### Section H. Special Monthly Compensation (SMC)

#### Overview

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

|  |  |
| --- | --- |
| Topic | Topic Name |
| 1  | General Information on SMC |
| 2  | Combining Disabilities When Entitlement to SMC Is at Issue |
| 3  | Hospital Adjustments Under 38 CFR 3.552 |
| 4  | Entitlement to SMC Under 38 U.S.C. 1114(k) |
| 5  | SMC for Blindness With Other Disabilities Affecting Hearing and the Extremities  |
| 6  | SMC for Additional 50 and 100 Percent Evaluations Under 38 CFR 3.350(f)(3) and 38 CFR 3.350(f)(4) |
| 7  | Entitlement to Additional SMC for Loss or Loss of Use (L/LOU) of Three Extremities Under 38 CFR 3.350(f)(5) |
| 8  | Entitlement to SMC Based on the Need for Aid and Attendance (A&A) |
| 9  | Entitlement to a Higher A&A Allowance Under 38 U.S.C. 1114(r)(2) |
| 10  | Entitlement to Housebound Benefits |
| 11 | Entitlement to SMC Under 38 U.S.C. 1114(t) Based on the Need for A&A for Residuals of Traumatic Brain Injury (TBI) |

#### 1. General Information on SMC

|  |  |
| --- | --- |
| Introduction | This topic contains general information on SMC, including* the definition of SMC
* the responsibility for determining LOU
* the information to request from an examiner to determine LOU
* determining the extent of examinations in claims involving SMC under 38 U.S.C. 1114(l) through (n)
* considering amputation or LOU of extremities
* showing entitlement to SMC in rating decisions
* showing the denial of SMC in rating decisions
* mandatory use of the SMC Calculator
* SMC deferrals in Veterans Benefits Management System-Rating (VBMS-R), and
* use of *VA Form 21-2680*, *Examination for Housebound Status or Permanent Need for Regular Aid and Attendance*.
 |

|  |  |
| --- | --- |
| Change Date | January 27, 2016 |

|  |  |
| --- | --- |
| a. Definition: SMC | ***Special Monthly Compensation (SMC)*** is an additional level of compensation to Veterans (above the basic levels of compensation payable based on disability ratings of 0 to 100 percent) for various types of anatomical losses or levels of impairment due solely to service-connected (SC) disabilities.***Reference***: For more information on SMC, see the *SMC Training Guide* under “Training” on the [Compensation Service's Intranet web site](http://vbaw.vba.va.gov/bl/21/). |

|  |  |
| --- | --- |
| b. Responsibility for Determining LOU | The responsibility for determining whether there is loss of use (LOU) of an extremity* rests with the rating activity, and
* cannot be delegated to the examining physician.
 |

|  |  |
| --- | --- |
| c. Information to Request From an Examiner to Determine LOU | When requesting an examination to determine LOU of an extremity, ask the examiner to furnish a * detailed objective description of remaining function
* quantitative assessment of strength for each extremity involved, and
* description of any pain that affects use.

Do not request that the examiner* determine LOU, or
* express an opinion as to whether there is, or is not, LOU of an extremity or extremities.

***Note***: If LOU cannot be determined upon review of an examination report, request an appropriate specialized examination.***References***: For more information on* considering functional loss due to pain in claims for SMC, see [*Tucker v. West*](http://vbaw.vba.va.gov/bl/21/advisory/CAVCDAD.htm#bmt)*,* 11 Vet.App 369, 374 (1998), and
* requesting a specialist examination, see M21-1, Part III, Subpart iv, 3.A.6.
 |

|  |  |
| --- | --- |
| d. Determining the Extent of Examinations in Claims Involving SMC Under 38 U.S.C. 1114(l) Through (n) | Exercise considerable care when requesting examinations in connection with claims involving SMC under [38 U.S.C. 1114(1) through (n)](http://www.law.cornell.edu/uscode/html/uscode38/usc_sec_38_00001114----000-.html).***Example***: A prior examination clearly established LOU of both lower extremities at a level preventing natural knee action. Do not request a complete medical examination if the only issue in question is the extent of involvement of one or both of the upper extremities. Instead, request an examination with a notation that the examination be restricted to the degree of functional impairment of the upper extremities.  |

|  |  |
| --- | --- |
| e. Considering Amputation or LOU of Extremities | A determination as to LOU of a hand or foot is not restricted to organic loss; it includes functional LOU as well. The relevant inquiry concerning entitlement to SMC is not whether amputation is warranted. Instead, question whether the effective function remaining is other than that which would be equally well served by an amputation with the use of a suitable prosthetic appliance.***Reference***: For more information on determining entitlement to SMC based on LOU that is equivalent to amputation, see [*Tucker v. West*](http://vbaw.vba.va.gov/bl/21/Advisory/CAVCDAD.htm#bmt)*,* 11 Vet.App. 369, 374 (1998). |

|  |  |
| --- | --- |
| f. Showing Entitlement to SMC in Rating Decisions | Entitlement to SMC must be reflected in the *Coded Conclusion* section of the rating decision by* noting entitlement to SMC and statutory awards immediately following citation of the combined evaluation of all SC disabilities (if more than one exists)
* listing any anatomical loss as the first entitlement in order of preference over all LOUs, and
* citing separately each additional specific disability if entitlement under [38 U.S.C. 1114(k)](http://www.law.cornell.edu/uscode/html/uscode38/usc_sec_38_00001114----000-.html) is shown for more than one anatomical loss, or LOU.

***References***: For more information on * the rating decision codesheet in SMC decisions, see M21-1, Part III, Subpart iv, 6.D.5.a, and
* two-signature requirements for SMC ratings, see M21-1, Part III, Subpart iv, 6.D.7.c.
 |

|  |  |
| --- | --- |
| g. Showing the Denial of SMC in Rating Decisions | The denial of SMC must be addressed in the *Narrative* of the ration decision using the text generated by the software application with which the rating activity prepares the decision.***Notes***: * The generated text should be considered the baseline text for the narrative denial of SMC. The rating activity should edit the generated text as necessary to provide details specific to individual SMC claim.
* Veterans Benefits Management System – Rating (VBMS-R) is the primary software application used for preparing rating decisions.
 |

|  |  |
| --- | --- |
| h. Mandatory Use of the SMC Calculator | The rating activity ***must*** use the SMC Calculator on the Compensation Service [Rating Job Aids](http://vbaw.vba.va.gov/bl/21/rating/rat00.htm) web page to determine the appropriate SMC codes and SMC paragraphs to input into the *Codesheet* of the rating decision. Decision makers are required to associate the SMC Calculator worksheet results in the claims folder. When uploading the SMC Calculator worksheet results to VBMS, users should identify the worksheet by entering the following information:* TYPE: Worksheet: Rating Calculator Worksheets
* SOURCE: VBMS
* SUBJECT: *SMC Calculator Worksheet*

***Notes***: * Build the SMC rating narrative using system generated language, glossary fragments, and free text as appropriate.
* Consider any ancillary benefit information generated by the calculator and consider whether additional issues need to be decided.

***References***: For more information on* using the SMC Calculator, see the *SMC User Guide* on the [Rating Job Aids](http://vbaw.vba.va.gov/bl/21/rating/rat00.htm) web page
* generating rating narrative, see M21-1, Part III, Subpart iv, 6.C, and
* considering subordinate issues and ancillary benefits, see M21-1, Part III, Subpart iv, 6.B.2.
 |

|  |  |
| --- | --- |
| **i. SMC Deferrals in VBMS-R** | To process SMC deferrals in VBMS-R, refer to the table below. |

|  |  |
| --- | --- |
| **Stage** | **Description** |
| 1 | Establish the SMC issue on the ISSUE MANAGEMENT screen. |
| 2 | Click ENTER DECISION to advance to the SMC PARAGRAPH tab (do not make any selections on this tab). |
| 3 | Select the SMC CODES tab.  |
| 4 | Select the DEFERRED ISSUE option from the SUPPLEMENTARY DECISIONS drop down list |
| 5 | Click ACCEPT and provide additional information relating to the deferral when prompted. |

|  |  |
| --- | --- |
| **j. Use of VA Form 21-2680** | Medical providers within *or* outside of VA may complete *VA Form 21-2680, Examination for Housebound Status or Permanent Need for Regular Aid and Attendance,* to provide evidence that a claimant is in need of aid and attendance (A&A) and/or housebound benefits. ***Notes***: * Statements by medical providers on *VA Form 21-2680* which meet the requirements of [38 CFR 3.326(b)](http://www.ecfr.gov/cgi-bin/text-idx?SID=c7dd7f82bd4f6238683b464a28137efe&mc=true&node=se38.1.3_1326&rgn=div8) and [38 CFR 3.159(a)(1)](http://www.ecfr.gov/cgi-bin/text-idx?SID=c7dd7f82bd4f6238683b464a28137efe&mc=true&node=se38.1.3_1159&rgn=div8) are acceptable for rating purposes.
* Statements by medical providers or other clinical evidence contained in the *VA Form 21-2680* may be accepted as a claim for increased evaluation for an existing SC disability if worsening of the disability is shown.

***Reference***: For more information on claims for increase, see M21-1, Part III, Subpart ii, 2.E.  |

#### 2. Combining Disabilities When Entitlement to SMC Is at Issue

|  |  |
| --- | --- |
| Introduction | This topic contains information on combining disabilities when entitlement to SMC is at issue, including * when multiple disabilities should not be evaluated as a single disability
* evaluating a multisystem disorder
* an example of a rating decision involving a multisystem disorder
* cases involving loss of anal and bladder sphincter control, and
* avoiding separate SMC assignments for loss or loss of use (L/LOU) of an extremity.
 |

|  |  |
| --- | --- |
| Change Date | January 5, 2016 |

|  |  |
| --- | --- |
| a. When Multiple Disabilities Should Not Be Evaluated as a Single Disability | Do ***not*** rate multiple disabilities as a single disability if there is a possibility of entitlement to* SMC under [38 U.S.C. 1114(s)](http://www.law.cornell.edu/uscode/html/uscode38/usc_sec_38_00001114----000-.html), or
* an intermediate or next higher rate of SMC under
* [38 CFR 3.350(f)(3)](http://www.ecfr.gov/cgi-bin/text-idx?SID=76b7abf9fb4c0823637fbf34ab15ef8d&mc=true&node=se38.1.3_1350&rgn=div8), or
* [38 CFR 3.350(f)(4)](http://www.ecfr.gov/cgi-bin/text-idx?SID=76b7abf9fb4c0823637fbf34ab15ef8d&mc=true&node=se38.1.3_1350&rgn=div8).
 |

|  |  |
| --- | --- |
| b. Evaluating a Multisystem Disorder | The assignment of a single evaluation of 100 percent for a multisystem disorder, based on LOU of two extremities, may overlook the disorder’s involvement in other body systems. This involvement might meet requirements for* an intermediate rate under [38 CFR 3.350(f)(3)](http://www.ecfr.gov/cgi-bin/text-idx?SID=76b7abf9fb4c0823637fbf34ab15ef8d&mc=true&node=se38.1.3_1350&rgn=div8), or
* the next higher rate under [38 CFR 3.350(f)(4)](http://www.ecfr.gov/cgi-bin/text-idx?SID=76b7abf9fb4c0823637fbf34ab15ef8d&mc=true&node=se38.1.3_1350&rgn=div8).
 |

|  |  |
| --- | --- |
| c. Example: Rating Decision Involving a Multisystem Disorder | ***Situation***: A Veteran has lost the use of both lower extremities due to SC multiple sclerosis. ***Result***: Assign* a 100-percent evaluation for the LOU of both lower extremities under hyphenated diagnostic code (DC) 8018-5110, and
* separate evaluations under the appropriate DCs for the involvement of any other body system so that possible entitlement to a higher level of SMC will not be overlooked.

