### Section J. Compensation Under 38 CFR 4.28, 38 CFR 4.29, and 38 CFR 4.30

#### Overview

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

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| Topic | Topic Name |
| 1 | Prestabilization Ratings Under 38 CFR 4.28 |
| 2 | General Information on Hospitalization Ratings Under 38 CFR 4.29 |
| 3 | Preparing the Rating Decision for Hospitalization Ratings Under 38 CFR 4.29 |
| 4 | General Information on Convalescence Ratings Under 38 CFR 4.30 |
| 5 | Diagnostic Codes (DC) That Provide for Definite Periods of Convalescence |
| 6 | Diagnostic Codes that Provide for Indefinite Periods of Convalescence |

#### 1. Prestabilization Ratings Under 38 CFR 4.28

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| Introduction | This topic contains general information on prestabilization ratings under 38 CFR 4.28, including* the purpose of prestabilization ratings under 38 CFR 4.28
* when to prepare a prestabilization rating
* duration of the award under 38 CFR 4.28
* criteria for assigning a prestabilization rating
* when to assign 100 and 50 percent prestabilization ratings
* assigning a prestabilization rating when potential eligibility for special monthly compensation (SMC) exists
* when a prestabilization rating is not appropriate
* future examination control of prestabilization ratings
* effective date of reductions in combined evaluations under 38 CFR 3.105(e)
* expediting reevaluation of the SC disability(ies) in prestabilization ratings handling prestabilization ratings when severance pay is awarded, and
* handling certain mental disorders that cause discharge from service.
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| Change Date | July 5, 2015  |

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| a. Purpose of Prestabilization Ratings Under 38 CFR 4.28  | Prestabilization ratings under [38 CFR 4.28](http://www.ecfr.gov/cgi-bin/text-idx?SID=fb2fa87e2740e7b548397ebe1093bf66&node=se38.1.4_128&rgn=div8) are provided to assure earliest payment to those Veterans separated from service with a significant unstabilized disability at a time when they are most likely in need and least likely to be self-sufficient.  |

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| b. When to Prepare a Prestabilization Rating  | If a Veteran has an unstable, significantly disabling service-connected (SC) disability at the time of separation that will continue for an indefinite period* prepare a prestabilization rating for the unstabilized disability(ies) without waiting for further development or examination on the disability(ies), and
* defer a decision on any issues that are not ready for a decision.
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| c. Duration of the Award Under 38 CFR 4.28 | Prepare prestabilization ratings under [38 CFR 4.28](http://www.ecfr.gov/cgi-bin/text-idx?SID=fb2fa87e2740e7b548397ebe1093bf66&node=se38.1.4_128&rgn=div8) as “open ratings.” |

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| d. Criteria for Assigning a Prestabilization Rating | Assign a prestabilization rating if service treatment records (STRs) show the existence of an unstabilized condition stemming from any disease or injury for which service connection (SC) may be awarded.  |

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| e. When to Assign 100 and 50 Percent Prestabilization Ratings | Use the information below to determine when to assign 100- and 50-percent prestabilization ratings. |

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| When … | Then assign a … |
| * there is an unstabilized condition resulting in severe disability, and
* substantially gainful employment is not feasible or advisable
 | 100-percent prestabilization rating. |
| * there are unhealed or incompletely healed wounds or injuries, and
* material impairment of employability is likely
 | 50-percent prestabilization rating. |

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| f. Assigning a Prestabilization Rating When Potential Eligibility for SMC Exists | If there is an indication of possible entitlement to special monthly compensation (SMC), but records are insufficient to make a determination* evaluate disabilities in a prestabilization rating at the level of loss that is shown, and
* request an immediate examination to determine the full extent of disability.
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| g. When a Prestabilization Rating Is Not Appropriate | Do not assign a * total 100-percent prestabilization rating in any case in which a total rating is immediately assignable
* under the regular provisions of the rating schedule, or
* on the basis of individual unemployability, or
* 50-percent prestabilization rating in any case in which an evaluation of 50 percent or higher would otherwise be immediately assignable under the regular provisions of the rating schedule.
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| h. Future Examination Control of Prestabilization Ratings | When assigning a prestabilization rating, set a future examination control between 6 and 12 months following separation from service for all SC disabilities that are evaluated under [38 CFR 4.28](http://www.ecfr.gov/cgi-bin/text-idx?SID=fb2fa87e2740e7b548397ebe1093bf66&node=se38.1.4_128&rgn=div8).***References***: For more information on * setting a future examination control when generating a rating decision, see M21-1, Part III, Subpart iv, 6.D.5, and
* the control of future examinations including appropriate work item and end product (EP) use, see M21-1, Part III, Subpart iv, 3.C.2.
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| i. Effective Date of Reductions in Combined Evaluations Under 38 CFR 3.105(e) | Reductions in combined evaluations under [38 CFR 3.105(e)](http://www.ecfr.gov/cgi-bin/text-idx?SID=fb2fa87e2740e7b548397ebe1093bf66&node=se38.1.3_1105&rgn=div8) are effective the later of the following:* the end of the period under the provisions of [38 CFR 3.105(e),](http://www.ecfr.gov/cgi-bin/text-idx?SID=fb2fa87e2740e7b548397ebe1093bf66&node=se38.1.3_1105&rgn=div8) or
* the first day of the month following the twelfth month after discharge.

***Note***: Promptly accomplish rating action and provide notice of reduction in all cases. |

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| j. Expediting Reevaluation of the SC Disability(ies) in Prestabilization Ratings | Once the report of the examination, completed 6 to 12 months following separation, is received by the rating activity, reevaluation of the SC disability(ies) should be expedited. ***Note***: A Veteran who, without good cause, fails to report for the Department of Veterans Affairs (VA) examination scheduled in connection with a prestabilization rating under [38 CFR 4.28](http://www.ecfr.gov/cgi-bin/text-idx?SID=fb2fa87e2740e7b548397ebe1093bf66&node=se38.1.4_128&rgn=div8) is subject to adjustment of benefits under [38 CFR 3.655](http://www.ecfr.gov/cgi-bin/text-idx?SID=fb2fa87e2740e7b548397ebe1093bf66&node=se38.1.3_1655&rgn=div8). ***References***: For more information on * a Veteran’s failure to report for an examination, see M21-1, Part IV, Subpart ii, 3.B, and
* denials when a Veteran fails to report for an examination, see M21-1, Part III, Subpart v, 2.A.6.
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| k. Handling Prestabilization Ratings When Severance Pay Is Awarded | In some cases, VA assigns a 50- or 100-percent prestabilization rating for one or more, but not all, of the same disabilities for which the Veteran received severance pay.In such cases, assign separate evaluations for the disabilities for which severance pay was awarded which will assist authorization activity in processing an award. |

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| l. Handling Certain Mental Disorders That Cause Discharge From Service | The provisions of [38 CFR 4.129](http://www.ecfr.gov/cgi-bin/text-idx?SID=79b8745b20377e82c9e6336ae83c4cbf&node=se38.1.4_1129&rgn=div8) operate similarly to [38 CFR 4.28](http://www.ecfr.gov/cgi-bin/text-idx?SID=3ee31b3fe626fe0e41037da2a6dbd65c&mc=true&node=se38.1.4_128&rgn=div8) prestabilization ratings. They both state that qualifying significant disabilities that exist at service discharge will be evaluated at the 50 percent level or higher.However, under [38 CFR 4.129](http://www.ecfr.gov/cgi-bin/text-idx?SID=79b8745b20377e82c9e6336ae83c4cbf&node=se38.1.4_1129&rgn=div8)* the only covered condition is a mental disorder that
* develops in service as a result of a highly stressful event, and
* is significant enough to cause release from active service, ***and***
* the evaluations are assigned under the regular rating schedule.

