c19c59d381&node=se38.1.3_1381&rgn=div8) (treatable carious teeth, replaceable missing teeth, dental or alveolar abscesses, or periodontal disease) or in [38 CFR 3.381(f)](http://www.ecfr.gov/cgi-bin/text-idx?SID=6b1ff7246870c3cd131925c19c59d381&node=se38.1.3_1381&rgn=div8) (calculus, acute periodontal disease, third molars, impacted or malposed teeth, or other developmental defects). |
| *clearly* seeks “compensation” for a ***dental/oral condition*** that is ***not*** a ***dental disability***. | the issue is entitlement to SC for compensation purposes of the specified condition. |
| *clearly* seeks only “dental treatment,” “service connection for dental treatment purposes,” or equivalent wording | * refer the claim to the nearest VA medical center (VAMC) dental clinic of jurisdiction or eligibility clerk for determination of eligibility, and * do not develop and/or decide the claim unless or until the medical center requests a determination on *VA Form 10-7131*, *Exchange of Beneficiary Information and Request for Administrative Action*. |
| seeks “service connection” for a ***dental/oral condition*** that is ***not*** a ***dental disability*** | clarify the claim before taking other action.  ***Explanation***:   * SC can be established for *compensation purposes* and/or for *treatment purposes*. * RO personnel *must neither* * refer a claim to the medical center as a treatment claim if not clear, nor * decide the issue of SC for compensation purposes of a dental/oral condition that is *not* a dental disability unless the claimant is clearly seeking compensation. |
| seeks “service connection” for an *unspecified* dental disorder (wording such as “dental “or “dental condition”) | clarify the claim before taking other action.  ***Explanation***: The intent could be to seek a determination of SC for compensation purposes or for treatment purposes and the description is insufficient to determine whether the dental disorder or condition is a dental disability. |
| seeks treatment for a ***dental disability*** for which SC for compensation purposes is possible but not previously established | clarify the claim before taking other action.  ***Explanation***:   * The claimant could be seeking treatment only, but could also be eligible for SC for compensation purposes, which may be relevant treatment eligibility. * Treatment can be provided for * non-compensable and compensable dental disabilities that are SC for compensation purposes, and * dental conditions (treatable carious teeth, replaceable missing teeth, dental or alveolar abscesses, and periodontal disease) specified in [38 CFR 3.381(b)](http://www.ecfr.gov/cgi-bin/text-idx?SID=6b1ff7246870c3cd131925c19c59d381&node=se38.1.3_1381&rgn=div8). |

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| ***References***: For more information on   * determining the issues and clarifying claims, see M21-1, Part III, Subpart iv, 6.B * using a claimant’s entries on *VA Form 21-526* to determine which benefit he/she is seeking, see M21-1, Part III, Subpart ii, 2.B.1.c * sympathetic reading doctrine, see M21-1, Part III, Subpart iv, 6.B and M21-1, Part III, Subpart iv, 4.H.1.b, and * SC compensation for dental disabilities, see M21-1, Part IX, Subpart ii, 2.3. |

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| b. Outpatient Dental Treatment Classifications by VHA | The table below describes the most common dental treatment classifications used by the Veterans Health Administration (VHA) and provides a reference for more information on each classification. For the purpose of this topic, the focus will be on Classes II(a) and II. |

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| Dental Treatment Classifications | Reference |
| Class I: SC dental disability evaluated as compensable under [38 CFR 4.150](http://www.ecfr.gov/cgi-bin/text-idx?SID=dbdea4da49c37842374629dd5eb98199&node=se38.1.4_1150&rgn=div8), DC 9900 series | See M21-1, Part III, Subpart v, 7.B.1. |
| Class II: SC non-compensable dental condition or disability | See M21-1, Part III, Subpart v, 7.B.2. |
| Class II(a): SC non-compensable dental condition or disability adjudicated as resulting from combat wounds or service trauma | See M21-1, Part III, Subpart v, 7.B.3. |
| Class II(c): Former Prisoner of War (FPOW) status | See M21-1, Part III, Subpart v, 7.B.3.b. |
| Class III: Dental disability aggravating SC medical condition | See M21-1, Part III, Subpart v, 7.B.4. |
| Class IV: SC disabilities evaluated at 100 percent or entitlement to IU | See M21-1, Part III, Subpart v, 7.B.4. |
| Class V: Enrolled in vocational rehabilitation training | See M21-1, Part III, Subpart v, 7.B.4. |
| Class VI: Dental disability aggravating medical condition being treated under [38 U.S.C. 1710](http://law.cornell.edu/uscode/html/uscode38/usc_sec_38_00001710----000-.html) | See M21-1, Part III, Subpart v, 7.B.4. |

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| ***Important***: ***SC non-compensable*** (as used in Class II and IIa) means either   * ***dental disabilities*** that are SC for compensation purposes but only assigned a 0-percent evaluation, *or* * [38 CFR 3.381(b)](http://www.ecfr.gov/cgi-bin/text-idx?SID=1b568758d39c9037227f50210aa02e42&node=se38.1.3_1381&rgn=div8) conditions that can only be SC for treatment purposes and, therefore, are not entitled to any compensation payments. |

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| c. VHA and VBA Roles in Dental Treatment Eligibility Determinations | Authorization of dental treatment under [38 CFR 17.161](http://www.ecfr.gov/cgi-bin/text-idx?SID=4f498635f49a6467e35b541d4cb44fe4&node=se38.1.17_1161&rgn=div8) is normally handled by the Business Office at the VHA facility nearest the Veteran’s residence or the VHA Health Eligibility Center (HEC) without referral to the Veterans Service Center (VSC) and the rating activity.  However, when a claim for dental treatment received by VBA is referred to VHA, or if the Veteran requests treatment at a VHA clinic, VHA may complete *VA Form 10-7131* to request information or a rating from VBA for use in its determination of eligibility to treatment under Class I, II, II(a), II(c), or Class IV.  ***References***: For more information on   * the classes of dental treatment eligibility, see * M21-1, Part IX, Subpart ii, 2.2.b, or * M21-1, Part III, Subpart v, 7.B * determinations VBA may make for dental treatment purposes, see M21-1, Part IX, Subpart ii, 2.2.d, and * processing dental claims, see M21-1, Part III, Subpart v, 7.C. |

