## Chapter 2. Ratings for Special Purposes

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

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| Introduction | This topic contains information on the rating determination for Dependents Educational Assistance (DEA) under 38 U.S.C. Chapter 35, including * [what DEA is](#_a.__What)
* [who may be eligible for DEA](#_b.__Who)
* [definition of relationships for DEA purposes](#_c.__Definition)
* [qualifying Veteran for DEA purposes](#_d.__Qualifying)
* [qualifying service member for DEA purposes](#_e.__Qualifying)
* [definition of a total disability](#_f.__Definition:)
* [definition of a permanent disability](#_g.__Definition:)
* [temporary total ratings and DEA](#_h.__Temporary)
* [when a permanent and total (P&T) disability exists](#_i.__When)
* [responsibility for decision making](#_j.__Responsibility)
* [when DEA is a rating issue](#_k.__When)
* [date of P&T disability – claim or subordinate issue](#_l.__Date)
* [date of P&T disability – cancellation of review examination](#_m._Date_of), and
* [regaining entitlement to DEA](#_n.__Regaining)
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| Change Date | January 20, 2014 |

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| a. What DEA is | The 38 U.S.C. Chapter 35 program called, Dependents Educational Assistance (DEA), is education or special restorative training for eligible dependents or survivors of certain Veterans and service members. ***Reference***: For more information on DEA, see [38 CFR Part 21](http://www.benefits.va.gov/WARMS/bookg.asp#36), Subpart C.  |

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| b. Who may be Eligible for DEA  | DEA may be awarded to a Veteran’s (or service member’s)* child
* spouse, or
* surviving spouse
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| c. Definition of Relationships for DEA Purposes | ***Child*** means son or daughter who meets the requirements of [38 CFR 3.57](http://www.benefits.va.gov/WARMS/docs/regs/38cfr/bookb/part3/S3_57.doc) except as to age and marital status.***Spouse*** means a person whose marriage meets the requirements of [38 CFR 3.50](http://www.benefits.va.gov/WARMS/docs/regs/38cfr/bookb/part3/S3_50.doc).***Surviving Spouse*** means a person whose marriage meets the requirements of [38 CFR 3.50(b)](http://www.benefits.va.gov/WARMS/docs/regs/38cfr/bookb/part3/S3_50.doc) or [38 CFR 3.52](http://www.benefits.va.gov/WARMS/docs/regs/38cfr/bookb/part3/S3_51.doc).***Exception***: A change is currently underway to [38 CFR 3.50](http://www.benefits.va.gov/WARMS/docs/regs/38cfr/bookb/part3/S3_50.doc) to address legal changes on recognition of same sex marriage.***Reference***: For more information on claims involving same sex marriage, see [VBA letter 20-14-08](http://vbaw.vba.va.gov/usb/letters/2014/vba-letter-20-14-08.docx). |

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| d. Qualifying Veteran for DEA Purposes | For there to be basic eligibility based on the service of a Veteran there must be *either** an other than dishonorable discharge, **OR**
* death in service

**In addition** there must be *any* of the following:* Permanent and total (P&T) service-connected (SC) disability
* P&T SC disability on the date of the Veteran’s death, or
* Death resulting from an SC disability

***Note***: Disability or death under [38 U.S.C. 1151](http://www.law.cornell.edu/uscode/38/1151.html) does not establish eligibility. |

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| e. Qualifying Service member for DEA Purposes | For there to be basic eligibility based on the service of an active duty member of the Armed Forces there must be *either* of the qualifying factors listed below: * the service member
* has been determined by the Department of Veterans Affairs (VA) to have a total disability permanent in nature incurred or aggravated in the line of duty during active military, naval, or air service;
* is hospitalized or receiving outpatient medical care, services, or treatment for such disability;
* is likely to be discharged or released from such service for such disability; and
* the pursuit of a course of education for which benefits under 38 U.S.C. chapter 35 are sought by the individual's spouse or child occurred after December 22, 2006, **OR**
* The service member currently has one of the following statuses for a period of more than 90 days:
* missing in action,
* captured in line of duty by a hostile force, or
* forcibly detained or interned in line of duty by a foreign Government or power.
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| f. Definition: Total Disability | ***Total disability*** for purposes of DEA means * Schedular or extraschedular evaluations of 100 percent under, or by analogy to, any diagnostic code in 38 CFR Part 4.
* A combined evaluation of 100 percent.
* A total evaluation on the basis of individual unemployability (IU).