Where a qualifying mental disorder is at issue consider whether the schedular rating available under [38 CFR 4.129](http://www.ecfr.gov/cgi-bin/text-idx?SID=79b8745b20377e82c9e6336ae83c4cbf&node=se38.1.4_1129&rgn=div8) makes a pre-stabilization rating under [38 CFR 4.28](http://www.ecfr.gov/cgi-bin/text-idx?SID=3ee31b3fe626fe0e41037da2a6dbd65c&mc=true&node=se38.1.4_128&rgn=div8) inappropriate. ***Reference***: For more information on evaluations in cases of service discharge from mental disorders caused by traumatic stress, see * [38 CFR 4.129](http://www.ecfr.gov/cgi-bin/text-idx?SID=79b8745b20377e82c9e6336ae83c4cbf&node=se38.1.4_1129&rgn=div8), and
* M21-1, Part III, Subpart iv, 4.H.1.h.
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#### 2. General Information on Hospitalization Ratings Under 38 CFR 4.29

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| Introduction | This topic contains general information on hospitalization ratings under 38 CFR 4.29, including* when to assign hospitalization ratings
* scope of hospitalization ratings
* awarding
* hospitalization benefits when admission is for a non-service-connected (NSC) disability
* a hospitalization rating for admission of an incarcerated Veteran, and
* a hospitalization rating for multiple SC conditions
* when the provisions of 38 CFR 4.29 do not apply
* effective dates of hospitalization ratings, and
* responsibilities of the authorization activity regarding computer-generated messages.
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| Change Date | February 12, 2016 |

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| a. When to Assign Hospitalization Ratings | Provided a total, 100-percent rating cannot be assigned under other provisions of the rating schedule, assign a temporary 100-percent evaluation under [38 CFR 4.29](http://www.ecfr.gov/cgi-bin/text-idx?SID=fb2fa87e2740e7b548397ebe1093bf66&node=se38.1.4_129&rgn=div8) for* periods of hospitalization in excess of 21 days for medical treatment of an SC disability, or
* a disability requiring hospitalization in excess of 21 days for medical treatment for which compensation is payable under either [38 U.S.C. 1151](http://www.law.cornell.edu/uscode/html/uscode38/usc_sec_38_00001151----000-.html) or [38 U.S.C. 1160](http://www.law.cornell.edu/uscode/html/uscode38/usc_sec_38_00001160----000-.html).

***Note***: Competency must be addressed when assigning a temporary 100-percent evaluation for a mental disorder under [38 CFR 4.29](http://www.ecfr.gov/cgi-bin/text-idx?SID=fb2fa87e2740e7b548397ebe1093bf66&node=se38.1.4_129&rgn=div8). ***Reference***: For more information on addressing competency, see M21-1, Part III, Subpart iv, 8.A.2.a. |

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| **b. Scope of Hospitalization Ratings** | A hospital rating under the provisions of [38 CFR 4.29](http://www.ecfr.gov/cgi-bin/text-idx?SID=fb2fa87e2740e7b548397ebe1093bf66&node=se38.1.4_129&rgn=div8) can be prompted based on receipt of a specific claim from a Veteran or based on receipt of a *Report of Hospitalization* at a VA or uniformed services facility.* Accept a *Report of Hospitalization* at a VA or uniformed services facility as a prescribed form for the purposes of considering entitlement to hospitalization benefits. However, prepare a rating decision *only* when entitlement to benefits is warranted.
* If a *Report of Hospitalization* at a VA or uniformed service facility is received, but entitlement to hospitalization benefits is not warranted
* do not formally deny entitlement by rating decision
* change the controlling EP 320, if present, to an EP 330,
* clear the EP 330, and
* annotate “No Action Necessary – Paragraph 29 and/or 30 entitlement not shown” on the Report of Hospitalization in the claims folder.
* If a claim for increase is received for a SC disability and the evidence shows entitlement to a hospitalization rating for the same disability, award a temporary total evaluation under the provisions of [38 CFR 4.29](http://www.ecfr.gov/cgi-bin/text-idx?SID=fb2fa87e2740e7b548397ebe1093bf66&node=se38.1.4_129&rgn=div8) as part of the claim for increase.
* A claim from a Veteran specifically for a hospitalization rating is not a claim for increase. However, if the evidence establishes entitlement to a hospitalization rating, the assignment of a post-hospitalization evaluation is a part of the process of rating the hospitalization issue.
* An increased evaluation may be warranted and awarded following the period of hospitalization.
* A reduced evaluation may be warranted by the evidence following the period of hospitalization, and reduction action should be taken in compliance with [38 CFR 3.105(a)](http://www.ecfr.gov/cgi-bin/text-idx?SID=191a1d20f2a27585e901a7acbc902390&mc=true&node=se38.1.3_1105&rgn=div8) as warranted.
* If the medical evidence does not establish that a change in the post-hospitalization evaluation is warranted, assign the evaluation in effect prior to hospitalization. If the medical evidence suggests improvement may occur but such improvement is not definitively established, consider scheduling a routine future examination.
* The assigned evaluation prior to the hospitalization is not subject to review as a part of the hospitalization rating.
* When a claim for hospitalization for a SC issue must be denied, do not routinely address the evaluation of the SC issue unless a separate claim for increase has been received.

***Reference***: For more information on* annotating documents in the electronic claims folder (eFolder), see the Veterans Benefits Management System ([*VBMS) User Guide*](http://vbaw.vba.va.gov/VBMS/docs/VBMS_Release_8_0_UserGuide_UsersEdition.pdf) and
* EPs see, M21-4 Appendix B.
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| c. Awarding Hospitalization Benefits When Admission Is for a NSC Disability | Even when hospital admission is for a non-service-connected (NSC) disability, hospitalization benefits are payable if, during the hospitalization, treatment for an SC disability is initiated and continues in excess of 21 days.***Exception***: Treatment for an SC disability that is only coincidental in nature and would not require hospitalization by itself does not qualify.***Example***: Medication management for a condition when treatment could otherwise occur outside of hospitalization does not warrant benefits under [38 CFR 4.29](http://www.ecfr.gov/cgi-bin/text-idx?SID=fb2fa87e2740e7b548397ebe1093bf66&node=se38.1.4_129&rgn=div8).***Reference***: For more information on hospitalization ratings when admission is for treatment of a NSC disability, see [38 CFR 4.29(b)](http://www.ecfr.gov/cgi-bin/text-idx?SID=fb2fa87e2740e7b548397ebe1093bf66&node=se38.1.4_129&rgn=div8). |

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| d. Awarding a Hospitalization Rating for Admission of an Incarcerated Veteran  | If an incarcerated Veteran is confined to a prison hospital for treatment of an SC disability in excess of 21 days, the Veteran may be eligible for hospitalization benefits.***Reference***: For information on the effect of imprisonment on benefit payments, see M21-1, Part III, Subpart v, 8.A. |

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| e. Awarding a Hospitalization Rating for Multiple SC Conditions | In cases in which two or more SC disabilities exist for which the provisions of [38 CFR 4.29](http://www.ecfr.gov/cgi-bin/text-idx?SID=fb2fa87e2740e7b548397ebe1093bf66&node=se38.1.4_129&rgn=div8) would apply, increase the evaluation of only *one* of the disabilities to 100 percent. |

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| f. When the Provisions of 38 CFR 4.29 Do Not Apply | Do *not* apply the provisions of [38 CFR 4.29](http://www.ecfr.gov/cgi-bin/text-idx?SID=fb2fa87e2740e7b548397ebe1093bf66&node=se38.1.4_129&rgn=div8) when a Veteran* is treated as a resident in a State Veterans’ home
* is currently receiving a total rating for the disability for which hospitalization was required
* is a resident in a VA domiciliary program, or
* is a participant in a live-in/work out program being utilized to facilitate transition to community living.