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| d. Determinations VBA Makes for Dental Treatment Purposes | Per [38 CFR 3.381(a)](http://www.ecfr.gov/cgi-bin/text-idx?SID=72c24fbb40020ffb68ee8788f6152b2f&node=se38.1.3_1381&rgn=div8), VHA may request determinations from VBA including, but not limited to, whether   * a dental condition or disability is a result of combat wounds * a dental condition or disability is a result of service trauma * the Veteran has a non-compensable SC dental condition or disability * the Veteran has a compensable SC disability * the Veteran is totally disabled due to an SC disability, or * the Veteran has FPOW status.   ***Note***: This does not mean a formal rating determination is always required. In many cases, eligibility for outpatient dental treatment can be decided by VHA without VBA rating action based on information of record such as   * one-time dental treatment for Veterans who apply within 180 days after military discharge (Class II) * FPOW status (Class II(c)), and * total disability (Class IV).   In lieu of a dental treatment rating decision, annotate *VA Form 10-7131* that the Veteran is totally disabled.  ***References***: For more information on   * conditions that can be SC only for treatment purposes, see M21-1, Part IX, Subpart ii, 2.2.g, and * verification of FPOW status for dental eligibility, see M21-1, Part III, Subpart v, 7.C.1.e. |

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| e. When to Prepare a Rating for Dental Treatment Purposes | As specified in [38 CFR 3.381(a)](http://www.ecfr.gov/cgi-bin/text-idx?SID=72c24fbb40020ffb68ee8788f6152b2f&node=se38.1.3_1381&rgn=div8), VBA will develop and prepare a decision for a claim for SC for dental treatment purposes ***only after*** VHA     * determines that a Veteran meets the basic eligibility requirements of [38 CFR 17.161](http://www.ecfr.gov/cgi-bin/text-idx?SID=dcb8741fc2b7e51f75f7feecbdc568b9&node=se38.1.17_1161&rgn=div8), and * ***requests*** that VBA make a determination (by providing required information or issuing a rating decision).   ***Important***: Provide ***only*** the determination requested. |

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| f. Service Trauma for Dental Treatment Purposes | Veterans who have a non-compensable dental condition (including tooth disorders for which SC for compensation purposes cannot be awarded) resulting from combat wounds or service trauma may receive any reasonably necessary treatment for the SC dental condition under Class II(a).  If VHA provides a *VA Form 10-7131* requesting a dental trauma rating, prepare a rating decision identifying the specific tooth number(s) that were injured and identify the service trauma.  ***Note***: ***Service trauma*** means an injury or wound produced by an external physical force, for example, striking the mouth on a vehicle, striking the mouth when falling, and biting down on a cherry pit. Proper in-service tooth extraction does not constitute service trauma as indicated in [*Nielson v. Shinseki*](http://vbaw.vba.va.gov/bl/21/advisory/CAVCDAD.htm#bmn), 607 F.3d 802 (Fed. Cir, 2010).    ***References***: For more information on   * service dental trauma, see [VAOPGCPREC 5-97](http://www.va.gov/ogc/docs/1997/PRC05-97.DOC) * conditions that can be SC only for treatment purposes, see M21-1, Part IX, Subpart ii, 2.2.g, and * tooth numbering systems, see M21-1, Part IX, Subpart ii, 2.2.n. |

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| g. Conditions SC Only for Dental Treatment Purposes | Per [38 CFR 3.381(b)](http://www.ecfr.gov/cgi-bin/text-idx?SID=91b3070f251cbacab07465efe00d4534&node=se38.1.3_1381&rgn=div8), the following conditions may not be considered compensable dental disabilities. They may be SC non-compensable dental conditions solely for the purpose of determining entitlement to Class II or Class II(a) dental treatment under [38 CFR 17.161](http://www.ecfr.gov/cgi-bin/text-idx?SID=dcb8741fc2b7e51f75f7feecbdc568b9&node=se38.1.17_1161&rgn=div8).   * treatable carious teeth * chronic periodontal disease (pyorrhea) * replaceable missing teeth, and * dental or alveolar abscesses.   ***Note***: This list is not exclusive and other dental conditions may qualify.  ***Important***: Periodontal disease is not treatable except for Class II purposes, even if secondary to an SC disability.  ***Reference***: For more information on SC compensation for dental disabilities, see M21-1, Part IX, Subpart ii, 2.3. |

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| h. Dental Conditions Not Considered SC Even for Treatment Purposes | Under [38 CFR 3.381(f)](http://www.ecfr.gov/cgi-bin/text-idx?SID=91b3070f251cbacab07465efe00d4534&node=se38.1.3_1381&rgn=div8), the following ***must not*** be considered SC even for treatment purposes   * calculus * acute periodontal disease * third molars, ***unless*** disease or pathology of the tooth * developed after 180 days or more of active service, or * was due to combat or in-service trauma, and * impacted or malposed teeth, and other developmental defects, ***unless*** disease or pathology of these teeth developed after 180 days or more of active service.   ***Notes***:   * Third molars injured by combat or other in-service trauma may be considered for Class II(a) purposes upon VHA request for a service trauma determination. * 180 days is the requisite service specified for Class II eligibility under [38 CFR 17.161(b)(1)(i)(A)](http://www.ecfr.gov/cgi-bin/text-idx?SID=d908dcaf3662d0b130cb09e0d141c1ea&node=se38.1.17_1161&rgn=div8) and [38 CFR 17.161(b)(1)(ii)](http://www.ecfr.gov/cgi-bin/text-idx?SID=d908dcaf3662d0b130cb09e0d141c1ea&node=se38.1.17_1161&rgn=div8). |

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| i. Separate Consideration of Each Condition for Dental Treatment Purposes | [38 CFR 3.381(c)](http://www.ecfr.gov/cgi-bin/text-idx?SID=6eb0167f253488c2e3042bbcbe7f1966&node=se38.1.3_1381&rgn=div8) specifies that the rating activity must consider each defective or missing tooth, each disease of the teeth, and each periodontal tissue separately to determine whether the condition was incurred or aggravated in the line of duty for the purpose of Class II(a) or II treatment eligibility.    ***Note***: This includes determinations of whether there was combat-related or other service trauma. |

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| j. Dental Conditions on Service Entry and Aggravation for Treatment Purposes | Under [38 CFR 3.381(d)](http://www.ecfr.gov/cgi-bin/text-idx?SID=6eb0167f253488c2e3042bbcbe7f1966&node=se38.1.3_1381&rgn=div8), the condition of teeth and periodontal tissues at the time of entry into active duty must be considered.  Treatment during service, including filling or extraction of a tooth or placement of a prosthesis, must not be considered evidence of aggravation of a condition that was noted at entry for treatment purposes, unless additional pathology developed after 180 days or more of active service. |

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| k. SC for Dental Treatment - Noted at Entry and Treated During Service | Use the table below to determine the proper action to take based on [38 CFR 3.381(e)](http://www.ecfr.gov/cgi-bin/text-idx?SID=6eb0167f253488c2e3042bbcbe7f1966&node=se38.1.3_1381&rgn=div8) guidance regarding SC for treatment purposes of dental conditions noted at entry and treated during service. |