***Reference***: For more information on a total disability evaluation for the loss of paired organs or extremities under [38 U.S.C. 1160](http://www.law.cornell.edu/uscode/38/1160.html), see [*Kimberlin v. Brown*](http://vbaw.vba.va.gov/bl/21/Advisory/CAVCDAD.htm#bmk), 5 Vet. App. 174 (1993). |

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

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| h. Temporary Total Ratings and DEA | The mere existence of a total disability evaluation is not sufficient. There must be a P&T disability. Total evaluations assigned under the following provisions are temporary:* Prestabilization ([38 CFR 4.28](http://www.benefits.va.gov/warms/docs/regs/38CFR/BOOKC/PART4/S4_28.DOC))
* Extended VA hospitalization ([38 CFR 4.29](http://www.benefits.va.gov/warms/docs/regs/38CFR/BOOKC/PART4/S4_29.DOC))
* Convalescence ([38 CFR 4.30](http://www.benefits.va.gov/warms/docs/regs/38CFR/BOOKC/PART4/S4_30.DOC))
* Any diagnostic code (DC) that provides for a limited period of total disability for convalescence such as joint replacements or cardiac procedures.

***Exceptions***: * Veterans who are considered permanently and totally disabled prior to the assignment of a 100 percent evaluation under a DC with a limited duration and future examination will be considered permanently disabled during the total evaluation. The status of permanency is reconsidered following completion of the examination. ***Example***: A Veteran who is considered permanently and totally disabled because of a heart disorder based on metabolic equivalents (METs) undergoes cardiac transplantation surgery. The Veteran would continue to be considered permanently and totally disabled for the duration of the one-year convalescent period under [DC 7019](http://www.benefits.va.gov/warms/docs/regs/38CFR/BOOKC/PART4/S4_104.DOC).
* A temporary total evaluation on the date of death will establish a P&T disability. Total disability did persist from the date assigned until the end of the person’s life.
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| i. When a P&T Disability Exists | In the following fact patterns a P&T disability exists* Evidence at the time of rating affirmatively shows that the total disability will continue for the remainder of the person’s life
* Evidence at the time of rating does not specifically support that the total disability will continue for the remainder of the person’s life but does not show that the condition is likely to improve pursuant to [38 CFR 3.327(b)(2)](http://www.benefits.va.gov/warms/docs/regs/38CFR/BOOKB/PART3/S3_327.DOC). In such cases a future exam control is inappropriate so the total disability rating is static; in the absence of reevaluation total disability is likely to continue for the remainder of the person’s life.
* At or before the time of maturation of a future exam diary pertinent to the continuation of total disability, the future examination control is canceled because
* the future exam control was erroneous under [38 CFR 3.327(b)(2)](http://www.benefits.va.gov/warms/docs/regs/38CFR/BOOKB/PART3/S3_327.DOC), or
* evidence is received that changes the prior assessment that the condition was likely to improve.
* Total disability has been in effect for 20 years per [38 CFR 3.951](http://www.benefits.va.gov/warms/docs/regs/38CFR/BOOKB/PART3/S3_950.DOC). In such cases the total disability is protected and is therefore is static and will continue for the remainder of the person’s life.
* A qualifying individual with total disability dies. In such cases the total disability is permanent because it persisted until the end of the person’s life.

***Note***: For historical purposes, it should be noted that cases in which there is a 100 percent rating under the 1925 rating schedule per [38 CFR 3.952](http://www.benefits.va.gov/warms/docs/regs/38CFR/BOOKB/PART3/S3_952.DOC) also meet the criteria of a “total disability, permanent in nature,” for DEA. |

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| j. Responsibility for Decision Making | The DEA program is administered by Education Service which makes the ultimate determination on entitlement and payment of benefits. The RO makes the ***initial rating decision*** as defined by 38 CFR 21.302(q) establishing the basic eligibility factors such as service connection for the cause of death or an SC P&T disability.The RO does not actually determine the effective date of the DEA benefit. It makes a determination on the date of commencement of a P&T disability. 38 CFR 21.3021(r) defines ***effective date of the P&T rating*** as the date from which VA considers that P&T disability commenced for the purpose of VA benefits as determined in the initial rating decision.  |

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| k. When DEA is a Rating Issue | Basic eligibility to DEA is a rating issue when one of the following criteria is met: * There is a claim for DEA/ Chapter 35 benefits.
* A beneficiary requests a determination on P&T disability.
* An SC total disability (schedular or total disability due to IU) is granted or confirmed/continued and permanency is also established (to include by the determination that a future examination is not warranted).
* A previously-set future exam control is canceled/discontinued while there is total disability.
* Service connection for the cause of death is granted.
* In connection with a claim for death benefits, the Veteran was rated 100 percent disabled due to SC disabilities or entitled to IU on the date of death.