***Exceptions***: * Hospitalization in excess of 21 days for an SC disability in a medical facility located at a State Veterans’ home may entitle the Veteran to hospitalization benefits.
* Veterans are entitled to hospitalization benefits for treatment in excess of 21 days in a day hospital program if the treatment given is consistent with hospital care for a SC disability even though they are concurrently required to be housed in a VA domiciliary.

***Notes***: * A 100-percent evaluation under [38 CFR 4.29](http://www.ecfr.gov/cgi-bin/text-idx?SID=fb2fa87e2740e7b548397ebe1093bf66&node=se38.1.4_129&rgn=div8) in combination with another SC disability, independently rated 60 percent or more disabling, entitles the Veteran to statutory Housebound benefits under [38 U.S.C. 1114(s)](http://www.law.cornell.edu/uscode/html/uscode38/usc_sec_38_00001114----000-.html).
* Hospital care, for the purpose of [38 CFR 4.29](http://www.ecfr.gov/cgi-bin/text-idx?SID=fb2fa87e2740e7b548397ebe1093bf66&node=se38.1.4_129&rgn=div8), is defined as the provision of services unique to the course of hospitalization for a SC disability.
* Domiciliary care involves the furnishing of a home to a Veteran with shelter, food, clothing, and other comforts of home, including necessary medical services.

***References***: For more information on * the definition of hospital care, see [38 U.S.C. 1701(5)](https://www.law.cornell.edu/uscode/text/38/1701) and
* the definition of domiciliary care, see [38 CFR 17.30(b)](http://www.ecfr.gov/cgi-bin/text-idx?SID=e3ede79391e8222be987ae66a932ae4d&node=se38.1.17_130&rgn=div8) and [*Mangham v.* *Shinseki*,](http://vbaw.vba.va.gov/bl/21/advisory/CAVCDAD.htm#bmm) 23 Vet.App. 284 (2009).
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| g. Effective Dates of Hospitalization Ratings | Use the table below to determine the effective date of hospitalization ratings. |

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| When … | Then make the 100-percent rating effective the date … |
| considering * any VA hospitalizations
* non-VA hospitalizations, if authorized by VA on or before the date of admission
 | of hospital admission. |
| VA receives an intent to file (ITF) within one year of admission to a non-VA hospital, and a claim for compensation within one year of the receipt of the ITF | of hospital admission. |
| VA receives an ITF within one year of admission to a non-VA hospital, and a claim for compensation more than one year after receipt of the ITF | VA received the claim. |
| VA receives a claim showing admission to a non-VA hospital more than one year ago | VA received the claim |

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| ***References***: For more information on * considering a report of examination or hospitalization occurring on or after March 24, 2015, for a retroactive effective date for increased benefits, see
* [38 CFR 3.400(o)(2)](http://www.ecfr.gov/cgi-bin/text-idx?SID=4293c2e7ce74f4e6c5c7e70f209563d5&mc=true&node=se38.1.3_1400&rgn=div8), and
* M21-1, Part III, Subpart ii, 2.B.1.b, and
* considering a report of examination or hospitalization occurring prior to March 24, 2015, for a retroactive effective date for increased benefits, see [38 CFR 3.157](http://www.ecfr.gov/cgi-bin/text-idx?SID=4293c2e7ce74f4e6c5c7e70f209563d5&pitd=20150323&node=se38.1.3_1157&rgn=div8).
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| h. Responsibilities of the Authorization Activity Regarding Computer-Generated Messages | The following computer-generated message issues every three months when a 100-percent evaluation is assigned under [38 CFR 4.29](http://www.ecfr.gov/cgi-bin/text-idx?SID=a5f074487244e62b433e00edf6bc18c4&node=se38.1.4_129&rgn=div8): *Work Item Msg Code 884 - VERIFY HOSP STATUS OF VET - OVER 3 MONTHS*.It is the authorization activity’s responsibility to determine whether the Veteran continues to be hospitalized. The claims folder will be referred to the rating activity for consideration of a schedular 100-percent rating when a Veteran * remains hospitalized for more than six months, or
* is no longer hospitalized and it is determined that an examination for evaluation purposes is needed, in which case the proper action is to establish EP 310 and send a letter informing the Veteran of the pending examination.

***Note***: *800 Series Work Items* are for tracking purposes only. Do not complete development, rating or award actions under *800 Series Work Item*.***Reference***: For more information on control of examinations, see M21-1, Part III, Subpart iv, 3.C. |

#### 3. Preparing the Rating Decision for Hospitalization Ratings Under 38 CFR 4.29

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| Introduction | This topic contains information on preparing the rating decision for hospitalization ratings under 38 CFR 4.29, including * the duration of
* awards under 38 CFR 4.29, and
* extensions of the hospitalization ratings allowed under 38 CFR 4.29
* preparing an open-ended hospitalization rating decision, and
* following up on an open-ended hospitalization rating decision.
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| Change Date | July 5, 2015 |

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| a. Duration of Awards Under 38 CFR 4.29 | Continue the 100-percent rating under [38 CFR 4.29](http://www.ecfr.gov/cgi-bin/text-idx?SID=06fdee33418657ca9b4985a5c7cb9c52&node=se38.1.4_129&rgn=div8) through the last day of the month in which hospitalization or treatment for the SC disability(ies) terminates.***Notes***: * Such termination may be due to
* hospital discharge, regular or irregular, or
* the cessation of treatment or observation for SC disabilities prior to discharge from the hospital.
* The effective date for a temporary total evaluation under [38 CFR 4.29](http://www.ecfr.gov/cgi-bin/text-idx?SID=06fdee33418657ca9b4985a5c7cb9c52&node=se38.1.4_129&rgn=div8) commences from the date of entrance into the hospital, after 21 days of continuous hospitalization or treatment.

***Reference***: For more information on the effective date for temporary total ratings under [38 CFR 4.29](http://www.ecfr.gov/cgi-bin/text-idx?SID=06fdee33418657ca9b4985a5c7cb9c52&node=se38.1.4_129&rgn=div8), please see [38 CFR 3.401(h)(1)](http://www.ecfr.gov/cgi-bin/text-idx?SID=4293c2e7ce74f4e6c5c7e70f209563d5&mc=true&node=se38.1.3_1401&rgn=div8). |

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| b. Duration of Extensions of Hospitalization Ratings Allowed Under 38 CFR 4.29 | The 100-percent rating may initially be extended for one month, two months, or three months, based on a need for convalescence, *only* when the Veteran received an approved discharge from the hospital. Following discontinuance of the temporary 100-percent rating, assign the appropriate schedular evaluation for any residual disability.***Notes***: * It is permissible to initially assign a one-month convalescence period and extend it another one or two months, if the facts warrant it.
* Further extensions of one or more months, up to three months, may be made upon approval of the Veterans Service Center Manager (VSCM).
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| c. Preparing an Open-Ended Hospitalization Rating Decision  | If a report of the required hospitalization, such as a 21-day certification, is received before the Veteran is discharged from the hospital, prepare an open-ended rating.***References***: For more information on * preparing rating decisions, see
* [*VBMS– Rating* (VBMS-R) *User Guide*](http://vbaw.vba.va.gov/VBMS/Resources_Technical_Information.asp), and
* [VBMS Job Aids](http://vbaw.vba.va.gov/VBMS/Resources_Job_Aids.asp) and [Job Instruction Sheets](http://vbaw.vba.va.gov/VBMS/Resources_Job_Instruction_Sheets.asp) on the [VBMS web page](http://vbaw.vba.va.gov/VBMS/index.asp), and
* open ended awards under [38 CFR 4.29](http://www.ecfr.gov/cgi-bin/text-idx?SID=06fdee33418657ca9b4985a5c7cb9c52&node=se38.1.4_129&rgn=div8), see M21-1, Part III, Subpart v, 6.D.2.a.
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| d. Following Up on an Open-Ended Hospitalization Rating Decision | When following up on an open-ended hospitalization rating decision* request a reexamination sufficiently in advance to ensure receipt of the report prior to expiration of the temporary 100-percent rating
* continue the 100-percent evaluation in cases in which the Veteran immediately enters into a day hospital program following inpatient hospitalization in excess of 21 days for psychiatric illness, as this action indicates that the Veteran is still in need of treatment and not able to return to employment.