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| If at entry a tooth is noted to be ... | And … | Then SC for dental treatment purposes must be … |
| normal | after active service of 180 days or more the previously normal tooth is   * filled, or * extracted | established. |
| filled | after active service of 180 days or more   * the filled tooth is extracted, or * the existing filling is replaced | established. |
| carious but restorable | after active service of 180 days or more     * extraction of the tooth is required, or * new caries develop after the carious tooth is filled | established. |
| carious and restorable | the carious tooth is merely filled in service | denied. |
| non-restorable | N/A | denied. |
| missing | N/A | denied. |

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| ***Note***: If service dental records are incomplete, consider the doctrine of reasonable doubt under [38 CFR 3.102](http://www.ecfr.gov/cgi-bin/text-idx?SID=6eb0167f253488c2e3042bbcbe7f1966&node=se38.1.3_1102&rgn=div8). |

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| l. SC for Dental Treatment – Extracted Teeth From Chronic Periodontal Disease | [38 CFR 3.381(g)](http://www.ecfr.gov/cgi-bin/text-idx?SID=6eb0167f253488c2e3042bbcbe7f1966&node=se38.1.3_1381&rgn=div8) states that teeth extracted because of chronic periodontal disease may be SC for treatment purposes if they were extracted after 180 days or more of active service, per [38 U.S.C. 1712](http://law.cornell.edu/uscode/html/uscode38/usc_sec_38_00001712----000-.html). |

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| m. Processing Dental Treatment Claims Involving Multiple Periods of Service | If a Veteran has two periods of service and, during the second period of service, incurs a new condition in the same tooth or aggravates a dental condition that was already SC based on the first period of service, show the incurrence of the new condition or the aggravation of the pre-existing condition in the second period of service.  This is done to ensure the Veteran’s entitlement to treatment based on the subsequent service. |

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| n. Tooth Numbering Systems | Tooth numbering by VA and service departments has been the same since 1953, but differed previously. The table below shows the numbering systems for the service departments prior to 1953 and the VA numbering system. |

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| --- | --- | --- |
|  | Upper |  |
|  | Right | Left |
| VA | 1 2 3 4 5 6 7 8 | 9 10 11 12 13 14 15 16 |
| Army World War I (WWI) | 8 7 6 5 4 3 2 1 | 1 2 3 4 5 6 7 8 |
| Army World War II (WWII) | 8 7 6 5 4 3 2 1 | 1 2 3 4 5 6 7 8 |
| Navy | 1 2 3 4 5 6 7 8 | 9 10 11 12 13 14 15 16 |
|  |  |  |
|  | Lower |  |
|  | Right | Left |
| VA | 32 31 30 29 28 27 26 25 | 24 23 22 21 20 19 18 17 |
| Army (WWI) | 8 7 6 5 4 3 2 1 | 1 2 3 4 5 6 7 8 |
| Army (WWII) | 16 15 14 13 12 11 10 9 | 9 10 11 12 13 14 15 16 |
| Navy | 17 18 19 20 21 22 23 24 | 25 26 27 28 29 30 31 32 |

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| ***Note***: The Coast Guard and Public Health Service (PHS) have the same tooth numbering system as VA. |

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| o. Use of Navy Dental Records in Determinations of SC | Copies of dental records have not always been usable for rating purposes because, prior to 1953, different colored markings on the original Naval records represented either disease or fillings and these markings could not be distinguished on photocopies.  Accept the record of subsequent dental operations on the bottom of *Navy* *Form H-4, Navy Dental Records (Examination)*, as sufficient to authorize SC, even though the reverse side of that form may not record the insertion of fillings. |

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| p. Use of Army Dental Records to Determine Missing or Defective Teeth at Enlistment | Army regulations require that every individual entering active service for more than 60 days has an initial dental examination within 60 days of entry on active service.  In the absence of a suitable enlistment examination, for example, if the only examination notation was indefinite, such as “*acceptable*,” “*non-disqualifying*,” or “*not examined*,” accept the first examination within a reasonable period after entrance on active duty as recording the missing or defective teeth at enlistment.  ***Note***: Facts in individual cases, such as when a first examination report is *more* than 90 days after enlistment, may warrant an exception to this general rule. |

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| q. Dental Examinations in Treatment Claims | Generally, a claim for dental treatment may be rated on service records without a dental examination. However, a dental examination may be required to identify teeth or chronic periodontal disease for which SC for treatment or examination purposes may be in order under [38 CFR 17.160](http://www.ecfr.gov/cgi-bin/text-idx?SID=87a4869ce600f0ba081e03273dc15d68&node=se38.1.17_1160&rgn=div8). |

#### 3. SC Compensation for Dental Disabilities

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| Introduction | This topic contains information on SC compensation for dental disabilities including   * SC for dental and oral disabilities for compensation purposes * dental examinations in compensation claims for a dental disability * denying dental claims for SC compensation * evaluating bony abnormalities of the jaw * the definition and evaluation guidelines for bruxism, and * avoiding pyramiding with conditions rated on inter-incisal motion. |

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| Change Date | March 10, 2016 |

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| a. SC for Dental and Oral Disabilities for Compensation Purposes | Claims for SC of ***dental and oral disabilities*** are developed and decided pursuant to the same policies and procedures that apply to SC for compensation purposes of conditions of other body systems.  Notify VHA when the rating decision establishing SC of a compensable dental disability for compensation purposes is prepared.  ***Reference***: For more information on interpreting claims raising dental issues and the definition of a dental disability, see M21-1, Part IX, Subpart ii, 2.2.a. |

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| b. Dental Examinations in Compensation Claims for a Dental Disability | For more information on when an examination is necessary under the duty to assist for a dental or other disability, see M21-1, Part I, 1.C.3. |

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| c. Denying Dental Claims for SC Compensation | Consider the issue of SC for compensation purposes for the conditions listed in [38 CFR 3.381(b)](http://www.ecfr.gov/cgi-bin/text-idx?SID=45f753b1fa4f9dc13bd88917f5e28c46&node=se38.1.3_1381&rgn=div8) in a formal rating and deny the claim if   * a Veteran claims compensation for one of these conditions, and * the record shows no complicating condition that is subject to SC.   In the *Narrative* of the rating decision, discuss that under [38 CFR 3.381(b)](http://www.ecfr.gov/cgi-bin/text-idx?SID=45f753b1fa4f9dc13bd88917f5e28c46&node=se38.1.3_1381&rgn=div8), SC for such conditions can be established only for treatment purposes, and note if dental treatment in service was limited to conditions affecting only the teeth or gums. |

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| d. Evaluating Bony Abnormalities of the Jaw | Evaluate bony abnormalities of the jaw that are subject to SC according to the 9900-series DCs contained in [38 CFR 4.150](http://www.ecfr.gov/cgi-bin/text-idx?SID=ad5afaad247decb9c068c2a68a10f639&mc=true&node=se38.1.4_1150&rgn=div8). |