***Coded Conclusion***: Assume the disabilities shown below are all related to multiple sclerosis.SUBJECT TO COMPENSATION (1.SC)8018-5110 MULTIPLE SCLEROSIS, WITH LOSS OF USE BOTH LOWER EXTREMITIES100 percent from 06/14/1996.6516 DYSARTHRIA, DUE TO MULTIPLE SCLEROSIS 30 percent from 06/14/1996.7332 IMPAIRMENT OF ANAL SPHINCTER CONTROL DUE TO MULTIPLE SCLEROSIS 10 percent from 06/14/1996.7512 LOSS OF BLADDER CONTROL, MODERATE, DUE TO MULTIPLE SCLEROSIS10 percent from 06/14/1996.6016 NYSTAGMUS DUE TO MULTIPLE SCLEROSIS10 percent from 06/14/1996.*COMBINED EVALUATION FOR COMPENSATION*:100 percent from 06/14/1996.*SPECIAL MONTHLY COMPENSATION*L-1 Entitled to SMC under 38 U.S.C. 1114(1) and 38 CFR 3.350(b) on account of loss of use of both feet from 06/14/1996.P-1 Entitled to SMC under 38 U.S.C. 1114(p) and 38 CFR 3.350(f)(3) at the rate intermediate between 38 U.S.C. 1114(l) and 38 U.S.C. 1114(m) on account of loss of use of both feet with additional disabilities, dysarthria, loss of bladder control, impairment of anal sphincter control and nystagmus independently ratable at 50-percent or more disabling from 06/14/1996.***SMC Coding***: An example of SMC coding is shown in the table below. |

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| EFFECTIVE DATE | BASIC | HOSPITAL | LOSS OF USE | ANAT. LOSS | OTHER LOSS |
| 06/14/1996 | 18 | 18 | 24 | 00 | 0 |

|  |  |
| --- | --- |
| d. Cases Involving Loss of Anal and Bladder Sphincter Control | Under certain circumstances, LOU of both lower extremities, together with loss of anal and bladder sphincter control, satisfies the requirements of [38 CFR 3.350(e)(2)](http://www.ecfr.gov/cgi-bin/text-idx?SID=76b7abf9fb4c0823637fbf34ab15ef8d&mc=true&node=se38.1.3_1350&rgn=div8) for entitlement to SMC under [38 U.S.C. 1114(o)](http://law.cornell.edu/uscode/html/uscode38/usc_sec_38_00001114----000-.html). In such cases, separate ratings for loss of anal and bladder sphincter control are not required. Use SMC code 55 to award entitlement..***Reference***: For more information on adding an SMC code, see [*VBMS - R User Guide*](http://vbaw.vba.va.gov/VBMS/Resources_Technical_Information.asp). |

|  |  |
| --- | --- |
| e. Avoiding Separate SMC Assignments for L/LOU of an Extremity | Do not assign SMC for* loss or loss of use (L/LOU) of a leg *and* L/LOU of the foot of the same leg, or
* L/LOU of an arm *and* L/LOU of the hand of the same arm.

If a Veteran has L/LOU of a leg, the L/LOU of the foot of the same leg is subsumed in the level of SMC assigned to the leg. Similarly, if a Veteran has L/LOU of an arm, the L/LOU of the hand of the same arm is subsumed in the level of SMC assigned to the arm. ***Reference***: For more information on avoiding separate assignments for L/LOU of an extremity, see [*Guillory v. Shinseki*](http://vbaw.vba.va.gov/bl/21/advisory/CAVCDAD.htm#bmg), 669 F.3d 1214 (Fed. Cir. 2012). |

#### 3. Hospital Adjustments Under 38 CFR 3.552

|  |  |
| --- | --- |
| Introduction | This topic contains information on hospital adjustments under 38 CFR 3.552, including * specifying the basis of entitlement under 38 CFR 3.552 in the rating decision
* the consequences of an improperly assigned SMC hospital code, and
* examples of rating decisions with properly assigned SMC hospital codes.
 |

|  |  |
| --- | --- |
| Change Date | June 16, 2015 |

|  |  |
| --- | --- |
| a. Specifying the Basis of Entitlement Under 38 CFR 3.552 in the Rating Decision | The rating decision must specify the basis of the Veteran’s entitlement to a hospital adjustment in order to ensure the proper application of [38 CFR 3.552](http://www.ecfr.gov/cgi-bin/text-idx?SID=76b7abf9fb4c0823637fbf34ab15ef8d&mc=true&node=se38.1.3_1552&rgn=div8). The SMC allowance for A&A must be discontinued during hospitalization at government expense, *unless* the need for A&A is due to* paraplegia involving
* paralysis of both lower extremities, together with
* loss of anal and bladder sphincter control, or
* Hansen’s disease.

***Exception***: The SMC allowance for A&A must be discontinued during hospitalization, regardless of the disability involved, if entitlement is established under* [38 U.S.C. 1114(r)(1)](http://www.law.cornell.edu/uscode/html/uscode38/usc_sec_38_00001114----000-.html)
* [38 U.S.C. 1114(r)(2)](http://www.law.cornell.edu/uscode/html/uscode38/usc_sec_38_00001114----000-.html), or
* [38 U.S.C. 1114(t)](https://www.law.cornell.edu/uscode/text/38/1114).

***Note***: Regardless of pre-existing paraplegia, SMC is payable at the rate prescribed in [38 U.S.C. 1114(n)](https://www.law.cornell.edu/uscode/text/38/1114) to a claimant who is entitled to compensation for bilateral disarticulation of the hips under [38 U.S.C. 1151](https://www.law.cornell.edu/uscode/text/38/1151) per [VAOPGCPREC 30-97](http://www.va.gov/ogc/docs/1997/Prc30-97.doc).***References***: For more information on entitlement to a higher A&A allowance under * [38 U.S.C. 1114(r)](http://www.law.cornell.edu/uscode/html/uscode38/usc_sec_38_00001114----000-.html), see M21-1, Part IV, Subpart ii, 2.H.9, and
* [38 U.S.C. 1114(t)](https://www.law.cornell.edu/uscode/text/38/1114), see M21-1, Part IV, Subpart ii, 2.H.11.
 |

|  |  |
| --- | --- |
| b. Consequences of an Improperly Assigned SMC Hospital Code | The assignment of an improper SMC hospital code may result in erroneous adjustment of the Veteran’s award upon hospitalization. |

|  |  |
| --- | --- |
| c. Example 1: Rating Decision With a Properly Assigned SMC Hospital Code | ***Situation***: The Veteran has * a 100-percent disabling heart condition so severe as to require A&A of another person, and
* bilateral, below-knee amputations.

***Result***: Entitlement under [38 U.S.C. 1114(r)(1)](http://www.law.cornell.edu/uscode/html/uscode38/usc_sec_38_00001114----000-.html) is warranted based upon the need for A&A; entitlement under [38 U.S.C. 1114(l)](http://www.law.cornell.edu/uscode/html/uscode38/usc_sec_38_00001114----000-.html) is also warranted for the bilateral amputations.***Coded Conclusion***: The proper * basic SMC code is 51, and
* SMC hospital code is 19 for SMC under [38 U.S.C. 1114(m)](http://www.law.cornell.edu/uscode/html/uscode38/usc_sec_38_00001114----000-.html).
 |

|  |  |
| --- | --- |
| d. Example 2: Rating Decision With a Properly Assigned SMC Hospital Code | ***Situation***: The Veteran has a * 100-percent disabling psychiatric condition that does not require A&A, and
* 100-percent disabling heart condition that does require A&A.

***Result***: Entitlement under [38 U.S.C. 1114(m)](http://www.law.cornell.edu/uscode/html/uscode38/usc_sec_38_00001114----000-.html) is warranted based upon the need for A&A plus an additional 100-percent disability.***Coded Conclusion***: The proper* basic SMC code is 19, and
* SMC hospital code is 48 for SMC under [38 U.S.C. 1114(s)](http://www.law.cornell.edu/uscode/html/uscode38/usc_sec_38_00001114----000-.html).
 |

#### 4. Entitlement to SMC Under 38 U.S.C. 1114(k)

|  |  |
| --- | --- |
| Introduction | This topic contains information on entitlement to SMC under 38 U.S.C. 1114(k), including * the eligibility criteria for SMC under 38 U.S.C. 1114(k)
* the history of SMC for L/LOU of a creative organ
* awarding SMC for L/LOU of a creative organ
* the basis for considering entitlement to SMC for L/LOU of a creative organ
* awarding SMC for LOU of a hand or foot
* other medical indications of LOU of the foot, and
* awarding SMC for
* LOU of both buttocks
* deafness
* complete organic aphonia
* LOU or blindness of one eye, and
* loss of breast tissue.
 |

|  |  |
| --- | --- |
| Change Date | June 16, 2015 |

|  |  |
| --- | --- |
| a. Eligibility Criteria for SMC Under 38 U.S.C. 1114(k) | SMC under [38 U.S.C. 1114(k)](http://www.law.cornell.edu/uscode/html/uscode38/usc_sec_38_00001114----000-.html) is payable for the following levels of impairment* L/LOU of a creative organ
* L/LOU of a hand
* L/LOU of a foot
* L/LOU of both buttocks
* deafness of both ears having absence of air and bone conduction
* complete organic aphonia with constant inability to communicate by speech
* blindness in one eye, having light perception only (LPO), and
* loss of 25-percent or more of tissue from one or both breasts or breast tissue has been subject to radiation treatment.
 |

|  |  |
| --- | --- |
| b. History of SMC for L/LOU of a Creative Organ | *Public Law (PL) 82-427*, which went into effect August 1, 1952, provided for the payment of SMC under [38 U.S.C. 1114(k)](http://www.law.cornell.edu/uscode/html/uscode38/usc_sec_38_00001114----000-.html) for L/LOU of a creative organ. [38 CFR 3.114(a)](http://www.ecfr.gov/cgi-bin/text-idx?SID=e8bb2cdb44cad9cb4115238a5a428087&mc=true&node=se38.1.3_1114&rgn=div8), which provides instructions for assigning effective dates pursuant to liberalizing law or Department of Veterans Affairs (VA) policy, became effective December 1, 1962. Accordingly, the proper effective date for awarding entitlement to a Veteran who was otherwise eligible for SMC on August 1, 1952, based on L/LOU of a creative organ, is the earlier of the following two dates, but no earlier than December 1, 1962* one year before the date VA received the claim, or
* one year before the date of an administrative determination of entitlement.

***Note***: The provisions of [38 CFR 3.114](http://www.ecfr.gov/cgi-bin/text-idx?SID=a9ffd79e319edc6747134a2c276696ec&mc=true&node=se38.1.3_1114&rgn=div8) ***do not*** apply to Female Sexual Arousal Disorder (FSAD). Entitlement to SMC(k) should be established based on the date SC for FSAD was established.***Reference***: For more information on * the history of SMC under [38 U.S.C. 1114(k)](http://www.law.cornell.edu/uscode/html/uscode38/usc_sec_38_00001114----000-.html), see M21-1, Part IV, Subpart ii, 2.I.2, and
* SMC and radical prostatectomy, see M21-1, Part III, Subpart iv, 4.I.3.g and h.
 |

|  |  |
| --- | --- |
| c. Awarding SMC for L/LOU of a Creative Organ | Award SMC based on L/LOU of a creative organ, if medical evidence of records shows* the acquired absence of one or both testicles, ovaries, or other creative organs
* a condition of the reproductive tract which results in LOU of a creative organ, such as retrograde ejaculation or spermatozoa dumping into the bladder in a male Veteran
* the loss of erectile power secondary to a disease process, such as diabetes or multiple sclerosis, in a male Veteran, or
* a diagnosis of FSAD.

***Note***: SC for prostate cancer does *not* automatically result in an award of SMC for LOU of a creative organ at the (k) rate *unless* the prostate cancer was treated by radical prostatectomy.* If the Veteran is SC for prostate cancer and the evidence of record includes a surgical report showing a radical prostatectomy was performed, award SMC(k) effective the date the radical prostatectomy was performed.
* If the Veteran is SC for prostate cancer but the evidence of record does ***not*** show a radical prostatectomy was performed, clinical evidence of the LOU of a creative organ due to the SC prostate cancer is required to award SMC at the (k) rate for LOU of a creative organ due to prostate cancer.

***References***: For more information on* L/LOU of a creative organ, see
* [38 CFR 3.350(a)(1)](http://www.ecfr.gov/cgi-bin/text-idx?SID=76b7abf9fb4c0823637fbf34ab15ef8d&mc=true&node=se38.1.3_1350&rgn=div8)
* [38 CFR 4.115b, Note](http://www.ecfr.gov/cgi-bin/text-idx?SID=689f743d1f4c115b8077b36c95e92c05&mc=true&node=se38.1.4_1115b&rgn=div8), and
* [38 CFR 4.116, Note 2](http://www.ecfr.gov/cgi-bin/text-idx?SID=689f743d1f4c115b8077b36c95e92c05&mc=true&node=se38.1.4_1116&rgn=div8),
* Erectile dysfunction associated with prostate cancer, see M21-1, Part III, Subpart iv, 4.I.2.h, and
* FSAD, see M21-1, Part III, Subpart iv, 4.I.3.
 |

|  |  |
| --- | --- |
| d. Basis for Considering Entitlement to SMC for L/LOU of a Creative Organ | The issue of entitlement to SMC for L/LOU of a creative organ may be* based on a specific claim, or
* inferred from the evidence of record, such as a VA examination or hospitalization report.

Undertake any development necessary, including submission of a request for a special examination, if there is a reasonable probability of entitlement. ***Note***: * There is no bar to the payment of compensation or establishment of SC for anatomical loss of a creative organ, when a non-service-connected (NSC) LOU of a creative organ existed prior to anatomical loss resulting from service.
* The successful use of medication or prosthetic implant to restore erectile ability does not preclude the award of SMC for LOU if the Veteran is unable to complete the act of procreation.