Upon receipt of the reexamination report or cessation of treatment in the day hospital program, assign an applicable schedular evaluation for the residuals.***Notes***: * Do *not* apply the provisions of [38 CFR 3.105(e)](http://www.ecfr.gov/cgi-bin/text-idx?SID=b4861497692371c658c18369bbed7c46&node=se38.1.3_1105&rgn=div8) unless the evaluation in effect prior to hospitalization is reduced following assignment of the 100-percent rating.
* Authorization will establish a 30-day future diary to ensure receipt of confirmation of treatment or hospital release and the final hospital summary so that the Veteran’s award may be adjusted properly.

***Reference***: For more information on award or discontinuance of entitlement to aid and attendance (A&A) during hospitalization, see M21-1, Part III, Subpart v, 6.C.3. |

#### 4. General Information on Convalescent Ratings Under 38 CFR 4.30

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| Introduction | This topic contains general information on convalescent ratings under 38 CFR 4.30, including * convalescent ratings under 38 CFR 4.30
* severe postoperative residuals for ratings under 38 CFR 4.30
* work excuses and convalescence ratings
* scope of convalescence ratings
* determining the effective date of convalescent ratings
* extension of convalescent ratings
* requesting future examinations
* post-convalescence evaluations and 38 CFR 3.105(e)
* when the provisions of 38 CFR 4.30 are not applicable.
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| Change Date | July 21, 2015 |

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| a. Convalescent Ratings under 38 CFR 4.30 | [38 CFR 4.30](http://www.ecfr.gov/cgi-bin/text-idx?SID=c37216171a07b763c786b4d411cd7205&mc=true&node=se38.1.4_130&rgn=div8) provides for a temporary 100-percent evaluation without regard to other provisions of the rating schedule if treatment of an SC disability resulted in* surgery necessitating at least one month convalescence
* surgery with severe postoperative residuals, or
* immobilization of at least one major joint by cast without surgery, including procedures performed at an outpatient clinic.

***Note***: The provision allowing assignment of a convalescent rating for outpatient surgery necessitating at least one-month of convalescence became effective March 1, 1989. |

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| b. Severe Post-operative Residuals for Ratings Under 38 CFR 4.30 | Under [38 CFR 4.30(a)(2)](http://www.ecfr.gov/cgi-bin/text-idx?SID=c37216171a07b763c786b4d411cd7205&mc=true&node=se38.1.4_130&rgn=div8), severe postoperative residuals include but are not limited to* incompletely healed surgical wounds
* stumps of recent amputations
* therapeutic immobilization of one major joint or more
* application of a body cast
* the necessity for house confinement, or
* the necessity for continued use of a wheelchair or crutches (regular weight-bearing prohibited).
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| c. Work Excuses and Convalescent Ratings  | Entitlement under [38 CFR 4.30](http://www.ecfr.gov/cgi-bin/text-idx?SID=c37216171a07b763c786b4d411cd7205&mc=true&node=se38.1.4_130&rgn=div8) can be established solely by a work excuse from a medical provider if there is* a clear connection between the claimant's inability to return to previous employment and surgery or cast immobilization, and
* no contrary evidence of record.

When there is contrary evidence of record, a work excuse will be weighed as one piece of evidence for consideration.  |

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| **d. Scope of Convalescence Ratings** | A convalescence rating under the provisions of [38 CFR 4.30](http://www.ecfr.gov/cgi-bin/text-idx?SID=c37216171a07b763c786b4d411cd7205&mc=true&node=se38.1.4_130&rgn=div8) can be prompted based on receipt of a specific claim from a Veteran or based on receipt of a *Report of Hospitalization* at a VA or uniformed services facility.* Accept a *Report of Hospitalization* at a VA or uniformed services facility as a prescribed form for the purposes of considering entitlement to convalescence benefits only. However, prepare a rating decision *only* when entitlement to benefits is warranted.
* If a *Report of Hospitalization* at a VA or uniformed service facility is received, but entitlement to convalescence benefits is not warranted
* do not formally deny entitlement by rating decision
* change the controlling EP 320, if present, to an EP 330,
* clear the EP 330, and
* annotate “No Action Necessary– Paragraph 29 and/or 30 entitlement not shown” on the *Report of Hospitalization* in the claims folder.
* If a claim for increase is received for a SC disability and the evidence shows entitlement to a convalescence rating for the same disability, award a temporary total evaluation under the provisions of [38 CFR 4.30](http://www.ecfr.gov/cgi-bin/text-idx?SID=c37216171a07b763c786b4d411cd7205&mc=true&node=se38.1.4_130&rgn=div8) as part of the claim for increase.
* A claim from a Veteran specifically for a convalescence rating or a review based on receipt of a *Report of* Hospitalization are not claims for increase. However, if the evidence establishes entitlement to a convalescence rating, the assignment of a post-convalescence evaluation is a part of the process of rating the convalescence issue.
* An increased evaluation may be warranted and awarded following the period of convalescence.
* A reduced evaluation may be warranted by the evidence following the period of convalescence, and reduction action should be taken in compliance with [38 CFR 3.105(a)](http://www.ecfr.gov/cgi-bin/text-idx?SID=191a1d20f2a27585e901a7acbc902390&mc=true&node=se38.1.3_1105&rgn=div8) as warranted.
* If the medical evidence does not establish that a change in the post-convalescence evaluation is warranted, assign the evaluation in effect prior to convalescence. If the medical evidence suggests improvement may occur but such improvement is not definitively established, consider scheduling a routine future examination.
* The assigned evaluation prior to the period of convalescence is not subject to review as a part of the hospitalization rating.
* When a claim for convalescence for a SC issue must be denied, do not routinely address the evaluation of the SC issue unless a separate claim for increase has been received.

***Reference***: For more information on annotating documents in the eFolder, see the [*VBMS User Guide*](http://vbaw.vba.va.gov/VBMS/docs/VBMS_Release_8_0_UserGuide_UsersEdition.pdf).  |

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| e. Determining the Effective Date of Convalescent Ratings  | The temporary total evaluation is assigned effective from the date of hospital admission or outpatient treatment and will continue for a period of one, two, or three months (depending on what the facts support) from the first day of the month following such hospital discharge or outpatient release. ***Notes***:* For total joint replacements, rated under [38 CFR 4.71a, Diagnostic Codes 5051-5056](http://www.ecfr.gov/cgi-bin/text-idx?SID=e6fbdf19a8ae4109ac9371e56e569bd2&mc=true&node=se38.1.4_171a&rgn=div8), the schedular 100-percent evaluation for one year following implantation of the prosthesis does not commence until after initial award of a one-month convalescence rating under [38 CFR 4.30](http://www.ecfr.gov/cgi-bin/text-idx?SID=c37216171a07b763c786b4d411cd7205&mc=true&node=se38.1.4_130&rgn=div8) following hospital discharge.
* If a Veteran is hospitalized near the end of the month for a total joint replacement and released the beginning of the following month, the convalescent rating under [38 CFR 4.30](http://www.ecfr.gov/cgi-bin/text-idx?SID=c37216171a07b763c786b4d411cd7205&mc=true&node=se38.1.4_130&rgn=div8) is effective from the date of the hospital admission until the end of the following month. The 100-percent rating under the appropriate joint replacement diagnostic code will commence the following month.