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| **e. Definition and Evaluation Guidelines for Bruxism** | ***Bruxism*** is defined as excessive grinding of the teeth and/or excessive clenching of the jaw.  Bruxism cannot be evaluated as a stand-alone SC disability. However, as the condition may be a symptom of an anxiety disorder, temporomandibular joint (TMJ) dysfunction, or some other disability, it may be considered on a secondary basis as a symptom of an SC disability for rating purposes.  ***Important***: If an examination solely diagnoses bruxism and does not provide an etiology for bruxism, return the examination to the examiner and request the etiology of bruxism in order to determine whether bruxism is secondary to an SC disability.  ***References***: For more information on   * requirements for examination reports generally, see M21-1, Part III, Subpart iv, 3.D.2 * bruxism examination report review, see M21-1, Part III, Subpart iv, 3.D.4, and * returning examination reports as insufficient for rating purposes, see M21-1, Part III, Subpart iv, 3.D.3. |

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| f. Avoiding Pyramiding With Conditions Rated on Inter-Incisal Motion | In assigning an evaluation for TMJ or any other dental disability on the basis of limited motion of temporomandibular articulation under [38 CFR 4.150, DC 9905](http://www.ecfr.gov/cgi-bin/text-idx?SID=6b1ff7246870c3cd131925c19c59d381&node=se38.1.4_1150&rgn=div8), ***do not*** assign separate evaluations for limited inter-incisal motion involving each side of the jaw. Doing so is pyramiding. Only ***one*** evaluation may be assigned.  If both sides of the jaw are affected, use the limitation of motion on the side that affords the highest evaluation.  ***Example***: Inter-incisal motion is limited to 35 mm on the right and 25 mm on the left. Assign a single 20-percent evaluation under [38 CFR 4.150, DC 9905](http://www.ecfr.gov/cgi-bin/text-idx?SID=6b1ff7246870c3cd131925c19c59d381&node=se38.1.4_1150&rgn=div8). ***Do not*** assign separate 10-and 20-percent evaluations.  ***Reference***: For more information on the prohibition against pyramiding, see [38 CFR 4.14](http://www.ecfr.gov/cgi-bin/text-idx?SID=0b1b7037b50279cb10b9490a306fea5d&mc=true&node=se38.1.4_114&rgn=div8). |

#### 4. Rating for Medical Care

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| Introduction | This topic contains information on rating for medical care, including   * RO role in eligibility determinations for medical care, and * taking rating action for medical care purposes. |

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| Change Date | March 10, 2016 |

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| a. RO Role in Eligibility Determinations for Medical Care | When a Veteran applies for medical treatment under [38 U.S.C. 1710](http://law.cornell.edu/uscode/html/uscode38/usc_sec_38_00001710----000-.html), the VHA medical facility determines the Veteran’s eligibility and enrollment category. However, the medical facility may require information from the RO in order to make its determination.  VHA submits requests for VBA information or determinations for medical care purposes   * via Compensation and Pension Records Interchange (CAPRI), or * on *VA Form 10-7131*.   What action to take after a VHA request is received will depend on the nature of the request. The request will advise what information or determination by VBA is required.  ***Reference***: For more information on   * information exchange between VBA and VHA for purposes of medical care determinations, see M21-1, Part III, Subpart v, 7.A.1.a * respective roles in determinations of eligibility for medical treatment, see M21-1, Part III, Subpart v, 7.A.1.b, and * ratings for the purpose of treatment under [38 U.S.C. 1702](http://law.cornell.edu/uscode/html/uscode38/usc_sec_38_00001702----000-.html), see, M21-1, Part IX, Subpart ii, 2.5. |

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| b. Taking Rating Action for Medical Care Purposes | Guidance for determining whether rating activity action is required is provided in M21-1, Part III, Subpart v, 7.A.4.  Process requests requiring rating action using the table in M21-1, Part III, Subpart v, 7.A.4.b.  ***Important***: Individuals who are barred from receiving payment for *SC compensation* because of a discharge under other than honorable conditionscan still receive medical care benefits for a disability incurred or aggravated in the line of duty during active military naval or air service as provided by [38 CFR 3.360](http://www.ecfr.gov/cgi-bin/text-idx?SID=1264aa8161836a86d3513e78f421a208&mc=true&node=se38.1.3_1360&rgn=div8), and M21-1, Part III, Subpart v, 1.B.4. In making determinations of SC for medical care eligibility purposes in such a case, use the same criteria that are applicable to determinations of service incurrence and line of duty when there is no character of discharge (COD) bar.  ***Note***: When entering a decision in VBMS-R allowing SC for treatment purposes, do not enter a disability percentage. The generated text notes that service connection is granted for treatment purpose only under 38 U.S.C. Chapter 17, and compensation is not payable for the condition. The effective date field is disabled. Do not attempt to assign an effective date.  ***References***: For more information on   * eligibility for hospital, nursing home, domiciliary and medical care, see M21-1, Part III, Subpart v, 7.A * action to take depending on the nature of the VHA request, see M21-1, Part III, Subpart v, 7.A.1.d * the definitional requirements of Veteran status including COD, see M21-1, Part III, Subpart ii, 6.1.a * statutory bar to benefits and COD, see M21-1, Part III, Subpart v, 1.B * COD determinations and healthcare, see M21-1, part III, Subpart v, 1.B.4 * checking for COD, see M21-1, Part III, Subpart ii, 1.A.2, and * administrative decisions, including on COD, see M21-1, Part III, Subpart v, 1.A. |

#### 5. SC of Mental Conditions Under 38 U.S.C. 1702

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| Introduction | This topic contains information on the evaluation of mental conditions for SC under 38 U.S.C. 1702, including   * SC of mental conditions for treatment purposes under 38 U.S.C. 1702 * when VBA must decide the issue of SC under 38 U.S.C. 1702 * 38 U.S.C. 1702 criteria for SC of mental conditions for treatment purposes * VHA requests for 38 U.S.C. 1702 determinations * addressing a VHA-requested 38 U.S.C. 1702 determination in the rating decision, and * addressing the subordinate issue of 38 U.S.C. 1702 in the rating decision. |

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| Change Date | July 20, 2015 |

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| a. SC of Mental Conditions for Treatment Purposes Under 38 U.S.C. 1702 | [38 U.S.C. 1702](http://law.cornell.edu/uscode/html/uscode38/usc_sec_38_00001702----000-.html) creates a presumption of SC for the purpose of eligibility for VA treatment for   * psychoses based on wartime service, or * any mental condition based on Gulf War service.   Claims for medical or psychological treatment are normally determined by VHA without referral to VBA. However, a medical facility may require information or a determination from VBA.  ***Reference***: For more information on determining eligibility for medical care, see M21-1, Part III, Subpart v, 7.A.1. |