***References***: For more information on* providing SMC for anatomical loss of a creative organ when a pre-existing NSC functional loss was present, see [VAOPGCPREC 05-89](http://www.va.gov/ogc/docs/1989/PREC_05-89.doc), and
* restoring SMC for anatomical loss of a creative organ when eligibility was originally found to have existed, but was later found not to exist due to suffering a complete loss of procreative power prior to service through surgical removal of certain other organs, see [VAOPGCPREC 93-90](http://www.va.gov/ogc/docs/1990/PREC_93-90.doc).
 |

|  |  |
| --- | --- |
| e. Awarding SMC for LOU of a Hand or Foot | Award SMC for LOU of a hand or a foot when function is no better than if the hand or foot were amputated and replaced by prosthesis.When considering LOU, determine whether the following activities could be accomplished equally well by a prosthesis* grasping or manipulation (for a hand), and
* balancing, propulsion, or ambulation (for a foot).

***Reference***: For more information on * L/LOU of a hand or foot, see
* [38 CFR 3.350(a)(2),](http://www.ecfr.gov/cgi-bin/text-idx?SID=a9ffd79e319edc6747134a2c276696ec&mc=true&node=se38.1.3_1350&rgn=div8) and
* [38 CFR 4.63](http://www.ecfr.gov/cgi-bin/text-idx?SID=a9ffd79e319edc6747134a2c276696ec&mc=true&node=se38.1.4_163&rgn=div8), and
* avoiding separate SMC assignments for L/LOU of an extremity, see M21-1, Part IV, Subpart ii, 2.H.2.e.
 |

|  |  |
| --- | --- |
| f. Other Medical Indications of LOU of the Foot | Other medical indications of LOU of the foot include* extremely unfavorable complete ankylosis of the knee
* complete ankylosis of two major joints of a lower extremity
* shortening of the lower extremity three and one-half inches or more, and
* complete paralysis of the external popliteal (common peroneal) nerve and consequent foot drop, accompanied by characteristic organic changes.
 |

|  |  |
| --- | --- |
| g. Awarding SMC for LOU of Both Buttocks | Award SMC for LOU of both buttocks when there is severe damage by disease or injury to muscle group XVII (the gluteus maximus, gluteus medius, and gluteus minimus), bilaterally, which renders the Veteran unable to complete the following actions* rise from a seated or stooped position, and
* maintain postural stability.

***Note***: *Assistance* performing the physical actions listed above includes the use of the person’s own hands or arms and a special appliance for postural stability.***Reference***: For more information on LOU of the buttocks, see [38 CFR 3.350(a)(3)](http://www.ecfr.gov/cgi-bin/text-idx?SID=a9ffd79e319edc6747134a2c276696ec&mc=true&node=se38.1.3_1350&rgn=div8). |

|  |  |
| --- | --- |
| h. Awarding SMC for Deafness | Award SMC for deafness of both ears, having absence of air and bone conduction, if the SC bilateral hearing loss warrants a 100-percent evaluation under the evaluation criteria in [38 CFR 4.85](http://www.ecfr.gov/cgi-bin/text-idx?SID=bb027572c3e2c801629a96622192fb10&mc=true&node=se38.1.4_185&rgn=div8) and [38 CFR 4.86](http://www.ecfr.gov/cgi-bin/text-idx?SID=bb027572c3e2c801629a96622192fb10&mc=true&node=se38.1.4_186&rgn=div8) for hearing impairment.A Veteran with bilateral SC hearing impairment, numerically designated as XI, is entitled to SMC, regardless of whether or not measurable hearing impairment was noted on entrance into service and SC was awarded based on aggravation of a pre-existing disability.***Notes***: * A numeric designation of hearing impairment of
* XI in both ears *entitles* the Veteran to SMC, and
* less than XI in either ear *precludes* entitlement to SMC.
* Base disability ratings ***only*** on an examination conducted in a VA-authorized audiology clinic using current testing criteria.
* Hearing loss justifying an award of SMC must be permanent in nature.
 |

|  |  |
| --- | --- |
| i. Awarding SMC for Complete Organic Aphonia | Award SMC for complete organic aphonia if a disability of the organs of speech exists that constantly precludes communication by speech and* the Veteran is unable to communicate by voice or whisper through the normal organs of speech, and
* the disability is constant and of organic origin.

***Notes***: * Complete organic aphonia most frequently results from loss or paralysis of an organ of speech such as the tongue or larynx.
* The use of other organs of the body or prosthetic devices to provide voice sounds does *not* preclude entitlement to SMC.
* The assignment of total schedular ratings under [38 CFR 4.97, DCs 6518, 6519, and 6520](http://www.ecfr.gov/cgi-bin/text-idx?SID=d41a22b29b11e20b21ccc172292533e4&mc=true&node=se38.1.4_197&rgn=div8), and [38 CFR 4.114, DC 7202](http://www.ecfr.gov/cgi-bin/text-idx?SID=d41a22b29b11e20b21ccc172292533e4&mc=true&node=se38.1.4_1114&rgn=div8), generally entitles the Veteran to SMC.
 |

|  |  |
| --- | --- |
| j. Awarding SMC for LOU or Blindness of One Eye | Award SMC for LOU or blindness of one eye, having LPO, when the Veteran is unable to* recognize test letters at one foot, and
* recognize objects, hand movements, or count fingers at a distance of three feet.

***Note***: SMC is also payable for the anatomical loss of an eye. |

|  |  |
| --- | --- |
| k. Awarding SMC for Loss of Breast Tissue | Entitlement to SMC for loss of tissue from one or both breasts is limited to female Veterans. *PL 107-330*, enacted December 6, 2002, provides for the payment of SMC * for loss of 25-percent or more of the tissue from a single breast or both breasts in combination (including loss by mastectomy or partial mastectomy), or
* when breast tissue has been subjected to radiation treatment.

***Note***: Before enactment of *PL 107-330*, entitlement to SMC existed only upon complete surgical removal of breast tissue (or the equivalent loss of breast tissue due to injury), which included radical mastectomy, modified radical mastectomy, and simple (or total) mastectomy. ***Reference***: For more information on entitlement to SMC for loss of breast tissue, see [38 CFR 4.116](http://www.ecfr.gov/cgi-bin/text-idx?SID=a9ffd79e319edc6747134a2c276696ec&mc=true&node=se38.1.4_1116&rgn=div8).  |

#### 5. SMC for Blindness With Other Disabilities Affecting Hearing and the Extremities

|  |  |
| --- | --- |
| Introduction | This topic contains information on SMC for blindness with other disabilities affecting hearing and the extremities, including * basic criteria for entitlement to SMC at the (l) rate
* basic criteria for entitlement to SMC at the (m) rate
* the general criteria for entitlement to SMC for blindness with hearing loss or L/LOU of an extremity
* SMC for bilateral deafness evaluated as 60-percent or more and bilateral visual acuity of 20/200 or less
* SMC for total SC deafness in one ear and bilateral blindness
* examples of rating decisions involving SMC for total SC deafness in one ear and bilateral blindness
* SMC for bilateral blindness with bilateral hearing loss considered 10- or 20-percent disabling
* examples of rating decisions involving SMC for bilateral blindness with bilateral hearing loss considered 10- or 20-percent disabling
* SMC for bilateral blindness with bilateral hearing loss considered 30-percent disabling
* an example of a rating decision involving SMC for bilateral blindness with bilateral hearing loss considered 30-percent disabling
* SMC for bilateral blindness with bilateral hearing loss considered 40-percent disabling
* examples of rating decisions involving SMC for bilateral blindness with bilateral hearing loss considered 40-percent disabling
* SMC for bilateral blindness with bilateral hearing loss considered 60-percent disabling
* an example of a rating decision involving SMC for bilateral blindness with bilateral hearing loss considered 60-percent disabling
* SMC for bilateral blindness with L/LOU of an extremity considered at least 50 percent disabling
* an example of a rating decision involving SMC for bilateral blindness with L/LOU of an extremity considered at least 50 percent disabling
* SMC for bilateral blindness with L/LOU of a lower extremity considered less than 50 percent disabling, and
* an example of a rating decision involving SMC for bilateral blindness with L/LOU of a lower extremity considered less than 50 percent disabling.
 |

|  |  |
| --- | --- |
| Change Date | June 16, 2015 |

|  |  |
| --- | --- |
| **a. Basic Criteria for Entitlement to SMC at the (l) Rate** | The SMC rate payable under [38 U.S.C. 1114(l)](https://www.law.cornell.edu/uscode/text/38/1114) is authorized for the following SC disabilities * anatomical L/LOU of both feet
* anatomical L/LOU of one hand and one foot
* blindness in both eyes with visual acuity of 5/200 or less
* being permanently bedridden, or
* being so helpless as to be in need of the regular A&A of another person.
 |

|  |  |
| --- | --- |
| **b. Basic Criteria for Entitlement to SMC at the (m) Rate** | The SMC rate payable under [38 U.S.C. 1114(m)](https://www.law.cornell.edu/uscode/text/38/1114) is authorized for the following disabilities* anatomical L/LOU of both hands
* anatomical L/LOU of both legs at a level, or with complications, preventing natural knee action with prostheses in place
* anatomical L/LOU of one arm and one leg preventing natural elbow and knee action with prostheses in place, due to the level of involvement or with complications
* blindness in both eyes having LPO, or
* blindness in both eyes leaving the Veteran so significantly disabled as to be in need of regular A&A.
 |

|  |  |
| --- | --- |
| c. General Criteria for Entitlement to SMC for Blindness With Hearing Loss or L/LOU of an Extremity | Additional SMC is payable to Veterans with bilateral blindness who are already entitled to SMC under [38 U.S.C. 1114(1) through (n)](http://www.law.cornell.edu/uscode/html/uscode38/usc_sec_38_00001114----000-.html) who also have varying degrees of SC hearing loss or SC L/LOU of an extremity. |

|  |  |
| --- | --- |
| d. SMC for Bilateral Deafness Evaluated as 60-Percent or More and Bilateral Visual Acuity of 20/200 or Less | A Veteran is entitled to SMC under [38 U.S.C.1114(o)](http://www.law.cornell.edu/uscode/html/uscode38/usc_sec_38_00001114----000-.html) if the Veteran has a combination of* bilateral deafness rated at 60-percent or more (and the hearing loss in either ear is SC), and
* SC blindness with bilateral visual acuity of 20/200 (6/60) or less.

***Note***: Before the enactment of *PL 110-157* on December 26, 2007, SC blindness with bilateral visual acuity of 5/200 (1.5/60) or less was required for entitlement to SMC under [38 U.S.C.1114(o)](http://www.law.cornell.edu/uscode/html/uscode38/usc_sec_38_00001114----000-.html). |

|  |  |
| --- | --- |
| e. SMC for Total SC Deafness in One Ear and Bilateral Blindness | A Veteran with total SC deafness in one ear, such as that numerically designated as “XI,” and SC blindness with* LPO or less, bilaterally, is entitled to SMC under [38 U.S.C.1114(o)](http://www.law.cornell.edu/uscode/html/uscode38/usc_sec_38_00001114----000-.html) and [38 CFR 3.350(e)(1)(iv)](http://www.ecfr.gov/cgi-bin/text-idx?SID=a9ffd79e319edc6747134a2c276696ec&mc=true&node=se38.1.3_1350&rgn=div8), or
* visual acuity of 5/200 (1.5/60) or less bilaterally, is entitled to an additional half-step in the level of SMC, under the provisions [of 38 CFR 3.350(f)(2)(iv).](http://www.ecfr.gov/cgi-bin/text-idx?SID=a9ffd79e319edc6747134a2c276696ec&mc=true&node=se38.1.3_1350&rgn=div8)
 |

|  |  |
| --- | --- |
| f. Example 1: Rating Decision Involving SMC for Total SC Deafness in One Ear and Bilateral Blindness | ***Situation***: The Veteran has * bilateral SC blindness with LPO, and
* total SC hearing loss in the left ear
* no separate and distinct disability evaluated as 100-percent disabling, and
* no separate and distinct disability evaluated as 50-percent disabling.

***Result***: Since the Veteran has LPO bilaterally, and total SC loss of hearing in the left ear, entitlement to SMC is warranted under* [38 U.S.C. 1114(o)](http://www.law.cornell.edu/uscode/html/uscode38/usc_sec_38_00001114----000-.html), and
* [38 CFR 3.350(e)(1)(iv)](http://www.ecfr.gov/cgi-bin/text-idx?SID=a9ffd79e319edc6747134a2c276696ec&mc=true&node=se38.1.3_1350&rgn=div8).

***Coded Conclusion***: * The appropriate SMC paragraph code is OB-2.
* The appropriate SMC coding is 37-37-21-00-0.
 |

|  |  |
| --- | --- |
| g. Example 2: Rating Decision Involving SMC for Total SC Deafness in One Ear and Bilateral Blindness | ***Situation***: The Veteran has* bilateral SC blindness with
* no light perception (NLP) in the left eye, and
* visual acuity of 5/200 (1.5/60) in the right eye
* total SC hearing loss in the left ear
* no separate and distinct disability evaluated as 100-percent disabling, and
* no separate and distinct disability evaluated as 50-percent disabling.