***Example***: A Veteran enters the hospital on March 30, 2014, for a total knee replacement and is released on April 2, 2014. The convalescence rating will commence on March 30, 2014, and continue until it is replaced by the 100-percent rating under [38 CFR 4.71a, diagnostic code (DC) 5055](http://www.ecfr.gov/cgi-bin/text-idx?SID=e6fbdf19a8ae4109ac9371e56e569bd2&mc=true&node=se38.1.4_171a&rgn=div8) on May 1, 2014, which will continue for a year. ***Reference***: For more information on effective date of convalescence ratings, see [38 CFR 3.401(h)(2)](http://www.ecfr.gov/cgi-bin/text-idx?SID=c37c1fa387f393812d75be783f2039d9&mc=true&node=se38.1.3_1401&rgn=div8). |

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| f. Extension of Convalescent Ratings | Extensions of temporary total awards are authorized under [38 CFR 4.30(b)](http://www.ecfr.gov/cgi-bin/text-idx?SID=c37216171a07b763c786b4d411cd7205&mc=true&node=se38.1.4_130&rgn=div8) when justified by the facts. A temporary total evaluation awarded for any of the criteria in [38 CFR 4.30(a)(1), (2), or (3)](http://www.ecfr.gov/cgi-bin/text-idx?SID=c37216171a07b763c786b4d411cd7205&mc=true&node=se38.1.4_130&rgn=div8) can be extended to a total duration of six months (in incremental amounts of one, two or three months). Further extensions of one to six months *beyond the initial six month period* may be made with the following limitations:* entitlement must have been established under [38 CFR 4.30(a)(2) or (3)](http://www.ecfr.gov/cgi-bin/text-idx?SID=c37216171a07b763c786b4d411cd7205&mc=true&node=se38.1.4_130&rgn=div8) (surgery with severe postoperative residuals or immobilization of one or more major joint), and
* approval of the VSCM is required.
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| g. Requesting Future Examinations | Generally, unless required by the DC, reexamination is not required following a period in which a temporary total rating was assigned under [38 CFR 4.30](http://www.ecfr.gov/cgi-bin/retrieveECFR?gp=&SID=81e0ce275014219bbbc86a8037e8b1fa&mc=true&r=SECTION&n=se38.1.4_130). The Rating Veterans Service Representative (RVSR) should review the evidence of record and assign a new post-convalescence evaluation based on the residual disability following the convalescence period. Only request a VA examination before the end of the total disability period when the evidence is inadequate to determine the residual disability and assign a schedular evaluation after the convalescence period.  |

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| h. Post-Convalescence Evaluations and 38 CFR 3.105(e)  | Assignment of an evaluation lower than 100 percent after the temporary [38 CFR 4.30](http://www.ecfr.gov/cgi-bin/retrieveECFR?gp=&SID=81e0ce275014219bbbc86a8037e8b1fa&mc=true&r=SECTION&n=se38.1.4_130) convalescence period does not, itself, implicate [38 CFR 3.105(e)](http://www.ecfr.gov/cgi-bin/text-idx?SID=c37c1fa387f393812d75be783f2039d9&mc=true&node=se38.1.3_1105&rgn=div8). The award of a temporary total evaluation with an appropriate schedular evaluation equal to or greater than the pre-convalescence running award rate taking effect thereafter does not create a reduction or discontinuance in compensation payments currently being made. [38 CFR 4.30](http://www.ecfr.gov/cgi-bin/retrieveECFR?gp=&SID=81e0ce275014219bbbc86a8037e8b1fa&mc=true&r=SECTION&n=se38.1.4_130) states: “The termination of these total ratings will not be subject to §3.105(e) of this chapter.”***Exception***: If the residual disability is less disabling than the rating in effect prior to the assignment of temporary total disability under [38 CFR 4.30](http://www.ecfr.gov/cgi-bin/retrieveECFR?gp=&SID=81e0ce275014219bbbc86a8037e8b1fa&mc=true&r=SECTION&n=se38.1.4_130) so that assigning the appropriate post-convalescence evaluation would result in a reduction or discontinuance in compensation payments made under the running award* assign the temporary 100-percent convalescent evaluation as provided in M21-1, Part IV, Subpart ii, 2.J.4.d
* assign the evaluation in effect prior to hospitalization effective immediately thereafter, and
* propose reduction in accordance with [38 CFR 3.105(e)](http://www.ecfr.gov/cgi-bin/text-idx?SID=c37c1fa387f393812d75be783f2039d9&mc=true&node=se38.1.3_1105&rgn=div8) to the lower rate supported by the evidence.
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| i. When the Provisions of 38 CFR 4.30 Are Not Applicable | The use of a convalescent rating is unnecessary if * a temporary total rating under [38 CFR 4.29](http://www.ecfr.gov/cgi-bin/text-idx?SID=9c3a50789f03da66f07f4f6854c8a9df&node=se38.1.4_129&rgn=div8) is in effect at time of hospital discharge, and
* the conditions requisite for extensions under [38 CFR 4.29](http://www.ecfr.gov/cgi-bin/text-idx?SID=9c3a50789f03da66f07f4f6854c8a9df&node=se38.1.4_129&rgn=div8) for an adequate convalescent period are present.

However, assign the temporary 100-percent convalescent rating under [38 CFR 4.30](http://www.ecfr.gov/cgi-bin/retrieveECFR?gp=&SID=a2a9b8e1ebc5975862afbd98299139f8&mc=true&r=SECTION&n=se38.1.4_130) from the date of hospital treatment * if the final hospital summary justifies an extension of the temporary 100-percent rating for periods beyond six months after discharge, and
* upon approval by the VSCM.
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#### 5. DCs That Provide for Definite Periods of Convalescence

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| Introduction | This topic contains information on DCs that provide for definite periods of convalescence, including * temporary total evaluations under a DC for a definite period of convalescence
* DCs providing for temporary total evaluations – relationship to 38 CFR 4.29 and 4.30
* definition of definite periods of convalescence
* staged rating of definite periods of convalescence
* example 1: staged rating of definite period of convalescence
* example 2: staged rating of definite period of convalescence
* example 3: staged rating of definite period of convalescence
* control and assignment of definite convalescence periods, and
* reexamination after definite period of convalescence.
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| a. Temporary Total Evaluations Under a DC for a Definite Period of Convalescence | The rating schedule prescribes temporary 100-percent evaluations under various DCs for definite periods of time following treatment (including hospitalization), surgery or certain significant disease manifestations. For the purpose of this section consider these as providing for *periods of convalescence* regardless of whether or not the word “convalescence” is used or whether the DC refers to [38 CFR 4.30](http://www.ecfr.gov/cgi-bin/text-idx?SID=e8efbac6c174a1f08121bc677943d397&node=se38.1.4_130&rgn=div8).  |

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| b. DCs Providing for Temporary Total Evaluations – Relationship to 38 CFR 4.29 and 4.30 | Entitlement to a period of temporary total evaluation under a DC does not necessarily preclude entitlement under [38 CFR 4.29](http://www.ecfr.gov/cgi-bin/text-idx?SID=2a89050ff6cf08e7dad77e1d39e8950c&node=se38.1.4_129&rgn=div8) or [38 CFR 4.30](http://www.ecfr.gov/cgi-bin/text-idx?SID=2a89050ff6cf08e7dad77e1d39e8950c&node=se38.1.4_130&rgn=div8) and vice versa. * Some DCs (for example, those covering implantation of joint prostheses, [38 CFR 4.71a, DC 5051-5056](http://www.ecfr.gov/cgi-bin/text-idx?SID=3d75649930f683e754ee2bb72720319a&mc=true&node=se38.1.4_171a&rgn=div8)) specifically provide that the period of temporary total compensation will commence after an initial award of a period of total disability under [38 CFR 4.30](http://www.ecfr.gov/cgi-bin/text-idx?SID=2a89050ff6cf08e7dad77e1d39e8950c&node=se38.1.4_130&rgn=div8).
* In other cases the temporary total disability period specified by a DC can read as more limited than what could be potentially supported under [38 CFR 4.29](http://www.ecfr.gov/cgi-bin/text-idx?SID=2a89050ff6cf08e7dad77e1d39e8950c&node=se38.1.4_129&rgn=div8) or [38 CFR 4.30](http://www.ecfr.gov/cgi-bin/text-idx?SID=2a89050ff6cf08e7dad77e1d39e8950c&node=se38.1.4_130&rgn=div8). For example, [38 CFR 4.104, DC 7018](http://www.ecfr.gov/cgi-bin/text-idx?SID=2a89050ff6cf08e7dad77e1d39e8950c&node=se38.1.4_1104&rgn=div8) provides for a 100-percent evaluation for two months following admission for implantation or re-implantation of a cardiac pacemaker. Arguably, this might be a shorter period of time than could be paid if there was a protracted hospitalization for complications of the procedure or a need for more than two months of convalescence based on severe post-surgical residuals. In such cases, use the provision that is more favorable to the Veteran.