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| b. When VBA Must Decide the Issue of SC Under 38 U.S.C. 1702 | VBA must decide the issue of SC for a psychosis or other mental condition under [38 U.S.C. 1702](http://law.cornell.edu/uscode/html/uscode38/usc_sec_38_00001702----000-.html) when     * requested by VHA, or * when a decision maker finds the facts ***support*** the [38 U.S.C. 1702](http://law.cornell.edu/uscode/html/uscode38/usc_sec_38_00001702----000-.html) criteria in the course of denying SC for compensation purposes for * a psychosis based on wartime service, or * any mental disorder based on Gulf War service.   ***References***: For more information on   * the [38 U.S.C. 1702](http://law.cornell.edu/uscode/html/uscode38/usc_sec_38_00001702----000-.html) criteria, see M21-1, Part IX, Subpart ii, 2.5.c * VHA-requested determinations, see M21-1, Part IX, Subpart ii, 2.5.d * rating decision requirements, see M21-1, Part IX, Subpart ii, 2.5.e, and * subordinate issues and ancillary benefits, see M21-1, Part III, Subpart iv, 6.B.2. |

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| c. 38 U.S.C. 1702 Criteria for SC of Mental Conditions for Treatment Purposes | [38 U.S.C. 1702](http://law.cornell.edu/uscode/html/uscode38/usc_sec_38_00001702----000-.html) provides that SC is presumed for VA treatment purposes for a Veteran of   * any war period who develops a psychosis, or * the Gulf War who develops any mental illness   within   * two years after the date of separation (under other than dishonorable conditions) from such service, *and* * two years after the end of the war period.   ***Important***:*Both* criteria must be met for the presumption to arise. The presumption that the qualifying disability was incurred in service for treatment purposes does *not* apply if   * a qualifying mental illness develops *more* than two years after the end of the *war period*, even if the condition develops less than, or at, two years after *discharge*, or * a qualifying mental illness develops more than two years after *service discharge* even if that was during wartime or less than, or at, two years thereafter.   ***Note***: It is *not* necessary for the Veteran to have had 90 days of service to qualify.  ***Reference***: For a definition of “psychosis,” see   * [38 CFR 3.384](http://www.ecfr.gov/cgi-bin/text-idx?SID=45f753b1fa4f9dc13bd88917f5e28c46&node=se38.1.3_1384&rgn=div8), and * M21-1, Part III, Subpart iv, 4.H.1.g. |

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| d. VHA Requests for 38 U.S.C. 1702 Determinations | The table below describes the process when VHA requests a VBA determination of SC under [38 U.S.C. 1702](http://law.cornell.edu/uscode/html/uscode38/usc_sec_38_00001702----000-.html). |

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| Stage | Description |
| 1 | VHA submits requests for determination of SC accompanied by   * a copy of a completed * *VA Form 10-10EZ, Application for Health Benefits*, or * *VA Form 10-10EZR, Health Benefits Renewal Form*, and * *VA Form 10-10m, Medical Certificate*, and * any other available professional report submitted with, or developed in conjunction with, the application for hospital or outpatient treatment. |
| 2 | Follow the procedure for processing a request for rating activity action in M21-1, Part III, Subpart v, 7.A.4.b. |

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| e. Addressing a VHA-Requested 38 U.S.C. 1702 Determination in the Rating Decision | Use the table below when issuing a rating decision in response to a ***request by VHA*** for a [38 U.S.C. 1702](http://law.cornell.edu/uscode/html/uscode38/usc_sec_38_00001702----000-.html) determination. |

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| If the criteria for SC under [38 U.S.C. 1702](http://law.cornell.edu/uscode/html/uscode38/usc_sec_38_00001702----000-.html) ... | Then ... |
| are met | * the decision should be a separate issue in the rating decision, and * the *Codesheet* will show the text *Active Psychosis/GW Mental, SC for Treatment Only*. |
| are ***not*** met | * the decision should be a separate issue in the rating decision, and * the *Codesheet* will show the text *Active Psychosis/GW Mental, NSC-1702*. |

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| ***Note***: When addressing a VHA request for a 1702 determination, the issue of SC of a mental condition for treatment purposes under the provisions of [38 U.S.C. 1702](http://law.cornell.edu/uscode/html/uscode38/usc_sec_38_00001702----000-.html) ***should*** ***always*** be listed as a separate issue.  ***Reference***: For more information on addressing the subordinate or inferred issue of [38 U.S.C. 1702](http://law.cornell.edu/uscode/html/uscode38/usc_sec_38_00001702----000-.html) in the rating decision, see M21-1, Part IX, Subpart ii, 2.5.f. |

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| f. Addressing the Subordinate Issue of 38 U.S.C. 1702 in the Rating Decision | Use the table below when considering the subordinate issue of SC for treatment purposes under [38 U.S.C. 1702](http://law.cornell.edu/uscode/html/uscode38/usc_sec_38_00001702----000-.html) based on a denial of SC for compensation purposes for   * a psychosis based on wartime service, or * any mental illness based on Gulf War service. |

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| If the criteria for SC under [38 U.S.C. 1702](http://law.cornell.edu/uscode/html/uscode38/usc_sec_38_00001702----000-.html) ... | Then ... |
| are established | * in the rating decision address the subordinate issue as a separate decision from the decision on the mental condition, and * ensure the rating *Codesheet*, shows *Active Psychosis/GW Mental--SC for Treatment Only* or equivalent.   ***Exception***: If a previous decision has awarded entitlement, there is no need to address it again. |
| are ***not*** established | do not address the matter at all in the rating decision. |

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| ***Important***: SC for treatment purposes under [38 U.S.C. 1702](https://www.law.cornell.edu/uscode/text/38/1702) is not a subordinate issue and should not be decided in cases for which   * a [38 U.S.C. 1702](https://www.law.cornell.edu/uscode/text/38/1702) determination has not been requested by VHA * a bereavement diagnosis is the only diagnosis noted in the mental examination, as this is considered an acute and transitory condition, or * a claim for SC for compensation purposes of a psychosis based on any wartime service or any mental illness based on Gulf War service is denied, *and* under the facts of record the [38 U.S.C. 1702](https://www.law.cornell.edu/uscode/text/38/1702) presumption would not arise. |

#### 6. Insanity Determinations

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| Introduction | This topic contains information on insanity determinations, including   * when a rating decision for insanity is required, and * considering evidence and information to include in a determination of insanity. |

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| Change Date | November 21, 2006 |

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| a. When a Rating Decision for Insanity Is Required | A rating decision for the issue of insanity is required to determine whether the Veteran was insane at the time of commission of an act or acts that resulted in a service department COD, line-of-duty, or misconduct determination which precludes entitlement to benefits.  Evaluations of insanity are prepared only at the request of the authorization activity because of a   * specific allegation by the claimant, or * question raised by the evidence in the claims folder.   ***Reference***: For more information on submitting cases to the rating activity for a determination on the sanity of a beneficiary involved in homicide, see M21-1, Part III, Subpart v, 1.F.3.f. |