***Result***: The Veteran is entitled to SMC under [38 U.S.C. 1114(m)](http://www.law.cornell.edu/uscode/html/uscode38/usc_sec_38_00001114----000-.html) for the degree of bilateral blindness alone, but an additional one-half step in the level of SMC (“m½”) is warranted, based on the degree of hearing loss, under the provisions of [38 CFR 3.350(f)(2)(iv)](http://www.ecfr.gov/cgi-bin/text-idx?SID=a9ffd79e319edc6747134a2c276696ec&mc=true&node=se38.1.3_1350&rgn=div8).***Coded Conclusion***: * The appropriate SMC paragraph code is PB-1.
* The appropriate SMC coding is 20-20-21-00-0.
 |

|  |  |
| --- | --- |
| h. SMC for Bilateral Blindness With Bilateral Hearing Loss Considered 10 or 20-Percent Disabling | A Veteran is entitled to an additional one-half step in the level of SMC under [38 CFR 3.350(f)(2)(v)](http://www.ecfr.gov/cgi-bin/text-idx?SID=a9ffd79e319edc6747134a2c276696ec&mc=true&node=se38.1.3_1350&rgn=div8) if he/she has * SC bilateral blindness with LPO or less
* bilateral hearing loss, considered 10-or 20-percent disabling, and
* SC hearing loss in at least one ear.

***Note***: If visual acuity in either of the eyes is better than LPO, entitlement to the additional one-half step does not exist. |

|  |  |
| --- | --- |
| i. Example 1: Rating Decision Involving SMC for Bilateral Blindness With Bilateral Hearing Loss Considered 10 or 20-Percent Disabling | ***Situation***: The Veteran has * anatomical loss of the left eye
* LPO in the right eye
* SC bilateral hearing loss, evaluated as 20-percent disabling
* no total hearing loss in either ear
* no separate and distinct disability evaluated as 100-percent disabling, and
* no separate and distinct disability evaluated as 50-percent disabling.

***Result***: The appropriate level of SMC for the degree of blindness alone is “m½.” However, an additional one-half step is warranted based on the degree of hearing loss, making the Veteran entitled to SMC under [38 U.S.C. 1114(n)](http://www.law.cornell.edu/uscode/html/uscode38/usc_sec_38_00001114----000-.html). ***Coded Conclusion***: * The appropriate SMC paragraph code is PB-2.
* The appropriate SMC coding is 21-21-11-11-0.
 |

|  |  |
| --- | --- |
| j. Example 2: Rating Decision Involving SMC for Bilateral Blindness With Bilateral Hearing Loss Considered 10 or 20-Percent Disabling | ***Situation***: The Veteran has * anatomical loss of the left eye
* visual acuity of 5/200 (1.5/60) in the right eye
* SC bilateral hearing loss, evaluated as 20-percent disabling
* no total hearing loss in either ear
* no separate and distinct disability evaluated as 100-percent disabling, and
* no separate and distinct disability evaluated as 50-percent disabling.

***Result***: Since visual acuity in the right eye is better than LPO, do ***not*** apply [38 CFR 3.350(f)(2)(v)](http://www.ecfr.gov/cgi-bin/text-idx?SID=a9ffd79e319edc6747134a2c276696ec&mc=true&node=se38.1.3_1350&rgn=div8). The Veteran is entitled to SMC under [38 U.S.C. 1114(m)](http://www.law.cornell.edu/uscode/html/uscode38/usc_sec_38_00001114----000-.html).***Coded Conclusion***: * The appropriate SMC paragraph code is MB-2.
* The appropriate SMC coding is 19-19-11-11-0.
 |

|  |  |
| --- | --- |
| k. SMC for Bilateral Blindness With Bilateral Hearing Loss Considered 30-Percent Disabling | A Veteran is entitled to an additional full step in the level of SMC, not to exceed that provided by [38 U.S.C. 1114(o)](http://www.law.cornell.edu/uscode/html/uscode38/usc_sec_38_00001114----000-.html) and [38 CFR 3.350(f)(2)(vi)](http://www.ecfr.gov/cgi-bin/text-idx?SID=9cc91376d875f4bddb9bd2d2f68a15ce&mc=true&node=se38.1.3_1350&rgn=div8), if he/she has* visual acuity of 5/200 (1.5/60) or less, bilaterally
* bilateral hearing loss, considered 30-percent disabling, and
* SC hearing loss in one ear.
 |

|  |  |
| --- | --- |
| l. Example: Rating Decision Involving SMC for Bilateral Blindness With Bilateral Hearing Loss Considered 30-Percent Disabling | ***Situation***: The Veteran has* anatomical loss of the left eye
* visual acuity of 5/200 (1.5/60) in the right eye
* SC bilateral hearing loss evaluated as 30-percent disabling
* no total hearing loss in either ear
* no separate and distinct disability evaluated as 100-percent disabling, and
* no separate and distinct disability evaluated as 50-percent disabling.

***Result***: The Veteran is entitled to SMC under the provisions of [38 U.S.C. 1114(m)](http://www.law.cornell.edu/uscode/html/uscode38/usc_sec_38_00001114----000-.html) for the degree of blindness alone. However, an additional full step is warranted under the provisions of [38 CFR 3.350(f)(2)(vi)](http://www.ecfr.gov/cgi-bin/text-idx?SID=a9ffd79e319edc6747134a2c276696ec&mc=true&node=se38.1.3_1350&rgn=div8), thereby entitling the Veteran to SMC under [38 U.S.C. 1114(n)](http://www.law.cornell.edu/uscode/html/uscode38/usc_sec_38_00001114----000-.html). ***Coded Conclusion***: * The appropriate SMC paragraph code is PB-3.
* The appropriate SMC coding is 21-21-11-11-0.
 |

|  |  |
| --- | --- |
| m. SMC for Bilateral Blindness With Bilateral Hearing Loss Considered 40-Percent Disabling | A Veteran is entitled to SMC under [38 U.S.C. 1114(o)](http://www.law.cornell.edu/uscode/html/uscode38/usc_sec_38_00001114----000-.html) and [38 CFR 3.350(e)(1)(iv)](http://www.ecfr.gov/cgi-bin/text-idx?SID=a9ffd79e319edc6747134a2c276696ec&mc=true&node=se38.1.3_1350&rgn=div8) if he/she has* blindness with LPO or less in both eyes, and
* bilateral hearing loss, considered at least 40-percent disabling, or

SC hearing loss in at least one ear. ***Note***: If bilateral blindness is present, but visual acuity in either eye is better than LPO, the Veteran is entitled to an additional full step only in the level of SMC, not to exceed that provided by [38 U.S.C. 1114(o)](http://www.law.cornell.edu/uscode/html/uscode38/usc_sec_38_00001114----000-.html), per [38 CFR 3.350(f)(2)(vi).](http://www.ecfr.gov/cgi-bin/text-idx?SID=a9ffd79e319edc6747134a2c276696ec&mc=true&node=se38.1.3_1350&rgn=div8)   |

|  |  |
| --- | --- |
| n. Example 1: Rating Decision Involving SMC for Bilateral Blindness With Bilateral Hearing Loss Considered 40-Percent Disabling | ***Situation***: The Veteran has* NLP in the right eye
* LPO in the left eye
* SC bilateral hearing loss evaluated as 40-percent disabling
* no total hearing loss in either ear
* no separate and distinct disability evaluated as 100-percent disabling, and
* no separate and distinct disability evaluated as 50-percent disabling.

***Result***: The appropriate level of SMC for the degree of bilateral blindness alone is “m ½.” However, apply [38 CFR 3.350(e)(1)(iv)](http://www.ecfr.gov/cgi-bin/text-idx?SID=a9ffd79e319edc6747134a2c276696ec&mc=true&node=se38.1.3_1350&rgn=div8) because of the coexisting hearing loss. The Veteran is accordingly entitled to SMC under [38 U.S.C. 1114(o)](http://www.law.cornell.edu/uscode/html/uscode38/usc_sec_38_00001114----000-.html). ***Coded Conclusion***: * The appropriate SMC paragraph code is OB-2.
* The appropriate SMC coding is 37-37-21-00-0.
 |

|  |  |
| --- | --- |
| o. Example 2: Rating Decision Involving SMC for Bilateral Blindness With Bilateral Hearing Loss Considered 40-Percent Disabling | ***Situation***: The Veteran has* NLP in the right eye
* visual acuity of 5/200 (1.5/60) in the left eye
* SC bilateral hearing loss, evaluated as 40-percent disabling
* no total hearing loss in either ear
* no separate and distinct disability evaluated as 100-percent disabling, and
* no separate and distinct disability evaluated as 50-percent disabling.

***Result***: The Veteran is entitled to SMC under [38 U.S.C. 1114(m)](http://www.law.cornell.edu/uscode/html/uscode38/usc_sec_38_00001114----000-.html) for the degree of bilateral blindness alone. However, because of the degree of hearing loss present, increase the level of SMC by a full step under the provisions of [38 CFR 3.350(f)(2)(vi)](http://www.ecfr.gov/cgi-bin/text-idx?SID=a9ffd79e319edc6747134a2c276696ec&mc=true&node=se38.1.3_1350&rgn=div8) and award SMC under [38 U.S.C. 1114(n)](http://www.law.cornell.edu/uscode/html/uscode38/usc_sec_38_00001114----000-.html). ***Coded Conclusion***: * The appropriate SMC paragraph code is PB-3.
* The appropriate SMC coding is 21-21-21-00-0.
 |

|  |  |
| --- | --- |
| p. SMC for Bilateral Blindness With Bilateral Hearing Loss Considered 60-Percent Disabling | A Veteran is entitled to SMC under [38 U.S.C. 1114(o)](http://www.law.cornell.edu/uscode/html/uscode38/usc_sec_38_00001114----000-.html) and [38 CFR 3.350(e)(1)(iii)](http://www.ecfr.gov/cgi-bin/text-idx?SID=a9ffd79e319edc6747134a2c276696ec&mc=true&node=se38.1.3_1350&rgn=div8) if he/she has* visual acuity of 20/200 (6/60), bilaterally
* visual acuity of 20/200 (6/60) in one eye and LPO or less in the other eye LPO
* bilateral hearing loss, considered at least 60-percent disabling, and
* SC hearing loss in one ear.
 |

|  |  |
| --- | --- |
| q. Example: Rating Decision Involving SMC for Bilateral Blindness With Bilateral Hearing Loss Considered 60-Percent Disabling | ***Situation***: The Veteran has * LPO in the right eye
* visual acuity of 20/200 (6/60) in the left eye
* SC bilateral hearing loss, evaluated as 60-percent disabling
* no total hearing loss in either ear
* no separate and distinct disability evaluated as 100-percent disabling
* no separate and distinct disability evaluated as 50-percent disabling, and
* no entitlement to A&A.

***Result***: Due to the coexisting blindness and hearing loss, the Veteran is entitled to SMC under [38 U.S.C. 1114(o)](http://www.law.cornell.edu/uscode/html/uscode38/usc_sec_38_00001114----000-.html) and [38 CFR 3.350(e)(1)(iii)](http://www.ecfr.gov/cgi-bin/text-idx?SID=530768c7495d78c9daacd8845d744fc1&mc=true&node=se38.1.3_1350&rgn=div8)[.](http://straylight.law.cornell.edu/uscode/html/uscode38/usc_sec_38_00001114----000-.html) ***Coded Conclusion***: * The appropriate SMC paragraph code is OB-1.
* The appropriate SMC coding is 37-37-21-00-0.
 |

|  |  |
| --- | --- |
| r. SMC for Bilateral Blindness With L/LOU of an Extremity Considered at Least 50 Percent Disabling | The provisions of [38 CFR 3.350(f)(2)(vii)(A)](http://www.ecfr.gov/cgi-bin/text-idx?SID=a9ffd79e319edc6747134a2c276696ec&mc=true&node=se38.1.3_1350&rgn=div8) and[38 CFR 3.350(f)(2)(vii)(B)](http://www.ecfr.gov/cgi-bin/text-idx?SID=a9ffd79e319edc6747134a2c276696ec&mc=true&node=se38.1.3_1350&rgn=div8) allow for an additional full step of SMC, not to exceed entitlement under [38 U.S.C. 1114(o)](http://www.law.cornell.edu/uscode/html/uscode38/usc_sec_38_00001114----000-.html), if the Veteran has * visual acuity of 5/200 (1.5/60) or less, bilaterally, and
* SC L/LOU of an upper or lower extremity, which by itself or in combination with another compensable disability is considered at least 50-percent disabling.