Conversely, the fact that a DC provides for a period of temporary total disability does not necessarily mean that disability compensation under [38 CFR 4.29](http://www.ecfr.gov/cgi-bin/text-idx?SID=2a89050ff6cf08e7dad77e1d39e8950c&node=se38.1.4_129&rgn=div8) or [38 CFR 4.30](http://www.ecfr.gov/cgi-bin/text-idx?SID=2a89050ff6cf08e7dad77e1d39e8950c&node=se38.1.4_130&rgn=div8) would be appropriate. A DC might provide for a temporary total evaluation triggered by hospitalization but not necessarily hospitalization of a sufficient duration to qualify for a [38 CFR 4.29](http://www.ecfr.gov/cgi-bin/text-idx?SID=2a89050ff6cf08e7dad77e1d39e8950c&node=se38.1.4_129&rgn=div8) evaluation or hospitalization for surgery or major joint immobilization to qualify for a [38 CFR 4.30](http://www.ecfr.gov/cgi-bin/text-idx?SID=2a89050ff6cf08e7dad77e1d39e8950c&node=se38.1.4_130&rgn=div8) evaluation (for example [38 CFR 4.104, DC 7011](http://www.ecfr.gov/cgi-bin/text-idx?SID=e8efbac6c174a1f08121bc677943d397&node=se38.1.4_1104&rgn=div8) provides for a 100-percent evaluation for an indefinite period from the date of hospital admission for initial evaluation and medical therapy for sustained ventricular arrhythmias).In those cases where a period of convalescence follows another hospitalization, it should begin on the first of the month following* a hospital discharge, if benefits under [38 CFR 4.29](http://www.ecfr.gov/cgi-bin/text-idx?SID=814b9180da916bc488138110ab478909&node=se38.1.4_129&rgn=div8) were awarded, or
* discontinuance of a one-month temporary 100-percent rating under [38 CFR 4.30.](http://www.ecfr.gov/cgi-bin/text-idx?SID=814b9180da916bc488138110ab478909&node=se38.1.4_130&rgn=div8)
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| c. Definition: Definite Periods of Convalescence | A temporary 100-percent evaluation falls into the category ***definite periods of convalescence*** when the DC* specifies the period of time for which the total evaluation is permitted, *and*
* identifies the subsequent evaluation following the defined period of temporary total disability

***Examples***: * Knee replacement ([38 CFR 4.71a, DC 5055](http://www.ecfr.gov/cgi-bin/text-idx?SID=e8efbac6c174a1f08121bc677943d397&node=se38.1.4_171a&rgn=div8)) – *one year* following implantation of prosthesis (commencing after an initial award of a one month total rating under [38 CFR 4.30](http://www.ecfr.gov/cgi-bin/text-idx?SID=2a89050ff6cf08e7dad77e1d39e8950c&node=se38.1.4_130&rgn=div8)).
* Myocardial infarction ([38 CFR 4.104, DC 7006](http://www.ecfr.gov/cgi-bin/text-idx?SID=e8efbac6c174a1f08121bc677943d397&node=se38.1.4_1104&rgn=div8)) – during and for *three months* following myocardial infarction.

In both examples the period of total disability and subsequent evaluation can be addressed in the rating decision. |

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| d. Staged Rating of Definite Periods of Convalescence | Definite periods of convalescence and subsequent post-convalescence evaluations can be assigned prospectively (where total disability is still ongoing at the time of the rating) or retrospectively (when the period of total disability has already ended). In either case, definite periods of convalescence are assigned as essentially a staged rating.In the rating assign* total disability for the specific period allowed, *and*
* immediately thereafter the *greater of*
* the disability evaluation (if any) that existed before the period of total disability (to include an evaluation protected under [38 CFR 3.951(b)](http://www.ecfr.gov/cgi-bin/text-idx?SID=0492397295b1bf21b63311e89f43cb5c&mc=true&node=se38.1.3_1951&rgn=div8))
* a minimum rating (if specified in the DC), or
* another evaluation established by facts of record at the time of rating.

When following this rule, [38 CFR 3.105(e)](http://www.ecfr.gov/cgi-bin/text-idx?SID=dd9917e4ca832b29e6399122c1083675&node=se38.1.3_1105&rgn=div8) will not apply to the assignment of a disability evaluation less than 100 percent after the total disability period because there will never be a reduction in payments currently being made. ***Important***: [38 CFR 3.105(e)](http://www.ecfr.gov/cgi-bin/text-idx?SID=dd9917e4ca832b29e6399122c1083675&node=se38.1.3_1105&rgn=div8) *will* apply, however, where a *subsequent* (further) reduction may be needed that will result in reduction in payments currently being made. This will occur where, for example* the definite period of convalescence is being assigned prospectively and a minimum evaluation specified under the DC is lower than the running evaluation that was in effect prior to the disability period (see example 2 inM21-1, Part IV, Subpart ii, 2.J.5.f), *or*
* the definite period of convalescence is being assigned retrospectively, and the factual level of disability after the definite period of convalescence supports a lower evaluation than the running evaluation in effect before the temporary total period (see example 3 in M21-1, Part IV, Subpart ii, 2.J.5.g).

***Reference***: For more information on setting a future examination for a schedular period of convalescence, see M21-1, Part IV, Subpart ii, 2.J.5.i. |

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| e. Example 1: Staged Rating of Definite Period of Convalescence | ***Facts***: A prospective increased rating involving a knee replacement under [38 CFR 4.71a, DC 5055](http://www.ecfr.gov/cgi-bin/text-idx?SID=3d75649930f683e754ee2bb72720319a&mc=true&node=se38.1.4_171a&rgn=div8). The knee replacement occurred three months before the date of rating. The prior evaluation of the knee was 20 percent. There are no other disabilities. ***Result***: In the rating decision: * award the increased evaluation of 100 percent, and
* schedule assignment of the minimum rating of 30 percent to take effect after the end of the total disability period.

***Explanation***:* The post convalescence minimum 30-percent evaluation is the greater when choosing between that evaluation and the running evaluation of 20 percent. In a prospective evaluation there are not facts about the future condition of the disability to consider another level of disability.
* [38 CFR 3.105(e)](http://www.ecfr.gov/cgi-bin/text-idx?SID=dd9917e4ca832b29e6399122c1083675&node=se38.1.3_1105&rgn=div8) does not apply because at no point in time is the claimant being paid less than the running 20-percent rate. The rating is staging up to the 100-percent rate and prospectively down to a rate greater than 20 percent.
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| f. Example 2: Staged Rating of Definite Period of Convalescence | ***Facts***: A prospective increased rating involving a knee replacement under [38 CFR 4.71a, DC 5055](http://www.ecfr.gov/cgi-bin/text-idx?SID=3d75649930f683e754ee2bb72720319a&mc=true&node=se38.1.4_171a&rgn=div8). The knee replacement occurred three months before the date of rating. The prior evaluation of the knee was 50 percent. There are no other disabilities. ***Result***: In the rating decision * award the increased evaluation of 100 percent, and
* schedule assignment of a 50-percent evaluation to take effect after the end of the total disability period.