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| b. Considering Evidence and Information to Include in a Determination of Insanity | Prior to making a determination as to whether a Veteran was insane at the time he/she committed an offense leading to his/her court-martial, discharge, or resignation   * request all obtainable evidence related to the period involved * apply the definition of insanity found in [38 CFR 3.354](http://www.ecfr.gov/cgi-bin/text-idx?SID=45f753b1fa4f9dc13bd88917f5e28c46&node=se38.1.3_1354&rgn=div8), and * state in the *Narrative* of the rating decision, *The Veteran* **[was] [was not]** *insane at the time* **[he] [she]** *committed an offense*.   ***Result***: A rating decision finding the Veteran to have been sane at the time in question, supported by the necessary explanation, is sufficient as to the particular period of service or offense at issue. |

#### 7. Rating Determination for Veteran’s Civil Service Disability Preference

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| Introduction | This topic contains information on rating determination for Veteran’s civil service disability preference, including   * certifying civil service disability preference * requirements for civil service evaluations * when a rating is required for civil service preference, and * what to include in [the rating *Narrative* for civil service preference determinations](#_d.__Rating_1). |

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| Change Date | November 16, 2004 |

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| a. Certifying Civil Service Disability Preference | For the purpose of certifying civil service disability preference, an SC disability may be assigned an evaluation of “*less than ten percent*” for any directly or presumptively SC disease or injury that exhibits some extent of actual impairment. |

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| b. Requirements for Civil Service Evaluations | For noncombat disabilities, there must be ascertainable residuals before a “*less than ten percent*” evaluation may be assigned for civil service preference purposes. ***Ascertainable residuals*** means symptoms that can be objectively verified on examination.  ***Note***:Combat incurred non-compensable disabilities warrant an evaluation of “*less than ten percent*.” |

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| c. When a Rating Is Required for Civil Service Preference | A rating is required for civil service preference purposes if a previous rating did not establish entitlement to compensation, which includes special monthly compensation (SMC) or entitlement under [38 CFR 3.324](http://www.ecfr.gov/cgi-bin/text-idx?SID=4b33d16360e924f517a662bc49e97372&node=se38.1.3_1324&rgn=div8). |

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| d. What to Include in the Rating Narrative for Civil Service Preference Determinations | In the *Narrative* of the civil service preference determination, show the DC, diagnosis, and an evaluation of either   * “*less than ten percent*,” or * “*The noncompensable service-connected disabilities have no ascertainable residuals*.” |

#### 8. Extending the Delimiting Dates for Educational Assistance

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| Introduction | This topic contains information on extending the delimiting dates for educational assistance based on disability, including   * Regional Processing Office (RPO) jurisdiction in claims for extension of the educational assistance delimiting date * when the delimiting dates for educational assistance may be extended * determining whether the disability was the result of willful misconduct * when medical infeasibility to pursue training may be found for any period during which the claimant was employed full-time * time limit for requesting a delimiting date extension * when to refer claims for delimiting date extensions to the rating activity * processing claims for delimiting date extensions * reviewing medical records for evidence relating to non-Education Service benefits, and * rating conclusion for determinations of delimiting date extensions. |

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| Change Date | February 3, 2011 |

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| a. RPO Jurisdiction in Claims for Extension of the Educational Assistance Delimiting Date | The jurisdiction of all rating determinations required in claims for extension of the educational assistance delimiting date resides with the Regional Processing Offices (RPO) in   * Atlanta * Buffalo * St. Louis, and * Muskogee.   If an RO receives a request for a delimiting date extension, the RO should route the request to the RPO of jurisdiction.  ***Note***: The address of the claimant’s educational facility determines which RPO has jurisdiction over the claim.  ***Reference***: For more information on the alignment of ROs and RPOs, see M21-1, Part IX, Subpart ii, 2, 11. |

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| b. When the Delimiting Dates for Educational Assistance May Be Extended | The delimiting date for educational assistance may be extended for the following beneficiaries if the rating activity determines that mental or physical disability, not the result of misconduct, prevented their initiation or completion of a chosen program of education within the applicable 10, 12, 15, or 20-year period of eligibility   * Veterans eligible for [38 U.S.C. Chapter 30](http://law.cornell.edu/uscode/html/uscode38/usc_sup_01_38_10_III_20_30.html), [38 U.S.C. Chapter 31](http://law.cornell.edu/uscode/html/uscode38/usc_sup_01_38_10_III_20_31.html), [38 U.S.C. Chapter 32](http://law.cornell.edu/uscode/html/uscode38/usc_sup_01_38_10_III_20_32.html), and [38 U.S.C. Chapter 33](http://www.law.cornell.edu/uscode/html/uscode38/usc_sup_01_38_10_III_20_33.html) benefits * reservists eligible for [10 U.S.C. Chapter 1606](http://law.cornell.edu/uscode/html/uscode10/usc_sup_01_10_10_E_20_IV_30_1606.html) benefits, and * spouses or surviving spouses eligible for [38 U.S.C. Chapter 33](http://www.law.cornell.edu/uscode/html/uscode38/usc_sup_01_38_10_III_20_33.html) or [38 U.S.C. Chapter 35](http://law.cornell.edu/uscode/html/uscode38/usc_sup_01_38_10_III_20_35.html) benefits. |

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| c. Determining Whether the Disability Was the Result of Willful Misconduct | A determination as to whether the disability was the result of willful misconduct is made by the rating activity or authorization activity according to the provisions of M21-1, Part III, Subpart v, 1.D. |

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| d. When Medical Infeasibility to Pursue Training May Be Found for Any Period During Which the Claimant Was Employed Full-Time | Medical infeasibility to pursue training ordinarily may *not* be found for any period during which the claimant was employed full-time *unless*   * the medical evidence indicates the employment was part of a medically-prescribed rehabilitation program * the employment was of a marginal nature and the disability can reasonably be deemed to have restricted the claimant from concurrent pursuit of the chosen program of training, or * the nature of the disability actually precluded the claimant from pursuing the desired program of training. |

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| e. Time Limit for Requesting a Delimiting Date Extension | Use the table below to determine the appropriate time limit for requesting a delimiting date extension. |