***Note***: Payment of this additional full step of SMC is in addition to the SMC payable under [38 CFR 3.350(a).](http://www.ecfr.gov/cgi-bin/text-idx?SID=a9ffd79e319edc6747134a2c276696ec&mc=true&node=se38.1.3_1350&rgn=div8) |

|  |  |
| --- | --- |
| s. Example: Rating Decision Involving SMC for Bilateral Blindness With L/LOU of an Extremity Considered at Least 50 Percent Disabling | ***Situation***: The Veteran has * SC bilateral blindness with visual acuity of 5/200 (1.5/60)
* SC LOU of the dominant hand evaluated as 50-percent disabling
* no separate and distinct disability evaluated as 100-percent disabling, and
* no separate and distinct disability evaluated as 50-percent disabling.

***Result***: The Veteran is entitled to SMC under [38 U.S.C. 1114(1)](http://www.law.cornell.edu/uscode/html/uscode38/usc_sec_38_00001114----000-.html) for the degree of blindness alone. The Veteran is also entitled to an additional full step of SMC, plus SMC under [38 CFR 3.350(a)](http://www.ecfr.gov/cgi-bin/text-idx?SID=a9ffd79e319edc6747134a2c276696ec&mc=true&node=se38.1.3_1350&rgn=div8), for LOU of the right hand. Accordingly, the appropriate level of SMC is “m+k.” ***Coded Conclusion***: * The appropriate SMC paragraph code is PB-4.
* The appropriate SMC coding is 25-25-35-00-0.
 |

|  |  |
| --- | --- |
| t. SMC for Bilateral Blindness With L/LOU of a Lower Extremity Considered Less Than 50 Percent Disabling | A Veteran is entitled to an additional one-half step of SMC under [38 CFR 3.350(f)(2)(vii)(C)](http://www.ecfr.gov/cgi-bin/text-idx?SID=a9ffd79e319edc6747134a2c276696ec&mc=true&node=se38.1.3_1350&rgn=div8) if he/she has* visual acuity of 5/200 (1.5/60) or less, bilaterally
* L/LOU of a foot, considered less than 50-percent disabling, and
* no other compensable SC disability.

***Note***: The level of SMC may not exceed that provided by [38 U.S.C. 1114(o)](http://www.law.cornell.edu/uscode/html/uscode38/usc_sec_38_00001114----000-.html). |

|  |  |
| --- | --- |
| u. Example: Rating Decision Involving SMC for Bilateral Blindness With L/LOU of a Lower Extremity Considered Less Than 50 Percent Disabling | ***Situation***: The Veteran has* visual acuity of 5/200 (1.5/60), bilaterally
* a below-the-knee amputation of the right foot evaluated as 40-percent disabling, and
* no other compensable disabilities.

***Result***: The Veteran is entitled to SMC under [38 U.S.C. 1114(l)](http://www.law.cornell.edu/uscode/html/uscode38/usc_sec_38_00001114----000-.html) based on the degree of blindness alone. The Veteran is also entitled to SMC under [38 U.S.C. 1114(k)](http://www.law.cornell.edu/uscode/html/uscode38/usc_sec_38_00001114----000-.html) for loss of the right foot. The appropriate level of SMC, therefore, is “l+k.” Award an additional one-half step of SMC (l½ +k) under the provisions of [38 CFR 3.350(f)(2)(vii)(C).](http://www.ecfr.gov/cgi-bin/text-idx?SID=a9ffd79e319edc6747134a2c276696ec&mc=true&node=se38.1.3_1350&rgn=div8) ***Coded Conclusion***: * The appropriate SMC paragraph code is P B-6.
* The appropriate SMC coding is 24-24-21-13-0.

***Note***: The SMC Calculator will ask whether the Veteran was on active duty after September 11, 2001. Answering *Yes* to that question prompts additional questions regarding the Veteran’s ability to ambulate with and without the use of ambulation aides. Answering *No* to the question of whether the Veteran was on active duty after September 11, 2001, does not prompt any additional questions. Depending on the answers provided to the additional prompts, the resulting SMC paragraph code and coding may differ from the example provided. |

#### 6. SMC for Additional 50- and 100-Percent Evaluations Under 38 CFR 3.350(f)(3) and 38 CFR 3.350(f)(4)

|  |  |
| --- | --- |
| Introduction | This topic contains information on SMC for additional 50- and 100-percent evaluations under 38 CFR 3.350(f)(3) and 38 CFR 3.350(f)(4), including information on* the proper application of 38 CFR 3.350(f)(3) and 38 CFR 3.350(f)(4)
* SMC under 38 CFR 3.350(f)(3)
* SMC under 38 CFR 3.350(f)(4)
* an example of a rating decision involving SMC under 38 CFR 3.350(f)(3), and
* an example of a rating decision involving SMC under 38 CFR 3.350(f)(4).
 |

|  |  |
| --- | --- |
| Change Date | December 16, 2011 |

|  |  |
| --- | --- |
| a. Proper Application of 38 CFR 3.350(f)(3) and 38 CFR 3.350(f)(4) | Apply the provisions of [38 CFR 3.350(f)(3)](http://www.ecfr.gov/cgi-bin/text-idx?SID=a9ffd79e319edc6747134a2c276696ec&mc=true&node=se38.1.3_1350&rgn=div8) or [38 CFR 3.350(f)(4),](http://www.ecfr.gov/cgi-bin/text-idx?SID=a9ffd79e319edc6747134a2c276696ec&mc=true&node=se38.1.3_1350&rgn=div8) whichever is appropriate, only once in a rating decision. ***Important***: Concurrent entitlement to SMC under both [38 CFR 3.350(f)(3)](http://www.ecfr.gov/cgi-bin/text-idx?SID=a9ffd79e319edc6747134a2c276696ec&mc=true&node=se38.1.3_1350&rgn=div8) and [38 CFR 3.350(f)(4)](http://www.ecfr.gov/cgi-bin/text-idx?SID=a9ffd79e319edc6747134a2c276696ec&mc=true&node=se38.1.3_1350&rgn=div8) is prohibited.  |

|  |  |
| --- | --- |
| b. SMC Under 38 CFR 3.350(f)(3) | A Veteran entitled to SMC under [38 U.S.C. 1114(l) through (n)](http://www.law.cornell.edu/uscode/html/uscode38/usc_sec_38_00001114----000-.html) is entitled to the next higher intermediate rate of SMC under the provisions of [38 CFR 3.350(f)(3)](http://www.ecfr.gov/cgi-bin/text-idx?SID=a9ffd79e319edc6747134a2c276696ec&mc=true&node=se38.1.3_1350&rgn=div8) if he/she has an additional single disability, or a combination of disabilities, that is independently evaluated as 50-percent or more disabling. |

|  |  |
| --- | --- |
| c. SMC Under 38 CFR 3.350(f)(4) | A Veteran who is entitled to SMC under [38 U.S.C. 1114(l) through (n)](http://www.law.cornell.edu/uscode/html/uscode38/usc_sec_38_00001114----000-.html) is entitled to the next higher statutory rate of SMC under the provisions of [38 CFR 3.350(f)(4)](http://www.ecfr.gov/cgi-bin/text-idx?SID=bc64f08f79847d619d358fb62e74ca81&mc=true&node=se38.1.3_1350&rgn=div8) if he/she has an additional single permanent disability that is independently evaluated as 100-percent disabling, apart from any consideration of individual unemployability (IU). ***Note***: Per [*Bradley v. Peake*](http://vbaw.vba.va.gov/bl/21/Advisory/CAVCDAD.htm#bmb)*,* 22 Vet.App. 280 (2008), do *not* define “single disability” in accordance with [38 CFR 4.16,](http://www.ecfr.gov/cgi-bin/text-idx?SID=44938120b0fc17385982bd83f876db21&mc=true&node=se38.1.4_116&rgn=div8) as this regulation applies only to total disability based on IU. |

|  |  |
| --- | --- |
| d. Example 1: Rating Decision Involving SMC Under 38 CFR 3.350(f)(3)  | ***Situation***: The Veteran has SC disabilities as shown below and qualifies for * SMC under [38 U.S.C. 1114(m)](http://www.law.cornell.edu/uscode/html/uscode38/usc_sec_38_00001114----000-.html) on account of the anatomical loss of both hands, and
* two disabilities (blindness of one eye, having LPO, and loss of a creative organ) that each qualify for SMC under [38 U.S.C. 1114(k)](http://www.law.cornell.edu/uscode/html/uscode38/usc_sec_38_00001114----000-.html).

***Result***: As provided in [38 CFR 3.350(f)(3)](http://www.ecfr.gov/cgi-bin/text-idx?SID=522678c218016e73c3143baefad2cbab&mc=true&node=se38.1.3_1350&rgn=div8), in addition to and independent of the disability for which SMC is payable under [38 U.S.C. 1114(m)](http://www.law.cornell.edu/uscode/html/uscode38/usc_sec_38_00001114----000-.html), the following permanent disabilities exist that are independently ratable as 50-percent disabling* blindness of the right eye, having LPO, evaluated as 30-percent disabling, and
* loss of both testes, evaluated as 30-percent disabling.

Accordingly, the requirements of [38 CFR 3.350(f)(3)](http://www.ecfr.gov/cgi-bin/text-idx?SID=522678c218016e73c3143baefad2cbab&mc=true&node=se38.1.3_1350&rgn=div8) are met for the rate intermediate between [38 U.S.C. 1114(m)](http://www.law.cornell.edu/uscode/html/uscode38/usc_sec_38_00001114----000-.html) and [38 U.S.C. 1114(n)](http://www.law.cornell.edu/uscode/html/uscode38/usc_sec_38_00001114----000-.html), plus rates under [38 U.S.C. 1114(k)](http://www.law.cornell.edu/uscode/html/uscode38/usc_sec_38_00001114----000-.html). ***Coded Conclusion***: 5106 AMPUTATION, BOTH HANDS AT WRIST100 percent from 02/01/2010.6064 BLINDNESS, RIGHT EYE, LIGHT PERCEPTION ONLY; LEFT 20/2030 percent from 02/01/2010.1. REMOVAL OF BOTH TESTES

30 percent from 02/01/2010.*COMBINED EVALUATION FOR COMPENSATION*:100 percent from 02/01/2010.K-1 Entitled to SMC under 38 U.S.C. 1114(k) and 38 CFR 3.350(a) on account of blindness of one eye, having light perception only, from 02/01/2010.K-1 Entitled to SMC under 38 U.S.C. 1114(k) and 38 CFR 3.350(a) on account of anatomical loss of a creative organ from 02/01/2010.M-1 Entitled to SMC under 38 U.S.C. 1114(m) and 38 CFR 3.350(c) on account of anatomical loss of both hands from 02/01/2010.P-1 Entitled to SMC under 38 U.S.C. 1114(p) and 38 CFR 3.350(f)(3) at the rate intermediate between 38 U.S.C. 1114(m) and 38 U.S.C. 1114(n) on account of anatomical loss of both hands with additional disabilities of blindness of the right eye, having light perception only, and removal of both testes, independently ratable as 50-percent disabling or more from 02/01/2010.***Note***: The appropriate SMC coding is 31-31-11-23-1. |

|  |  |
| --- | --- |
| e. Example 2: Rating Decision Involving SMC Under 38 CFR 3.350(f)(4) | ***Situation***: The Veteran has anatomical loss of both lower extremities that meets the requirements for SMC under [38 U.S.C. 1114(m)](http://www.law.cornell.edu/uscode/html/uscode38/usc_sec_38_00001114----000-.html) and a 100 percent SC evaluation for posttraumatic stress disorder (PTSD) that is completely independent of the anatomical loss of both lower extremities.***Result***: As provided in [38 CFR 3.350(f)(4),](http://www.ecfr.gov/cgi-bin/text-idx?SID=522678c218016e73c3143baefad2cbab&mc=true&node=se38.1.3_1350&rgn=div8) the Veteran is entitled to the next higher rate of SMC, [38 U.S.C. 1114(n)](http://www.law.cornell.edu/uscode/html/uscode38/usc_sec_38_00001114----000-.html), because of the additional, single, permanent disability that is independently ratable as 100-percent disabling.***Coded Conclusion***: SUBJECT TO COMPENSATION (1. SC)5107 ANATOMICAL LOSS OF BOTH LOWER EXTREMITIES ABOVE THE KNEES100 percent from 12/01/2010.9411 POSTTRAUMATIC STRESS DISORDER100 percent from 12/01/2010.*COMBINED EVALUATION FOR COMPENSATION*:100 percent from 12/01/2010.*SPECIAL MONTHLY COMPENSATION*M-2 Entitled to SMC under 38 U.S.C. 1114(m) and 38 CFR 3.350(c) from 12/01/2010 on account of anatomical loss of one leg at a level or with complications preventing natural knee action with prosthesis in place, and loss of use of the other leg at a level with complications preventing natural knee action with prosthesis in place.P-2 Entitled to SMC under 38 U.S.C. 1114 (p) and 38 CFR 3.350(f)(4) equal to 38 U.S.C. 1114 (n) from 12/01/2010 on account of entitlement to SMC under 38 U.S.C. 1114(m) with additional disability, posttraumatic stress disorder, independently ratable as 100-percent disabling.The appropriate SMC coding is shown in the table below. |

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| **EFFECTIVE DATE** | **BASIC** | **HOSPITAL** | **LOSS OF USE** | **ANAT. LOSS** | **OTHER LOSS** |
| 12/01/2010 | 21 | 21 | 00 | 24 | 0 |

#### 7. Entitlement to Additional SMC for L/LOU of Three Extremities Under 38 CFR 3.350(f)(5)

|  |  |
| --- | --- |
| Introduction | This topic contains information on additional SMC for L/LOU of three extremities under 38 CFR 3.350(f)(5), including* considering L/LOU of three extremities, and
* an example of a rating decision involving additional SMC for L/LOU of three extremities.
 |

|  |  |
| --- | --- |
| Change Date | September 29, 2006 |

|  |  |
| --- | --- |
| a. Considering L/LOU of Three Extremities | A Veteran with L/LOU of three extremities is entitled to additional SMC under [38 CFR 3.350(f)(5).](http://www.ecfr.gov/cgi-bin/text-idx?SID=522678c218016e73c3143baefad2cbab&mc=true&node=se38.1.3_1350&rgn=div8) To determine the correct rate of SMC payable to a Veteran with the requisite degree of disability,* decide the rate of SMC payable without regard to [38 CFR 3.350(f)(5)](http://www.ecfr.gov/cgi-bin/text-idx?SID=522678c218016e73c3143baefad2cbab&mc=true&node=se38.1.3_1350&rgn=div8), and
* increase this rate to the next higher rate authorized under [38 U.S.C. 1114(1) through (n)](http://www.law.cornell.edu/uscode/html/uscode38/usc_sec_38_00001114----000-.html), without loss of any entitlement under [38 U.S.C. 1114(k)](http://www.law.cornell.edu/uscode/html/uscode38/usc_sec_38_00001114----000-.html).