***Explanation***: * The post convalescence 50-percent evaluation is the greater when choosing between the running evaluation and the minimum evaluation of 30 percent. In a prospective evaluation there are not facts about the future condition of the disability to consider another level of disability higher than 30 percent.
* [38 CFR 3.105(e)](http://www.ecfr.gov/cgi-bin/text-idx?SID=dd9917e4ca832b29e6399122c1083675&node=se38.1.3_1105&rgn=div8) does not apply because at no point in time is the claimant being paid less than the running 50-percent rate. The rating is staging up to the 100 percent rate and prospectively down to that rate.
* However, *in the future*, as or after the 50-percent evaluation goes into effect facts may show that only the minimum 30-percent evaluation is warranted. At *that point in time* the further reduction in evaluation would cause a reduction in the payments being made at that time (at the 50-percent rate) so [38 CFR 3.105(e)](http://www.ecfr.gov/cgi-bin/text-idx?SID=dd9917e4ca832b29e6399122c1083675&node=se38.1.3_1105&rgn=div8) would apply.

***Note***: This example is to illustrate staging principles, but in fact patterns like this (a high joint evaluation followed by joint replacement and higher than the minimum evaluation after the temporary total period) strongly consider a future examination to the extent justified by [38 CFR 3.327](http://www.ecfr.gov/cgi-bin/text-idx?SID=6df760a2ba821e0c11058145aee4e2fa&mc=true&node=se38.1.3_1327&rgn=div8) and as provided by M21-1, Part IV, Subpart ii, 2.J.5.i. |

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| g. Example 3: Staged Rating of Definite Period of Convalescence | ***Facts***: A retrospective increased rating involving a knee replacement under [38 CFR 4.71a, DC 5055](http://www.ecfr.gov/cgi-bin/text-idx?SID=3d75649930f683e754ee2bb72720319a&mc=true&node=se38.1.4_171a&rgn=div8). The claim was received 11 months after the knee replacement. A Disability Benefits Questionnaire showed that the prosthetic was stable and the Veteran was asymptomatic. The prior, running evaluation of the knee was 40 percent. There are no other disabilities.***Result***: In the rating decision * award the increased evaluation of 100 percent
* assign a 40-percent evaluation to take effect after the end of the total disability period, and
* propose reduction to 30 percent.

***Explanation***:* The post convalescence 40-percent evaluation is the greater when choosing between running evaluation, the minimum evaluation of 30 percent, and the facts.
* [38 CFR 3.105(e)](http://www.ecfr.gov/cgi-bin/text-idx?SID=dd9917e4ca832b29e6399122c1083675&node=se38.1.3_1105&rgn=div8) does not apply to the decision to assign a 40-percent evaluation after the period of total disability because in doing so the claimant is never being paid less than the running 40-percent rate. The rating is staging up to the 100-percent rate and prospectively down to that rate.
* However, the post convalescence rate is contrary to the current facts. The facts support only the minimum 30-percent evaluation and further reduction in evaluation would cause a reduction from the running 40-percent level. Therefore [38 CFR 3.105(e)](http://www.ecfr.gov/cgi-bin/text-idx?SID=dd9917e4ca832b29e6399122c1083675&node=se38.1.3_1105&rgn=div8) would apply and you must propose further reduction.
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| h. Control and Assignment of Definite Convalescence Period | A definite convalescence period requires no future control. If rated correctly there is no potential for overpayment of the total disability period. The rating that assigns the 100-percent evaluation also sets a subsequent evaluation to take effect after the specified period of total disability ends. ***Reference***: For information about control of indefinite periods of convalescence, see M21-1, Part IV, Subpart ii, 2.J.6.i |

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| i. Reexamination After a Definite Period of Convalescence | When preparing a rating decision prospectively awarding a definite period of convalescence and a subsequent evaluation as provided in M21-1, Part IV, Subpart ii, 2.J.5.d, do not schedule a future examination before the end of the temporary total period. However, a future examination date may be entered in VBMS-R to ensure that the disability will be reexamined and reevaluated after the prescribed convalescence period has expired. These exams may be necessary to determine* if a higher evaluation is warranted in those cases where a minimum evaluation specified in the DC was assigned after the definite period of convalescence, or
* if reduction of the post-convalescence evaluation is warranted (for example where [38 CFR 3.105(e)](http://www.ecfr.gov/cgi-bin/text-idx?SID=dd9917e4ca832b29e6399122c1083675&node=se38.1.3_1105&rgn=div8) dictates reassignment of the running evaluation in effect prior to the period of convalescence) except where the running evaluation is a minimum or protected evaluation.

Generally, when retrospectively awarding a period of temporary total disability, the level of disability after the end of the period of total disability (the current level of disability) will be known. In such cases do not establish a future examination control except as provided in [38 CFR 3.327(b)](http://www.ecfr.gov/cgi-bin/text-idx?SID=9aedef38b71a775fb25e47eb84124eaa&mc=true&node=se38.1.3_1327&rgn=div8) and M21-1, Part III, Subpart iv, 3.B.2. ***Reference***: For more information on scheduling review examinations, see M21-1, Part III, Subpart iv, 3.B.2. |

#### 6. DCs That Provide for Indefinite Periods of Convalescence

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| Introduction | This topic contains information on DCs that provide for indefinite periods of convalescence, including * indefinite periods of convalescence under a DC
* definition of indefinite periods of convalescence
* prospective ratings under indefinite periods of convalescence and 38 CFR 3.105(e)
* retrospective evaluations of indefinite periods of convalescence and 38 CFR 3.105(e)
* cancer evaluations
* example– staged cancer evaluation
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| **Change Date** | July 5, 2015 |

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| a. Indefinite Periods of Convalescence Under a DC | The rating schedule prescribes temporary 100-percent evaluations under various DCs for indefinite periods of time following treatment (including hospitalization), surgery or certain significant disease manifestations. For the purpose of this section consider these as providing for *periods of convalescence* regardless of whether or not the word “convalescence” is used or whether the DC refers to [38 CFR 4.30](http://www.ecfr.gov/cgi-bin/text-idx?SID=e8efbac6c174a1f08121bc677943d397&node=se38.1.4_130&rgn=div8). ***Reference***:For more information about the interrelationship between convalescence under a DC generally and [38 CFR 4.29](http://www.ecfr.gov/cgi-bin/text-idx?SID=2a89050ff6cf08e7dad77e1d39e8950c&node=se38.1.4_129&rgn=div8) or [38 CFR 4.30](http://www.ecfr.gov/cgi-bin/text-idx?SID=e8efbac6c174a1f08121bc677943d397&node=se38.1.4_130&rgn=div8) see M21-1, Part IV, Subpart ii, 2.J.5.b. |

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| b. Definition: Indefinite Periods of Convalescence | A temporary 100-percent evaluation falls into the category ***indefinite periods of convalescence*** when * the 100-percent criteria refers to an “indefinite” period or does not specify the period for which the total evaluation is permitted, *or*
* the end point for total disability is not known, therefore may not be set, at the time of rating.

Key features of DC provisions providing for indefinite periods of convalescence also include* indication that current evidence of active disease or treatment will require a reexamination and reassessment of the disability level, and
* a statement that reduction of the total disability is subject to the provisions of [38 CFR 3.105(e)](http://www.ecfr.gov/cgi-bin/text-idx?SID=dd9917e4ca832b29e6399122c1083675&node=se38.1.3_1105&rgn=div8).