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| If applying for educational benefits under … | Then … |
| [38 U.S.C. Chapter 31](http://www.law.cornell.edu/uscode/html/uscode38/usc_sup_01_38_10_III_20_31.html) | there is no time limitation for requesting a delimiting date extension. |
| * [38 U.S.C. Chapter 30](https://www.law.cornell.edu/uscode/text/38/part-III/chapter-30) * [38 U.S.C. Chapter 32](http://www.law.cornell.edu/uscode/html/uscode38/usc_sup_01_38_10_III_20_32.html) * [38 U.S.C. Chapter 33](http://law.cornell.edu/uscode/html/uscode38/usc_sup_01_38_10_III_20_33.html) * [38 U.S.C. Chapter 35](http://www.law.cornell.edu/uscode/html/uscode38/usc_sup_01_38_10_III_20_35.html), and * [10 U.S.C. Chapter 1606](https://www.law.cornell.edu/uscode/text/10/subtitle-E/part-IV/chapter-1606) | the application for an extension of the delimiting date must be received in VA within one year of the latter   * the last date of the delimiting period, otherwise applicable, or * the termination of the period of mental or physical disability. |

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| f. When to Refer Claims for Delimiting Date Extensions to the Rating Activity | Veterans Claims Examiners at RPOs refer claims for delimiting date extensions to the rating activity of the RO co-located with the RPO when the following evidence is of record   * the claimant’s statement as to * the origin, if known, and nature of the disability upon which the claim for extension is based and the period(s) during which training was precluded because of disability * employment history during the period(s) in which educational pursuit was prevented by disability, including the dates and weekly hours of employment, names and addresses of employers, and types of jobs held, and * the exceptional circumstances which prevented the claimant from enrolling in or pursuing a program of education during the period of disablement, if the disabling period was 30 days or less, and * medical evidence of the disability, including a statement by a physician, indicating * diagnosis and treatment, the period(s) of disability, the dates during which, in the physician’s opinion, training was medically infeasible, and an evaluation of current feasibility of employment or training, and * hospital reports, laboratory tests, and other relevant medical evidence referred to by the claimant or the attending physician. |

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| g. Processing Claims for Delimiting Date Extensions | The table below describes the actions the RPOs and the co-located ROs take when processing claims for delimiting date extensions. |

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| Step | Action |
| 1 | An RPO receives a claim for a delimiting date extension. |
| 2 | Is there sufficient evidence of record to warrant referral of the claim to the rating activity at the co-located RO?   * If *yes*, the RPO * scans the evidence into The Image Management System (TIMS), an electronic database * forwards the hard copy of the evidence to the RO rating activity, and * goes to Step 4. * If *no*, the RPO * sends a development letter to the claimant, and * goes to Step 3.   ***Reference***: For more information on when to refer claims for delimiting date extensions to the rating activity, see M21-1, Part IX, Subpart ii, 2.8.f. |
| 3 | Did the claimant provide the evidence requested?   * If *yes*, the RPO * scans the medical evidence into TIMS * forwards the hard copy of the medical evidence to the RO rating activity, and * goes to Step 4. * If *no*, the RPO * denies the claim, and * notifies the claimant of the decision. |
| 4 | The RO rating activity   * prepares a rating decision, and * furnishes the RPO * a copy of the decision, and * the evidence considered in the claim. |
| 5 | The RPO   * scans the rating decision into TIMS * takes final action on the claim based on the rating determination, and * notifies the claimant of the decision. |

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| h. Reviewing Medical Records for Evidence Relating to Non-Education Service Benefits | The RO rating activity must carefully review medical records furnished by RPOs for evidence that could relate to non-Education Service benefits.  When reviewing medical records, the rating activity should   * access the appropriate VBA digital systems to determine * the existence and location of the Veteran’s claims folder, and * what SC disabilities, if any, have been established * for paper claims folders, contact the station of origination (SOO) where the claims folder is located for clarification of SC disabilities, if necessary * examine the medical records for * any informal or formal claims for non-Education Service benefits, such as compensation * records that pertain to a previously-established SC disability, and * forward pertinent paper medical records and/or claims for benefits to the SOO where the claims folder is located. |

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| i. Rating Conclusion for Determinations of Delimiting Date Extensions | In the rating decision conclusion for determinations of delimiting date extensions, under the *Decision*, show either   * *Extension of Delimiting Date Under Ch. 30, 38 U.S.C. 3031(d)* **[is] [is not]** *granted* * *Extension of Delimiting Date Under Ch. 31, 38 U.S.C. 3103* **[is] [is not]** *granted* * *Extension of Delimiting Date Under Ch. 32, 38 U.S.C. 3232(2)(A) and (B)* **[is] [is not]** *granted* * *Extension of Delimiting Date Under Ch. 33, 38 U.S.C. 3312(b)(1)* **[is] [is not]** *granted* * *Extension of Delimiting Date Under Ch. 35, 38 U.S.C. 3512(B)* **[is] [is not]** *granted*, or * *Extension of Delimiting Date Under Ch. 1606, 10 U.S.C. 16133(b)(3)* **[is] [is not]** *granted*.   In the coded conclusion, show either   * *Training medically infeasible from* **[date]** *through* **[date]**, or * *Disability did not make training medically infeasible*. |

#### 9. Rating for Insurance Purposes

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| Introduction | This topic contains information on rating for insurance purposes, including   * eligibility for Service-Disabled Veterans Insurance (SDVI) * when to apply for SDVI * who may apply for SDVI * eligibility for Gratuitous SDVI after death * when a rating decision is required for determination of SDVI eligibility * processing insurance cases involving coma incident to the terminal state * processing insurance cases involving suicide, and * preparing the rating decision for insurance purposes. |

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| Change Date | November 21, 2006 |

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| a. Eligibility for SDVI | Veterans may apply for non-participating Service-Disabled Veterans Insurance (SDVI) if they   * were released from active service on or after April 25, 1951, under other than dishonorable conditions, and * have an SC disability or disabilities evaluated at zero percent or higher.   ***Note***: SDVI is also called “RH Insurance” because the policy numbers are prefixed with “*RH*.” |

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| b. When to Apply for SDVI | Application for SDVI must be made within two years from the date of notice initially awarding SC for a disability. |

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| c. Who May Apply for SDVI | The Veteran must be in good health to apply for SDVI, with the exception of the SC disability.  If the applicant is shown to have been mentally incompetent during any part of the two-year period, only a legal guardian may apply for this insurance, and if required by State law, after the court has authorized the guardian to make such application.  ***Note***: Since the Veteran must be in good health except for the SC disability, the mental incompetency must be due to the SC disability. |

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| d. Eligibility for Gratuitous SDVI After Death | Gratuitous SDVI may be awarded on behalf of mentally incompetent Veterans who were otherwise eligible to be awarded SDVI but due to mental incompetency died without filing an application.  The mental incompetency must have arisen from an SC disability either   * at the time of release from active service * during any part of the two-year period from the date any disability is first determined to be SC, or * any time after release from service if SC is not established until after death.   ***Note***: To be eligible for Gratuitous SDVI, the Veteran must have remained continuously mentally incompetent until date of death, and must have died before the appointment of a guardian, or within two years after the appointment of a guardian. |