***Notes***: * The term “next higher rate” is intended to include the intermediate rates authorized under [38 U.S.C. 1114(p)](http://www.law.cornell.edu/uscode/html/uscode38/usc_sec_38_00001114----000-.html).
* The total monthly amount payable (minus any additional amount for dependents) must not exceed the rate payable under [38 U.S.C. 1114(p)](http://www.law.cornell.edu/uscode/html/uscode38/usc_sec_38_00001114----000-.html).
 |

|  |  |
| --- | --- |
| b. Example: Rating Decision Involving Additional SMC for L/LOU of Three Extremities | ***Situation***: The Veteran has the SC disabilities shown below and qualifies for SMC at the rate under [38 U.S.C. 1114(m)](http://www.law.cornell.edu/uscode/html/uscode38/usc_sec_38_00001114----000-.html) on account of the anatomical loss of both hands. Entitlement to SMC under [38 U.S.C. 1114(k)](http://www.law.cornell.edu/uscode/html/uscode38/usc_sec_38_00001114----000-.html) for an amputation of the left foot also exists. In addition, the Veteran is entitled to an additional one-half step in the level of SMC, under [38 CFR 3.350(f)(3)](http://www.ecfr.gov/cgi-bin/text-idx?SID=522678c218016e73c3143baefad2cbab&mc=true&node=se38.1.3_1350&rgn=div8), due to the separate disabilities ratable as 50-percent or more disabling.***Result***: The rate of SMC payable without regard to [38 CFR 3.350(f)(5)](http://www.ecfr.gov/cgi-bin/text-idx?SID=522678c218016e73c3143baefad2cbab&mc=true&node=se38.1.3_1350&rgn=div8) is “m½ +k.” Elevate this rate to the next higher rate authorized under [38 U.S.C. 1114(l) through (n)](http://www.law.cornell.edu/uscode/html/uscode38/usc_sec_38_00001114----000-.html), without loss of entitlement under [38 U.S.C. 1114(k)](http://www.law.cornell.edu/uscode/html/uscode38/usc_sec_38_00001114----000-.html). Accordingly, the rate of SMC payable in this case is “n+k.”***Coded Conclusion***:SUBJECT TO COMPENSATION (1. SC)5106 AMPUTATION, BOTH HANDS AT WRIST100 percent from 06/01/1996.5165 AMPUTATION, LEFT FOOT, BELOW KNEE40 percent from 06/01/1996.7101 HYPERTENSION20 percent from 06/01/1996.*COMBINED EVALUATION FOR COMPENSATION*:100 percent from 06/01/1996.*SPECIAL MONTHLY COMPENSATION*K-1 Entitled to SMC under 38 U.S.C. 1114 (k) and 38 CFR 3.350(a) on account of anatomical loss of one foot from 06/01/1996.M-1 Entitled to SMC under 38 U.S.C. 1114(m) and 38 CFR 3.350(c) on account of anatomical loss of both hands from 06/01/1996.P-1 Entitled to SMC under 38 U.S.C. 1114(p) and 38 CFR 3.350(f)(3) at the rate intermediate between 38 U.S.C. 1114(m) and 38 U.S.C. 1114(n) on account of anatomical loss of both hands with additional disabilities of amputation of the left foot and hypertension independently ratable as 50-percent or more disabling from 06/01/1996.P-3 Entitled to SMC under 38 U.S.C. 1114(p) and 38 CFR 3.350(f)(5) at the next higher rate or intermediate rate of 38 U.S.C. 1114(n) due to loss of three extremities from 06/01/1996.The appropriate SMC coding is shown in the table below. |

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| EFFECTIVE DATE | BASIC | HOSPITAL | LOSS OF USE | ANAT. LOSS | OTHER LOSS |
| 06/01/1996 | 27 | 27 | 00 | 32 | 0 |

#### 8. Entitlement to SMC Based on the Need for A&A

|  |  |
| --- | --- |
| Introduction | This topic contains information on entitlement to SMC based on a demonstrated need for the A&A of another person, including information on* the criteria for entitlement to A&A under 38 CFR 3.352(a)
* considering
* the level of disability required for entitlement to A&A
* entitlement to A&A when the evaluation for a single disability is less than 100 percent
* entitlement to A&A as an inferred issue, and
* the importance of reasoning in awarding SMC under 38 U.S.C 1114(l) when considering entitlement to A&A under 38 U.S.C. 1114(o)
* coding the rating decision to reflect entitlement to A&A or Housebound
* denying entitlement to A&A
* entitlement to A&A under the provisions of *PL 96-128*, and
* drafting and coding the rating decision awarding entitlement to A&A under *PL 96-128*.
 |

|  |  |
| --- | --- |
| Change Date | January 27, 2016 |

|  |  |
| --- | --- |
| a. Criteria for Entitlement to A&A Under 38 CFR 3.352(a)  | The criteria for entitlement to A&A, which appear in [38 CFR 3.352(a)](http://www.ecfr.gov/cgi-bin/text-idx?SID=522678c218016e73c3143baefad2cbab&mc=true&node=se38.1.3_1352&rgn=div8), require that the Veteran be so helpless due to physical or mental incapacity as a result of SC disability that he/she requires the aid of another person to perform the personal functions required in everyday living.  |

|  |  |
| --- | --- |
| b. Considering the Level of Disability Required for Entitlement to A&A | A single disability evaluated as 100-percent disabling under a schedular evaluation is *generally* a prerequisite for entitlement to A&A. Any lesser disability would be incompatible with the requirements of [38 CFR 3.352(a).](http://www.ecfr.gov/cgi-bin/text-idx?SID=522678c218016e73c3143baefad2cbab&mc=true&node=se38.1.3_1352&rgn=div8)***Explanation***: Both the nature of the impairment (being in need of regular A&A) and the compensation indicate that a greater level of disability is required for entitlement to the additional allowance for A&A than for * entitlement to SMC at the Housebound rate, or
* a 100-percent schedular evaluation.

***Important***: * The single disability rated as totally disabling must be the sole or partial cause of the need for A&A.
* [38 CFR 4.16](http://www.ecfr.gov/cgi-bin/text-idx?SID=8afa9c784b5ddfd201e4cbb73ada66ac&mc=true&node=se38.1.4_116&rgn=div8) applies only to IU determinations. It ***does not*** permit decision makers to apply [38 CFR 4.16](http://www.ecfr.gov/cgi-bin/text-idx?SID=8afa9c784b5ddfd201e4cbb73ada66ac&mc=true&node=se38.1.4_116&rgn=div8) guidelines on what constitutes a single disability to A&A determinations.
* To establish entitlement to SMC at the (t) rate, the need for A&A***must*** be due to traumatic brain injury (TBI) or multiple disabilities due to TBI that combine to a 100-percent evaluation.

***Exception***: Claims processed under the relaxed standard per the October 2014 Veterans Service Center Manager Bulletin (from October 16, 2014 through December 18, 2015) will ***not*** be affected.***Note***: The following represent a “single disability” for purposes of establishing entitlement to SMC at the (l) rate: * when evaluations of facets or multisystem effects of a single disease entity (including, but not limited to multiple sclerosis, Parkinson’s disease or diabetes mellitus) combine to 100 percent without regard to other conditions *and* A&A is required as a result of SC disability. Multisystem diseases are rated under a primary DC or by separate ratings of residuals under multiple DCs when more advantageous to the claimant, or
* when evaluations of primary and secondary SC disabilities combine to 100 percent *and* A&A is required as a result of SC disability.

***Example 1***: A Veteran is SC for Parkinson’s disease and has multiple disabilities related to the disease that result in a combined 100-percent schedular evaluation. If the evidence shows that the disabilities related to the disease are so severe that the Veteran requires A&A, entitlement to SMC at the (l) rate must be awarded.***Example 2***: A Veteran is SC for amputation of right leg at the hip at 90-percent disabling. Pursuant to [38 CFR 3.310(c)](http://www.ecfr.gov/cgi-bin/text-idx?SID=8ee983606bb61690be47cdcdbc37bb39&mc=true&node=se38.1.3_1310&rgn=div8), SC is subsequently established for ischemic heart disease secondary to the amputation of right leg evaluated as 60-percent disabling. If the evidence shows the Veteran requires A&A due to the heart condition and right leg amputation, entitlement to SMC at the (l) rate is warranted. ***References***: For more information on considering entitlement to SMC based on need for A&A * when the schedular rating is less than 100 percent, see M21-1, Part IV, Subpart ii, 2.H.8.c, and
* for residuals of TBI, see M21-1, Part IV, Subpart ii, 2.H.11.
 |

|  |  |
| --- | --- |
| c. Considering Entitlement to A&A When the Evaluation for a Single Disability Is Less Than 100 Percent | Use the table below when* entitlement to A&A is at issue, and
* a Veteran’s evaluation for a single disability is less than 100 percent.

***Important***: The evidence in the case must include the report from a current examination or its equivalent. |

|  |  |  |
| --- | --- | --- |
| If the Veteran does not have… | And … | Then … |
| a single disability evaluated as 100 percent disabling, **but** the combined disability evaluation is 100 percent (based on the disease processes noted in M21-1, Part IV, Subpart ii, 2.H.8.b)  | the disability is so severe as to demonstrate a need for A&A | award A&A.. |
| a single disability evaluated as 100 percent (regardless of the combination) | the disability is so severe as to demonstrate the need for A&A | refer the case to Compensation Service (211B) for an advisory opinion requesting consideration for entitlement to A&A on an extra-schedular basis. ***Reference***: For more information on requesting an advisory opinion, see M21-1, Part III, Subpart vi, 1.A.2.  |
| a single disability evaluated as 100 percent (regardless of the combination) | the disability does *not* demonstrate a need for A&A | dispose of the issue by explaining how this conclusion was reached in the *Narrative* of the rating decision. |
| a single disability evaluated as 100 percent (regardless of the combination) | the disability does *not* demonstrate a need for A&A, *but* shows that the disability has worsened | order an examination or render a decision for increased evaluation based on the evidence of record if adequate for rating purposes. |

|  |  |
| --- | --- |
| d. Considering Entitlement to A&A as an Inferred Issue | If a single disability is evaluated as 100-percent disabling, consider entitlement to A&A or the Housebound rate as an inferred issue ***only if*** the evidence shows that the benefit may be awarded. If the evidence does *not* show entitlement to SMC at the A&A or Housebound rate, do not raise either issue merely to deny it.  |

|  |  |
| --- | --- |
| e. Importance of Reasoning in Awarding SMC Under 38 U.S.C 1114(l) When Considering Entitlement to A&A Under 38 U.S.C. 1114(o) | Make determinations of entitlement to SMC under [38 U.S.C. 1114(1)](http://www.law.cornell.edu/uscode/html/uscode38/usc_sec_38_00001114----000-.html) on the basis of need of regular A&A in light of the criteria contained in [38 CFR 3.352(a)](http://www.ecfr.gov/cgi-bin/text-idx?SID=d6acca5e6f5d3f9f70777710a516ed3b&mc=true&node=se38.1.3_1352&rgn=div8). Fully explain the reasoning in the *Narrative* of the rating decision. ***Notes***: * The need to explain the reasoning is especially important in situations in which, under [38 CFR 3.350(c),](http://www.ecfr.gov/cgi-bin/text-idx?SID=d6acca5e6f5d3f9f70777710a516ed3b&mc=true&node=se38.1.3_1350&rgn=div8) the rate under [38 U.S.C. 1114(1)](http://www.law.cornell.edu/uscode/html/uscode38/usc_sec_38_00001114----000-.html) based on the need for A&A is to be used as one of the conditions that entitles the claimant to two or more of the rates (no condition being considered twice) that are provided in [38 U.S.C. 1114(1) through (n)](http://www.law.cornell.edu/uscode/html/uscode38/usc_sec_38_00001114----000-.html) for the purpose of establishing entitlement under [38 U.S.C. 1114(o)](http://www.law.cornell.edu/uscode/html/uscode38/usc_sec_38_00001114----000-.html).
* Base the determination of need for A&A on separate and distinct disabilities if the rate under [38 U.S.C. 1114(1)](http://www.law.cornell.edu/uscode/html/uscode38/usc_sec_38_00001114----000-.html) on account of need for A&A is used to establish entitlement under [38 U.S.C. 1114(o)](http://www.law.cornell.edu/uscode/html/uscode38/usc_sec_38_00001114----000-.html).