***Exceptions***: * Do not consider basic eligibility to DEA when that matter has been previously established. However, address DEA in connection with a death claim even though DEA was granted on another basis during the Veteran’s lifetime.
* Consider entitlement to DEA without a rating decision when service connection is granted for the cause of death without a rating decision.
* When an SC total disability is granted or confirmed/continued you must consider whether there is basic entitlement to DEA. However if permanency is not proven, do not create a separate issue and make a decision that there is no basic eligibility. To show consideration, discuss in the evaluation issue that permanency was not established or that improvement was indicated.

***Notes***: * Not assigning a future exam control on a total disability, or canceling a future examination when there is total disability, implies that improvement is not indicated and that the disability is static.
* A rating decision *must* be prepared whenever permanency is established, whether the permanency is based on new evidence and/or on cancellation of a future examination regardless of whether or not there appear to be any potentially eligible dependents.
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| l. Date of P&T Disability – Claim or Subordinate Issue. | Basic eligibility based on a P&T SC disability is only established when all criteria are met (service connection, total disability, and permanence).Therefore when DEA basic eligibility is established the date of permanent and total disability is the ***later of*** * ***the date of claim***, or
* ***the date that the final criterion is factually established***

***Note***: Impute exam or other findings dated after the date of claim back to the date of claim unless there is specific evidence there was a change to total disability or to permanent disability between the date of claim and the date of the evidence. For example, a VA examination finding that contains an opinion on permanence would be attributed to the date of claim unless there was prior evidence dated on or after the date of claim indicating that the total disability was likely to improve, in which case the date of permanence would be the date of exam.  |

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| m. Date of P&T Disability, Cancellation of Review Examination | Use the following table to determine the date of P&T disability where * there is total disability but not permanence because a future/review examination control was established, and
* a DEA determination is subsequently necessitated by one of the following actions:
* cancellation of the future exam control prior to maturation, or
* determination that a review examination should not be scheduled at the time the future exam control matures.
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| When the action is based on ... | Then ... |
| a determination that the exam control was initially set up in *error* ***Example***: In violation of [38 CFR 3.327(b)(2)](http://www.benefits.va.gov/warms/docs/regs/38CFR/BOOKB/PART3/S3_327.DOC) a future exam control is set for a condition like ALS that can only be rated at 100 percent and is, by its nature, permanent.  | set the date of P&T disability ***as if the future exam control was never established***.***Explanation***: If the exam control was erroneous the condition was static at the time of the prior rating.  |
| a difference in judgment rather than a specific error in the initial future exam control ***Example***: a Rating Veterans Service Representative (RVSR) reviewing an 810-series work items determines that a review exam should not be scheduled as planned because the conclusion of likely future improvement used to set the future exam control was not well justified by the facts.  | for the date of P&T disability use the ***date of review***/ ***date of cancellation***.***Explanation***: This is essentially a new determination of permanency on the date of review caused by reexamination of the facts.  |
| new evidence that changes the prior assessment that the total disability is likely to improve | for the date of P&T disability, generally use the ***date that the new evidence is received***. ***Exception***: Where the new evidence consists of a VA record generated after the date of the rating where the future exam control was set, use the date of the record. The RO is deemed to have constructive notice of VA records. |

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| n. Regaining Entitlement to DEA | Under the provisions of [38 U.S.C. 1311(e)](http://www.law.cornell.edu/uscode/html/uscode38/usc_sec_38_00001311----000-.html), a surviving spouse who is ineligible for Dependency and Indemnity Compensation (DIC) because he/she has remarried or is living with someone and holding himself/herself out openly as a spouse, may regain eligibility for DIC upon the termination of such relationships. [VAOPGCPREC 13-98](http://www.va.gov/ogc/docs/1998/prc13-98.doc) held that eligibility for DIC regained under these provisions did not entitle the surviving spouse to Civilian Health and Medical Program (CHAMPVA) benefits, DEA, or loan guaranty benefits. However, *Public Law (PL) 106-117*, effective November 30, 1999, explicitly restored eligibility for these ancillary benefits. ***Note***: These benefits are not payable for the period from October 1, 1998, to November 30, 1999.***Reference***: For more information on regaining entitlement to DEA, seeM21-1MR, Part III, Subpart iii, 5.F. |