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| e. When a Rating Decision Is Required for Determination of SDVI Eligibility | A rating decision is required for determination of SDVI eligibility when the Insurance Center (IC) refers   * an e-mail request, or * *VA Form 29-4373*, *Request for Disability Compensation Rating for Insurance Purposes--Government Life Insurance*. |

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| f. Processing Insurance Cases Involving Coma Incident to the Terminal State | Brief periods of coma incident to the terminal state are commonly encountered.  In the absence of other manifestations of mental incapacity to contract, manage personal affairs, or disburse funds, such brief periods of coma may be insufficient to support a rating of mental incompetency under [38 U.S.C. 1922(b).](http://www.law.cornell.edu/uscode/html/uscode38/usc_sec_38_00001922----000-.html)  The fact that SC has been established for the cause of death does not carry with it the implication that the Veteran was mentally incompetent at the time of death or at any time during the critical period for purposes of [38 U.S.C. 1922(b).](http://www.law.cornell.edu/uscode/html/uscode38/usc_sec_38_00001922----000-.html) |

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| g. Processing Insurance Cases Involving Suicide | A finding in a rating decision for survivors benefits that a Veteran was of unsound mind at the time of suicide under the provisions of [38 CFR 3.302](http://www.ecfr.gov/cgi-bin/text-idx?SID=edc924e114da83db99469e49033af978&mc=true&node=se38.1.3_1302&rgn=div8) does not mean the Veteran was mentally incompetent for insurance purposes of [38 U.S.C. 1922(b)](https://www.law.cornell.edu/uscode/text/38/1922).  Prepare a rating decision under [38 U.S.C. 1922(b)](https://www.law.cornell.edu/uscode/text/38/1922) based on all of the evidence of record and support any rating of mental incompetency by objective evidence that shows the Veteran’s state of mind.  ***Reference***: For more information on a definition of mental incompetency, see [38 CFR 3.353](http://www.ecfr.gov/cgi-bin/text-idx?SID=4b33d16360e924f517a662bc49e97372&node=se38.1.3_1353&rgn=div8). |

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| h. Preparing the Rating Decision for Insurance Purposes | When preparing the rating decision for insurance purposes,   * prepare a copy of the rating for the IC * under the *Decision*, show either * *Incompetency for insurance purposes* ***[is] [is not]*** *established*, or * *Entitlement to Gratuitous Insurance under 38 U.S.C. 1922* ***[is] [is not]*** *established* * show the Veteran’s address, including the zip code, above the *Jurisdiction* section * dispose of conditions listed on *VA Form 29-4373*, which are considered to be symptoms of an evaluated disability by a statement to this effect in the *Narrative* part of the rating decision, and * in the coded conclusion, show the codes and evaluations appropriate to compensation entitlement. |

#### 10. Rating for the Polish and Czechoslovakian Armed Forces Under 38 U.S.C. 109(c)

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| Introduction | This topic contains information on rating for the Polish and Czechoslovakian  Armed Forces under 38 U.S.C. 109(c), including   * jurisdiction for determinations under 38 U.S.C. 109(c) * basing rating determinations under 38 U.S.C. 109(c) on the evidence, and * information to include in the rating decision for eligibility under 38 U.S.C. 109(c). |

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| Change Date | November 21, 2006 |

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| a. Jurisdiction for Determinations Under 38 U.S.C. 109(c) | The VSC of the Wilmington VA Medical and Regional Office Center (VAM&ROC) has sole jurisdiction for all rating determinations required for the Polish and Czechoslovakian Armed Forces under [38 U.S.C. 109(c)](http://www.law.cornell.edu/uscode/html/uscode38/usc_sec_38_00000109----000-.html) per [38 CFR 3.359](http://www.ecfr.gov/cgi-bin/text-idx?SID=4b33d16360e924f517a662bc49e97372&node=se38.1.3_1359&rgn=div8).  Route requests received by any other RO to the Wilmington VAM&ROC with information as to the referral provided to the submitting health care facility. |

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| b. Basing Rating Determinations Under 38 U.S.C. 109(c) on the Evidence | Base rating determinations under [38 U.S.C. 109(c)](https://www.law.cornell.edu/uscode/text/38/109) on the evidence submitted with the request.  The medical facility is responsible for fully developing the claim before sending the request directly to Medical Administration Service (MAS) (136) in the Wilmington VAM&ROC.  ***Reference***: For more information on jurisdiction over claims folders, see M21-1, Part III, Subpart ii, 5.A. |

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| c. Information to Include in the Rating Decision for Eligibility Under 38 U.S.C. 109(c) | In the rating decision, under the *Decision*, show *Eligibility for hospital or outpatient treatment Under 38 U.S.C. 109(c)* ***[is] [is not]*** *established.*  In the coded conclusion, evaluate conditions established as SC with a statement of either *50 percent or more* or *less than 50 percent*.  ***Notes***:   * Apply existing criteria for the determination of SC and degree of disability. * Return the completed rating and all other materials to MAS, Wilmington, for its maintenance of eligibility records. |

#### 11. Addendum A. Alignment of ROs and RPOs

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| Change Date | July 20, 2015 |

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| a. Alignment of ROs and RPOs for Jurisdiction of Education Claims | The jurisdiction of an RPO over an education claim is based on the address of the educational facility where the beneficiary is enrolled. For example, if the beneficiary attends a college in Ohio, the St. Louis RPO would have jurisdiction over the education claim.  The table below indicates which ROs are aligned with RPOs in   * Atlanta * Buffalo * St. Louis, and * Muskogee. |

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| --- | --- | --- | --- |
| RPO Atlanta | RPO Buffalo | RPO St. Louis | RPO Muskogee |
| **Atlanta** | Baltimore | Chicago | Albuquerque |
| San Juan | Boston | Cleveland | Anchorage |
| Winston-Salem | **Buffalo** | Des Moines | Boise |
|  | District of Columbia, Washington | Detroit | Fort Harrison |
|  | Hartford | Fargo | Houston |
|  | Wilmington | Denver | Little Rock |
|  | Manchester | Indianapolis | Los Angeles |
|  | Newark | Lincoln | Manila |
|  | New York | Louisville | **Muskogee** |
|  | Philadelphia | Milwaukee | New Orleans |
|  | Pittsburgh | Nashville | Oakland |
|  | Providence | Sioux Falls | Phoenix |
|  | Roanoke | **St. Louis** | Portland |
|  | Togus | St. Paul | Reno |
|  | White River Junction | Wichita | Salt Lake City |
|  |  | Cheyenne | San Diego |
|  |  | Huntington | Seattle |
|  |  | Honolulu | Waco |
|  |  |  | Columbia |
|  |  |  | St. Petersburg |
|  |  |  | Jackson |
|  |  |  | Montgomery |