***Example***: If a Veteran has LOU of both feet and is also being considered for the maximum rate under [38 U.S.C. 1114(o)](http://www.law.cornell.edu/uscode/html/uscode38/usc_sec_38_00001114----000-.html) because of his/her need for A&A, the need for A&A must be due to SC disabilities, completely independent of the LOU of both feet. When determining whether the Veteran needs A&A, disregard the disabling effects of the LOU of both feet. Show the need for A&A as due to a separate SC disability evaluated as 100-percent disabling. |

|  |  |
| --- | --- |
| f. Coding the Rating Decision to Reflect Entitlement to A&A or Housebound | Show entitlement to SMC, based on the need for A&A or evidence showing the Veteran is housebound, by* using the appropriate narrative rating code on the *Codesheet*, immediately following statement of the combined degree of disability, and
* entering the necessary SMC codes in the data table.

***Reference***: For more information on proper SMC coding to ensure the Veteran’s rate is correctly adjusted during hospitalization, see M21-1, Part III, Subpart v, 6.C. |

|  |  |
| --- | --- |
| g. Denying Entitlement to A&A | If the Veteran or representative specifically claimed entitlement to A&A but the evidence does not support an award of A&A, dispose of the issue by explaining the reasons and bases of the decision to deny A&A in the *Narrative* of the rating decision.***Notes***: * Do *not* infer entitlement to A&A or housebound SMC rates to deny the benefit(s).
* A&A should not be denied if evidence indicates that an SC disability worsened, which is alleged or reasonably raised as a contributing factor to A&A, until a decision is rendered concerning the evaluation for the SC disability.
 |

|  |  |
| --- | --- |
| h. Entitlement to A&A Under the Provisions of PL 96-128 | *PL 96-128* amended [38 U.S.C. 1114(r)](http://www.law.cornell.edu/uscode/html/uscode38/usc_sec_38_00001114----000-.html) concerning the awarding of A&A in cases where the SMC level is “n½ +k,” so that the SC disabilities used to establish entitlement to SMC at this level may also be used to establish entitlement to A&A if factual need is shown.Under *PL 96-128*, entitlement to SMC under* [38 U.S.C. 1114(r)(1)](http://www.law.cornell.edu/uscode/html/uscode38/usc_sec_38_00001114----000-.html) exists if the basic criteria contained in [38 CFR 3.352(a)](http://www.ecfr.gov/cgi-bin/text-idx?SID=e6f2e1039c661eae823325f3d5752344&mc=true&node=se38.1.3_1352&rgn=div8) are met, and
* [38 U.S.C. 1114(r)(2)](http://www.law.cornell.edu/uscode/html/uscode38/usc_sec_38_00001114----000-.html) exists if the basic criteria contained in [38 CFR 3.352(b)](http://www.ecfr.gov/cgi-bin/text-idx?SID=e6f2e1039c661eae823325f3d5752344&mc=true&node=se38.1.3_1352&rgn=div8) are met.

***Note***: Prior to enactment of *PL 96-12*, a Veteran had to be entitled to SMC under [38 U.S.C. 1114(o)](http://www.law.cornell.edu/uscode/html/uscode38/usc_sec_38_00001114----000-.html) in order to establish entitlement to SMC under [38 U.S.C. 1114(r)(1)](http://www.law.cornell.edu/uscode/html/uscode38/usc_sec_38_00001114----000-.html) and [38 U.S.C. 1114(r)(2)](http://www.law.cornell.edu/uscode/html/uscode38/usc_sec_38_00001114----000-.html). |

|  |  |
| --- | --- |
| i. Drafting and Coding the Rating Decision Awarding Entitlement to A&A Under PL 96-128 | If entitlement to A&A is established under the provisions of *PL 96-128*, then* cite relevant evidence and information in the *Narrative* to fully justify awarding or denying A&A, and
* use SMC code 43 or 44 in higher level care claims.

***Note***: Pay the rate allowed for SMC at the “n½ +k” level, plus the additional amount allowed under [38 U.S.C. 1114(r)(1)](http://www.law.cornell.edu/uscode/html/uscode38/usc_sec_38_00001114----000-.html) or [38 U.S.C. 1114(r)(2)](http://www.law.cornell.edu/uscode/html/uscode38/usc_sec_38_00001114----000-.html), whichever is appropriate.***Reference***: For more information on entitlement to a higher A&A allowance under [38 U.S.C. 1114(r)](http://www.law.cornell.edu/uscode/html/uscode38/usc_sec_38_00001114----000-.html), see M21-1, Part IV, Subpart ii, 2.H.9. |

#### 9. Entitlement to a Higher A&A Allowance Under 38 U.S.C. 1114(r)(2)

|  |  |
| --- | --- |
| Introduction | This topic contains information on the statutory provisions for a higher A&A allowance, including information on* entitlement to a higher A&A allowance under 38 U.S.C. 1114(r)(2)
* when to award a higher A&A allowance under 38 U.S.C. 1114(r)(2)
* evidentiary considerations for higher level of care
* processing claims for entitlement to a higher A&A allowance under 38 U.S.C. 1114(r)(2), and
* possible hospitalization adjustment under 38 CFR 3.552(b)(2).
 |

|  |  |
| --- | --- |
| Change Date | January 5, 2016 |

|  |  |
| --- | --- |
| a. Entitlement to a Higher A&A Allowance Under 38 U.S.C. 1114(r)(2) | A Veteran entitled to the A&A allowance under [38 U.S.C. 1114(r)(1)](http://www.law.cornell.edu/uscode/html/uscode38/usc_sec_38_00001114----000-.html) is entitled to receive, in lieu of that allowance, a higher A&A allowance under [38 U.S.C 1114(r)(2)](https://www.law.cornell.edu/uscode/text/38/1114) if the Veteran is found to be in need of, and receiving, a higher level of care. |

|  |  |
| --- | --- |
| b. When to Award a Higher A&A Allowance Under 38 U.S.C. 1114(r)(2) | Award the higher A&A allowance under [38 U.S.C. 1114(r)(2)](http://www.law.cornell.edu/uscode/html/uscode38/usc_sec_38_00001114----000-.html) ***only*** when the* need is clearly established, and
* the amount of skilled service required by the Veteran is substantial.

Base eligibility to the higher allowance on medical certification that the Veteran meets the criteria set forth in [38 CFR 3.352(b)](http://www.ecfr.gov/cgi-bin/text-idx?SID=20c2d6e2892384057d87d8734f81cf3b&mc=true&node=se38.1.3_1352&rgn=div8).***Note***: Entitlement to the higher A&A allowance may be awarded when an otherwise eligible Veteran is receiving residential or nursing-home care in an institution at the Veteran’s own expense. If such skilled service is provided at VA expense, this award may be subject to reduction under [38 CFR 3.552(b)(2).](http://www.ecfr.gov/cgi-bin/text-idx?SID=20c2d6e2892384057d87d8734f81cf3b&mc=true&node=se38.1.3_1552&rgn=div8)***Reference***: For more information on entitlement to a higher A&A allowance when the Veteran is receiving residential or nursing-home care in an institution see * [VAOPGCPREC 23-92](http://www.va.gov/ogc/docs/1992/PREC_23-92.doc), and
* M21-1, Part IV, Subpart ii, 2.H.9.e.
 |

|  |  |
| --- | --- |
| c. Evidentiary Considerations for Higher Level of Care | To establish entitlement to a higher A&A allowance, the evidence of record must indicate * an ongoing need for skilled personal care and,
* in the absence of such care, the Veteran would require hospitalization, nursing home care, or other residential institutional care.

***Note***: Entitlement may be established by evidence which shows the* conditions justifying the need for this level of care
* nature, extent, and frequency of the services provided, and
* nature and extent of the supervision being provided, if the services are actually provided by a nonprofessional.
 |

|  |  |
| --- | --- |
| d. Processing Claims for Entitlement to a Higher A&A Allowance Under 38 U.S.C. 1114(r)(2) | Follow the steps in the table below to process claims for entitlement to a higher A&A allowance under [38 U.S.C. 1114(r)(2)](http://www.law.cornell.edu/uscode/html/uscode38/usc_sec_38_00001114----000-.html). |

|  |  |
| --- | --- |
| Step | Action |
| 1 | Does the claim include evidence showing that the Veteran* requires ongoing daily skilled care, and
* in the absence of such care, would require hospitalization, nursing home care, or other residential institutional care?
* If *yes*, award entitlement to the higher A&A allowance under [38 U.S.C. 1114(r)(2)](http://www.law.cornell.edu/uscode/html/uscode38/usc_sec_38_00001114----000-.html).
* If *no*, go to Step 2.
 |
| 2 | Perform any necessary development, including requesting an immediate examination from the Veterans Health Administration (VHA).***Important***: If an examination is necessary, the request should ask the examiner to state whether the Veteran* requires ongoing daily skilled personal care, and
* in the absence of such care, would require hospitalization, nursing home care, or other residential institutional care.
 |
| 3 | Does the evidence of record, including any examination report(s), show an ongoing need for skilled personal care and, in the absence of such care, the Veteran would require hospitalization, nursing home care, or other residential institutional care?* If *yes*, award entitlement to the higher A&A allowance under [38 U.S.C. 1114(r)(2)](http://www.law.cornell.edu/uscode/html/uscode38/usc_sec_38_00001114----000-.html).
* If *no*, prepare a rating decision, denying the claim.
 |

|  |  |
| --- | --- |
| e. Possible Hospitalization Adjustment Under 38 CFR 3.552(b)(2) | The A&A allowance, including that payable under [38 U.S.C. 1114(r)(2)](http://www.law.cornell.edu/uscode/html/uscode38/usc_sec_38_00001114----000-.html), is subject to possible hospitalization adjustment, or reduction, under [38 CFR 3.552(b)(2)](http://www.ecfr.gov/cgi-bin/text-idx?SID=d6acca5e6f5d3f9f70777710a516ed3b&mc=true&node=se38.1.3_1552&rgn=div8). |

#### 10. Entitlement to Housebound Benefits

|  |  |
| --- | --- |
| Introduction | This topic contains information about entitlement to Housebound benefits, including * statutory entitlement to Housebound benefits
* defining a single disability for Housebound purposes
* temporary total ratings used to award SMC(s)
* determining whether the Veteran is permanently housebound in fact, and
* protected evaluations in determination of Housebound entitlement.
 |

|  |  |
| --- | --- |
| Change Date | January 5, 2016 |

|  |  |
| --- | --- |
| a. Statutory Entitlement to Housebound Benefits | The Housebound benefit or SMC (s) is payable under [38 U.S.C. 1114(s)](http://law.cornell.edu/uscode/html/uscode38/usc_sec_38_00001114----000-.html) ([38 CFR 3.350(i)](http://www.ecfr.gov/cgi-bin/text-idx?SID=d6acca5e6f5d3f9f70777710a516ed3b&mc=true&node=se38.1.3_1350&rgn=div8)) to a Veteran who has a single, SC disability evaluated as totally disabling, and* has an additional SC disability, or combination of disabilities, independently evaluated as 60-percent or more disabling, or
* is permanently housebound due to SC disability.

If the Veteran is entitled to Housebound benefits by statute (without demonstrating need, under [38 U.S.C. 1114(s)](http://www.law.cornell.edu/uscode/html/uscode38/usc_sec_38_00001114----000-.html)), the additional disability(ies), evaluated as 60-percent or more disabling, must* be separate and distinct from the single disability evaluated as totally disabling, and
* involve separate anatomical segments or body systems.