#### 2. Dental Treatment-Purposes Ratings

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| Introduction | This topic contains general information on dental treatment purposes ratings, including * [interpreting claims raising dental issues](#_a._Interpreting_Claims)
* [outpatient dental treatment classifications](#_b._Outpatient_Dental)
* [Veterans Health Administration (VHA) and Veterans Benefit Administration (VBA) roles in dental treatment eligibility determinations](#_c.__VHA)
* [determinations VBA makes for dental treatment purposes](#_d._Determinations_VBA)
* [when to prepare a rating for dental treatment purposes](#_e._When_to)
* [service trauma for dental treatment purposes](#_f._Service_Trauma)
* [conditions SC only for dental treatment purposes](#_g._Conditions_SC)
* [dental conditions not considered SC even for treatment purposes](#_h._Dental_Conditions)
* [separate consideration of each condition for dental treatment purposes](#_i._Separate_Consideration)
* [dental conditions on service entry and aggravation for treatment purposes](#_j._Dental_Conditions)
* [SC for dental treatment – noted at entry and treated during service](#_k._SC_for)
* [SC for dental treatment – extracted teeth from chronic periodontal disease](#_l._SC_for)
* [dental treatment claims involving multiple periods of service](#_m._Handling_Dental)
* [tooth numbering systems](#_n._Tooth_Numbering)
* [use of Navy dental records](#_o._Use_of)
* [use of Army dental records](#_p._Use_of)
* [dental examinations in treatment claims](#_q._Dental_Examinations).
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| a. Interpreting Claims Raising Dental Issues | Use the following table to interpret claims raising dental issues. |

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| If the claim... | Then ... |
| seeks “service connection” or “compensation” for a ***dental disability****.* | the issue is entitlement to service connection for compensation purposes for the specified dental disability. ***Note***: A ***dental*** ***disability*** denotes * a disorder that can be
* SC for compensation purposes, and
* evaluated under, or by appropriate analogy to, the [38 CFR 4.150, 9900-series DCs](http://www.benefits.va.gov/warms/docs/regs/38CFR/BOOKC/PART4/S4_150.DOC)), and
* a disorder that is not listed in [38 CFR 3.381(b)](http://www.benefits.va.gov/warms/docs/regs/38CFR/BOOKB/PART3/S3_381.DOC) (treatable carious teeth, replaceable missing teeth, dental or alveolar abscesses, or periodontal disease) or in [38 CFR 3.381(f)](http://www.benefits.va.gov/warms/docs/regs/38CFR/BOOKB/PART3/S3_381.DOC) (calculus, acute periodontal disease, third molars, impacted or malposed teeth or other developmental defects).
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| *clearly* seeks “compensation” for a ***dental/oral condition*** that is ***not*** a ***dental disability***. | The issue is entitlement to service connection for compensation purposes for the specified condition. ***Explanation***: * Informal claims under [38 CFR 3.155](http://www.benefits.va.gov/warms/docs/regs/38CFR/BOOKB/PART3/S3_155.DOC) require only a statement of the benefit sought. [38 CFR 3.159(a)(3)](http://www.benefits.va.gov/warms/docs/regs/38CFR/BOOKB/PART3/S3_159.DOC) requires a substantially complete application to only identify a benefit claimed (compensation) and the body part or system upon which the claimed entitlement is based (dental/oral).
* Regardless of the fact that service connection for compensation purposes can only be paid for dental disabilities, VA must process an adequate claim.
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| *clearly* seeks only “dental treatment,” “service connection for dental treatment purposes” or equivalent wording  | * refer the claim to the VA medical center (VAMC) dental clinic or eligibility clerk for determination of eligibility.
* do not develop and/or decide the claim unless/until the medical center requests a determination on *VA Form 10-7131*, *Exchange of Beneficiary Information and Request for Administrative Action.*
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| seeks “service connection” for a ***dental/oral condition*** that is ***not*** a ***dental disability***  | clarify the claim before taking other action. ***Explanation***: * service connection can be established for *compensation purposes* and/or for *treatment purposes*.
* RO personnel *must neither*
* refer a claim to the medical center as a treatment claim if not clear, nor
* decide the issue of service connection for compensation purposes for a dental/oral condition that is *not* a dental disability unless the claimant is clearly seeking compensation.
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| seeks “service connection” for an *unspecified* dental disorder (wording such as “dental “or “dental condition”) | clarify the claim before taking other action.***Explanation***: the intent could be to seek a determination of service connection for compensation purposes or for treatment purposes and the description is insufficient to determine whether the dental disorder or condition is a dental disability.  |
| seeks treatment for a ***dental disability*** for which service connection for compensation purposes is possible but not previously established | clarify the claim before taking other action. ***Explanation***: * The claimant could be seeking treatment only but could also be eligible for service connection for compensation purposes, which may be relevant treatment eligibility.
* Treatment can be provided for
* noncompensably and compensably-evaluated dental disabilities that are SC for compensation purposes, and
* dental conditions (treatable carious teeth, replaceable missing teeth, dental or alveolar abscesses, and periodontal disease) specified in [38 CFR 3.381(b)](http://www.benefits.va.gov/warms/docs/regs/38CFR/BOOKB/PART3/S3_381.DOC).
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| ***References***: For more information on* determining the issues and clarifying claims, see M21-1MR Part III, Subpart iv, 6.B.
* determining the type claim in an original claim for compensation, see M21-1MR Part III, Subpart ii, 2.B.6.b.
* sympathetic reading doctrine, see M21-1MR Part III, Subpart iv, 6.B and M21-1MR Part III, Subpart iv, 4.H.32.
* rating principles for dental disabilities, see M21-1MR Part IX. Subpart ii, 2.3.
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| b. Outpatient Dental Treatment Classifications | The table below summarizes the most common dental treatment classifications used by the Veterans Health Administration (VHA) and provides a reference for more information on each classification. For the purpose of this topic the focus will be on Classes II(a) and II. |