***Examples***: * A mandatory examination is conducted no sooner than one year following hospital discharge subsequent to kidney transplant surgery under [38 CFR 4.115b, DC 7531](http://www.ecfr.gov/cgi-bin/text-idx?SID=3d75649930f683e754ee2bb72720319a&mc=true&node=se38.1.4_1115b&rgn=div8).
* The period that the total disability will run may be a year or it may be longer, and the subsequent evaluation is dependent upon reexamination.
* When the exam will be completed and what subsequent evaluation may be appropriate will not be known at the time of rating.
* An examination is to be conducted under [38 CFR 4.115b, DC 7528](http://www.ecfr.gov/cgi-bin/text-idx?SID=3d75649930f683e754ee2bb72720319a&mc=true&node=se38.1.4_1115b&rgn=div8) no sooner than six months following the point at which a malignant neoplasm of the genitourinary system becomes inactive and there is no further antineoplastic treatment or therapy.
* The period of total disability is not limited, and
* based on the need for evidence of inactivity, end of treatment and review examination, the end point for total disability will not be known and set at the time of rating.
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| c. Prospective Ratings Under Indefinite Periods of Convalescence and 38 CFR 3.105(e) | [38 CFR 3.105(e)](http://www.ecfr.gov/cgi-bin/text-idx?SID=dd9917e4ca832b29e6399122c1083675&node=se38.1.3_1105&rgn=div8) applies to reductions from the period of total disability specified in DCs providing for indefinite periods of convalescence because these evaluations are most often awarded *prospectively* (total disability is still ongoing at the time of the rating). At time of rating the decision maker will not know either one of the following:* the date that a future evaluation will replace the 100-percent rate, or
* the level of evaluation that is appropriate to subsequently assign.

Therefore, the 100-percent evaluation is assigned as an open or running evaluation and later assignment of a lower evaluation after the indefinite period of convalescence can result in a reduction or discontinuance of compensation payments being made. When preparing a rating decision prospectively establishing a temporary total evaluation for an indefinite period of convalescence* enter the total disability from the effective date
* assign a date for a future examination only if appropriate under M21-1, Part III, Subpart iv, 3.B and the facts of record.

Later, when the period of total disability has ended, before assigning a lower evaluation* ensure that any examination report required by the DC is completed and considered, and
* apply the provisions of [38 CFR 3.105(e)](http://www.ecfr.gov/cgi-bin/text-idx?SID=dd9917e4ca832b29e6399122c1083675&node=se38.1.3_1105&rgn=div8) when the rating will cause any reductions from the running total disability rate.

***References***: For more information on* consideration of [38 CFR 3.105(e)](http://www.ecfr.gov/cgi-bin/text-idx?SID=dd9917e4ca832b29e6399122c1083675&node=se38.1.3_1105&rgn=div8), see M21-1, Part III, Subpart iv, 8.D.1.
* retrospective evaluations under DCs providing for indefinite periods of convalescence, see M21-1, Part IV, Subpart ii, 2.J.6.e, and
* reducing staged ratings in original disability claims, see [*Tatum v. Shinseki*](http://vbaw.vba.va.gov/bl/21/advisory/CAVCDAD.htm#bmt), 24 Vet.App. 139 (2010).
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| d. Retrospective Evaluations of Indefinite Periods of Convalescence and 38 CFR 3.105(e) | It is possible, in rare cases that a temporary total evaluation under an indefinite period of convalescence can be assigned retrospectively (when the period of total disability has already ended). This can occur when a claim has a long duration or where the period of total disability was short. In such cases the period of total disability and the subsequent disability level will be actually known at the time of rating. Staging up to 100 percent and then down to the appropriate following level will not require application of the provisions of [38 CFR 3.105(e)](http://www.ecfr.gov/cgi-bin/text-idx?SID=dd9917e4ca832b29e6399122c1083675&node=se38.1.3_1105&rgn=div8) as long as there is not a reduction in compensation payments currently being made. ***Important***: If the total evaluation is reduced as part of a staged rating in the award for the original claim for such disability, then the provisions of [38 CFR 3.105(e)](http://www.ecfr.gov/cgi-bin/text-idx?SID=dd9917e4ca832b29e6399122c1083675&node=se38.1.3_1105&rgn=div8) do not apply. |

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| e. Cancer Evaluations | Almost all cancers are evaluated using the same analysis. See the table below for a description. |

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| Stage | Description |
| 1 | A 100-percent evaluation is assigned for active cancer. This rating is typically assigned prospectively and can run indefinitely. If permanence is not conceded, schedule a review examination based on the evidence of record to ascertain continued status of active cancer or treatment. |
| 2 | Evidence is submitted or obtained that there is no further surgical, x-ray, chemotherapy or other qualifying antineoplastic treatment because the cancer is inactive.  |
| 3 | VA schedules an examination ***no sooner than*** six months after discontinuance of the treatment or evidence of the cessation of active disease to determine whether there has been local recurrence or metastasis. In cases where the examination finds that that the cancer is not active and/or does not require further treatment, the examination will also provide information for use in determining a rating based on residuals. ***Notes***: * Treatment records are insufficient to serve as the requirement for a VA examination.
* Where VA records exist, check the most current records in Compensation and Pension Record Interchange (CAPRI) before ordering the examination to ensure that the cancer is no longer active and that the Veteran has not received antineoplastic treatment for at least six months.
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| 4 | VA takes rating action to reduce the total evaluation to an evaluation for residuals from an appropriate effective date based on the examination results and any other evidence of record. ***Important***: Any change in evaluation shall be subject to the provisions of [38 CFR 3.105(e)](http://www.ecfr.gov/cgi-bin/text-idx?SID=dd9917e4ca832b29e6399122c1083675&node=se38.1.3_1105&rgn=div8) (requiring a proposed reduction, 60-days opportunity to respond, and *prospective reduction* or discontinuance effective the last day of the month in which a 60 day period from the date of notice of the final rating action expires).***Exception***: As the court held in [*Tatum v. Shinseki*](http://vbaw.vba.va.gov/bl/21/advisory/CAVCDAD.htm#bmt), 24 Vet.App. 139 (2010), [38 CFR 3.105(e)](http://www.ecfr.gov/cgi-bin/text-idx?SID=dd9917e4ca832b29e6399122c1083675&node=se38.1.3_1105&rgn=div8) requirements are not applicable when the reduction is part of a staged rating assigned in the original claim. In that circumstance, once examination results are received, the total evaluation can be staged down on a facts found basis to a date as early as six months after discontinuance of treatment – *even if that date was before the date of the examination* subject to two important related principles * the evidence must support the reduction on the date chosen, and
* the facts-found date of reduction cannot take effect earlier than six months following cessation of treatment for the malignant neoplasm.
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| ***Reference***: For more information on scheduling review examinations, see M21-1, Part III, Subpart iv, 3.B and C. |

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| f. Example– Staged Cancer Evaluation | ***Facts*** * An original claim for SC for prostate cancer was received May 1, 2012.
* At that time there is active cancer.
* A prostatectomy is performed on June 20, 2012.
* Follow-up evaluations indicated that no antineoplastic treatment was needed.
* A VA examination was conducted June 6, 2013.
* The examination confirmed that cancer had not recurred or metastasized.
* Exam findings were notable only for subjective reports of urinary frequency of daytime voiding interval between two and three hours.
* The examiner reviewed treatment records of private urologist and oncologist and noted that the exam findings were consistent with findings from all private reports over the prior eight months (since October 2012).
* For this scenario, all evidence is reviewed for the original rating for the claimed prostate cancer.

***Result***: * Award a 100-percent evaluation from the date of claim.
* The reduced evaluation is warranted December 20, 2012, six months after cessation of treatment for a malignant neoplasm.

***Explanation***: * The VA exam supports that the cancer did not recur at any time after June 20, 2012, and the disability shown since October 2012 was consistent with a 10-percent evaluation.
* However October 2012 is not at least six months after the end of antineoplastic treatment. The earliest date that the 100-percent evaluation can be staged down is December 20, 2012.
* The effective day of payment for the 10-percent evaluation is January 1, 2013. Such action is consistent with standard practices and eliminates technical issues regarding establishment of a payment period prior to the end of the month.
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