***Notes***:* The principles regarding avoidance of pyramiding contained in [38 CFR 4.14](http://www.ecfr.gov/cgi-bin/text-idx?SID=90b1de3688a49b0c760740055c1fdc1f&mc=true&node=se38.1.4_114&rgn=div8) are applicable.
* Within these limits, the fact that the single disability, evaluated as totally disabling, and additional disability(ies), independently evaluated as 60-percent or more disabling, share a common etiology, does not preclude entitlement.
* In determining the eligibility for SMC benefits pursuant to 38 U.S.C. 1114(s), an erroneous disability evaluation that is protected by the 20-year rule under [38 CFR 3.951(b)](http://www.ecfr.gov/cgi-bin/text-idx?SID=c2b6a9125922733475e94ee7741c3025&mc=true&node=se38.1.3_1951&rgn=div8) must be used in calculating the total percentage of disability to establish eligibility as indicated in [VAOPGCPREC 16-89](http://www.va.gov/ogc/docs/1989/PREC_16-89.doc).
 |

|  |  |
| --- | --- |
| **b. Defining a Single Disability for Housebound Purposes** | A single disability evaluated as 100-percent disabling under a schedular evaluation is *generally* a prerequisite for entitlement to housebound benefits. ***Exception***:A total disability evaluation based on IU, which is in turn awarded based on *one disability*, satisfies the regulatory requirement of “a single SC disability rated as 100 percent” for the purposes of awarding SMC housebound benefits under [38 CFR 3.350(i)](http://www.ecfr.gov/cgi-bin/text-idx?SID=d6acca5e6f5d3f9f70777710a516ed3b&mc=true&node=se38.1.3_1350&rgn=div8).***Important***: A total rating based on IU when awarded for multiple disorders treated as one disability under the five options listed in [38 CFR 4.16(a)](http://www.ecfr.gov/cgi-bin/text-idx?SID=90b1de3688a49b0c760740055c1fdc1f&mc=true&node=se38.1.4_116&rgn=div8) ***does not*** satisfy the regulatory requirement under [38 CFR 3.350(i)](http://www.ecfr.gov/cgi-bin/text-idx?SID=d6acca5e6f5d3f9f70777710a516ed3b&mc=true&node=se38.1.3_1350&rgn=div8) of, “a single SC disability rated as 100 percent.”***Example – IU award based on a single disability***: A Veteran is in receipt of IU based solely on depression evaluated as 70-percent disabling. Subsequently SC is granted for coronary artery disease (CAD) and a 60-percent evaluation is assigned. SMC (s) at the statutory housebound rate is awarded. ***Analysis***: The Veteran in this instance would be entitled to the statutory SMC housebound rate. Under [*Bradley v. Peake*, 22 Vet.App. 280 (2008)](http://vbaw.vba.va.gov/bl/21/advisory/CAVCDAD.htm#bmb), awarding IU based on the single disability of depression is a single disability evaluated as 100-percent disabling for purposes of SMC(s) entitlement. CAD is an additional disability evaluated as at least 60-percent disabling. ***Example – IU award based on multiple disabilities***: A Veteran is in receipt of IU based on two SC disabilities:– ankylosis of the right shoulder evaluated as 50-percent disabling and residuals of a left radius fracture evaluated as 20-percent disabling. Both disabilities are due to a motor vehicle accident (MVA) that happened during the Veteran’s active duty service. He is awarded IU based on the disabilities caused by the MVA. The Veteran’s separate issue of CAD is later SC and evaluated as 60-percent disabling. The CAD, by itself, does not render the Veteran unemployable. SMC (s) at the statutory housebound rate is not awarded.***Analysis***: The Veteran in this instance would *not* be entitled to SMC at the statutory housebound rate. There is no single disability evaluated as totally disabling for the purposes of entitlement to SMC. Although the evaluations for the MVA injuries to the shoulder and left radius are considered to be a single disability for purposes of IU entitlement, they do not represent a single disability evaluated at 100-percent disabling for purpose of awarding SMC at the statutory housebound rate.***Reference***: For more information on the single 100-percent disability requirement for SMC(s), see* [*Bradley v. Peake*](http://vbaw.vba.va.gov/bl/21/advisory/CAVCDAD.htm#bmb), 22 Vet.App. 280 (2008)
* [*Guerra v. Shinseki*](http://vbaw.vba.va.gov/bl/21/Advisory/CAVCDAD.htm#bmg), 642 F.3d 1046 (Fed. Cir., 2011), and
* [VAOPGCPREC 66-91](http://www.va.gov/ogc/docs/1991/PREC_66-91.doc).
 |

|  |  |
| --- | --- |
| **c. Temporary Total Ratings Used to Award SMC(s)**  | Temporary evaluations of 100 percent under [38 CFR 4.28](http://www.ecfr.gov/cgi-bin/text-idx?SID=90b1de3688a49b0c760740055c1fdc1f&mc=true&node=se38.1.4_128&rgn=div8), [38 CFR 4.29](http://www.ecfr.gov/cgi-bin/text-idx?SID=90b1de3688a49b0c760740055c1fdc1f&mc=true&node=se38.1.4_129&rgn=div8), and [38 CFR 4.30](http://www.ecfr.gov/cgi-bin/text-idx?SID=90b1de3688a49b0c760740055c1fdc1f&mc=true&node=se38.1.4_130&rgn=div8) of the *Rating Schedule* may be used as a basis for awarding SMC at the housebound rate. ***Example***: A Veteran SC for a knee disability is awarded a temporary total evaluation under [38 CFR 4.29](http://www.ecfr.gov/cgi-bin/text-idx?SID=e1217c628f4b80ef724b23ce9bd69655&mc=true&node=se38.1.4_129&rgn=div8) for two months following surgery. The Veteran is SC for PTSD, which is rated 70-percent disabling. SMC at the (s) rate will also be awarded while the total rating under [38 CFR 4.29](http://www.ecfr.gov/cgi-bin/text-idx?SID=e1217c628f4b80ef724b23ce9bd69655&mc=true&node=se38.1.4_129&rgn=div8) is in effect, as the separate PTSD evaluation of 70 percent establishes the basis for award of SMC at the housebound rate.  |

|  |  |
| --- | --- |
| d. Determining Whether the Veteran Is Permanently Housebound in Fact | If entitlement is based on the Veteran being housebound in fact, the law requires the housebound state to be permanent.Consider a Veteran permanently housebound if, as a result of a single, total disability, by itself or in combination with other SC disabilities, the Veteran is permanently and substantially confined to * his/her place of residence and immediate premises, or
* ward or clinical areas, if institutionalized under [38 CFR 3.350(i)(2)](http://www.ecfr.gov/cgi-bin/text-idx?SID=873f6cef7c2b6e091b0da7cf81576bb0&mc=true&node=se38.1.3_1350&rgn=div8).

***Important***: * There is no requirement that either the single disability, evaluated as totally disabling, or the additional disability(ies), independently ratable as 60- percent or more disabling, be permanent in nature if SMC at the housebound rate is awarded on a statutory, rather than factual, basis.
* Leaving home for medical purposes cannot, by itself, serve as the basis for finding that a Veteran is not substantially confined for purposes of SMC Housebound benefits.

***Reference***: For more information on substantial confinement to home, see [*Howell v. Nicholson*](http://vbaw.vba.va.gov/bl/21/Advisory/CAVCDAD.htm#bmh)*,* 19 Vet.App. 535 (2006). |

|  |  |
| --- | --- |
| e. Protected Evaluations in Determination of Housebound Entitlement | Consider any evaluation protected under [38 CFR 3.951](http://www.ecfr.gov/cgi-bin/text-idx?SID=873f6cef7c2b6e091b0da7cf81576bb0&mc=true&node=se38.1.3_1951&rgn=div8) at its protected level. For the purpose of determining entitlement to Housebound benefits only, utilize ratings under the 1925 schedule, which are protected by [38 CFR 3.952](http://www.ecfr.gov/cgi-bin/text-idx?SID=873f6cef7c2b6e091b0da7cf81576bb0&mc=true&node=se38.1.3_1952&rgn=div8) with ratings under the current *Rating Schedule* for separate and distinct disabilities.***Reference***: For more information on protected ratings, see M21-1, Part III, Subpart IV, 8.C.  |

**11. Entitlement to SMC Under 38 U.S.C. 1114(t) Based on the Need for A&A for Residuals of TBI**

|  |  |
| --- | --- |
| **Introduction** | This topic contains information about entitlement to SMC at the (t) rate based on the need for A&A for residuals of TBI, including* change in law establishing SMC at the (t) rate
* developing at the SMC(t) rate
* establishing entitlement to A&A at the (l) rate prior to rating for SMC(t)
* processing awards at the SMC(t) rate, and
* processing hospitalization rates for the SMC(t) rate.
 |

|  |  |
| --- | --- |
| **Change Date** | June 16, 2015 |

|  |  |
| --- | --- |
| **a. Change in Law Establishing SMC at the (t) Rate** | *PL 111-275* amended [38 U.S.C. 1114](https://www.law.cornell.edu/uscode/text/38/1114) to authorize payment of SMC at the new (t) rate, which is equal to SMC at the (r)(2) rate for Veterans who* need regular A&A for residuals of TBI, but
* are not eligible for higher level of A&A under (r)(2), and
* would require hospitalization, nursing home care, or other residential institutional care in the absence of regular A&A.

***Note***: The SMC(t) rate authorized by *PL 111-275* is ***not*** the same historical SMC(t) rate that was discontinued in 1986. The current benefit cannot be awarded or rated using that historical code.  |

|  |  |
| --- | --- |
| **b. Developing at the SMC(t) Rate** | General development rules apply to claims for SMC at the [38 U.S.C. 1114(t)](https://www.law.cornell.edu/uscode/text/38/1114) rate. A medical examination and/or opinion may only be undertaken if the Veteran has already established SMC at the (l) rate due to the need for regular A&A. If a VA medical examination, opinion, or both, are required, request a TBI examination.Use the table below to determine the type of VA examination to request for TBI claims.  |

|  |  |
| --- | --- |
| If Service Connection has ... | Then ... |
| **not** been established for residuals of TBI, **and** a TBI exam is needed | order an initial TBI exam using the *Initial TBI (I-TBI)* *Disability Benefits Questionnaire* (DBQ), **and** *VA Form 21-2680,* *Examination for Housebound Status or Permanent need for Regular A&A* |
| already been established by residuals of TBI, **and** a TBI exam is needed | order a TBI review exam using the *TBI Review (R-TBI) DBQ* **and** *VA Form 21-2680*. |

|  |  |
| --- | --- |
| **c. Establishing Entitlement to A&A at the (l) Rate Prior to Rating for SMC(t)** | Before considering entitlement to SMC at the [38 U.S.C. 1114(t)](https://www.law.cornell.edu/uscode/text/38/1114) rate, the rating activity must establish entitlement to A&A benefits at the (l) rate.***Reference***: For more information on the procedures governing awards at the SMC [38 U.S.C. 1114(l)](https://www.law.cornell.edu/uscode/text/38/1114) rate for A&A, see M21-1, Part IV, Subpart ii, 2.H.8. |

|  |  |
| --- | --- |
| **d. Processing Awards at the SMC(t) Rate** | Veterans entitled to SMC at the [38 U.S.C. 1114(t)](https://www.law.cornell.edu/uscode/text/38/1114) rate are entitled to payment at a rate equivalent to (o) plus the (r)(2) allowance. If entitlement to the (r)(2) rate is shown without regard to (t) provisions, process as a regular (r)(2) award.When the Veteran is entitled only to regular A&A due to TBI, but would require hospitalization, nursing home care, or other residential institutional care in the absence of regular A&A, the Veteran should be paid at the basic code in the absence of other qualifying disabilities. |

|  |  |
| --- | --- |
| **e. Processing Hospitalization Rates for the SMC(t) Rate** | When inputting a decision awarding entitlement to SMC [38 U.S.C. 1114(t)](https://www.law.cornell.edu/uscode/text/38/1114), * use the SMC calculator in the [Rating Job Aids](http://vbaw.vba.va.gov/bl/21/rating/rat00.htm) web page to determine the highest rate(s) of SMC
* enter the calculated rates into the VBMS-R SMC narrative and coding screens, and
* place the following notation in the free text codesheet comments box: *SMC(t) = (r)(2)*.

***Notes***:* If a Veteran is entitled to a higher rate than SMC(l), but less than SMC(r)(2), the appropriate level of SMC should be determined *without* accounting for an elevation to SMC(t). This action will generate the correct hospitalization code.
* Reduction for hospitalization will be made to the rate equal to SMC(s) in cases where there is no underlying SMC entitlement other than to A&A. Otherwise, the hospitalization rate will be paid according to underlying entitlement.

***Reference***: For more information on reduction of SMC during hospitalization, see [38 CFR 3.552](http://www.ecfr.gov/cgi-bin/text-idx?SID=873f6cef7c2b6e091b0da7cf81576bb0&mc=true&node=se38.1.3_1552&rgn=div8). |