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| Dental Treatment Classifications | Reference |
| Class I: SC dental disability evaluated as compensable under [38 CFR 4.150, DC 9900 series](http://www.benefits.va.gov/warms/docs/regs/38CFR/BOOKC/PART4/S4_150.DOC). | See M21-1MR, Part III, Subpart v, 7.B.13. |
| Class II: SC noncompensable dental condition or disability. | See M21-1MR, Part III, Subpart v, 7.B.14. |
| Class II(a): SC noncompensable dental condition or disability adjudicated as resulting from combat wounds or service trauma. | See M21-1MR, Part III, Subpart v, 7.B.15. |
| Class II(c): POW status | See M21-1MR, Part III, Subpart v, 7.B.15.b. |
| Class III: Dental disability aggravating SC medical condition | See M21-1MR, Part III, Subpart v, 7.B.16. |
| Class IV: SC disabilities evaluated at 100% or entitlement to individual unemployability | See M21-1MR, Part III, Subpart v, 7.B.16. |
| Class V: Enrolled in vocational rehabilitation training | See M21-1MR, Part III, Subpart v, 7.B.16. |
| Class VI: Dental disability aggravating medical condition being treated under [38 U.S.C. 1710](http://law.cornell.edu/uscode/html/uscode38/usc_sec_38_00001710----000-.html) | See M21-1MR, Part III, Subpart v, 7.B.16. |

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| ***Important***: ***SC noncompensable*** (as used in Class II and IIa) means either* ***dental disabilities*** that are SC for compensation purposes but only assigned a 0 percent evaluation, *or*
* [38 CFR 3.381(b)](http://www.benefits.va.gov/warms/docs/regs/38CFR/BOOKB/PART3/S3_381.DOC) conditions that can be only SC for treatment purposes and therefore are not entitled to any compensation payments.
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| c. VHA and VBA Roles in Dental Treatment Eligibility Determinations | Authorization of dental treatment under [38 CFR 17.161](http://www.benefits.va.gov/warms/docs/Regs/38CFR/BookI/Part17/s17_161.doc) is normally handled by the Business Office at the VHA facility nearest the Veteran’s residence or the VHA Health Eligibility Center (HEC) without referral to the Veterans Service Center (VSC) and the rating activity. However, when a claim for dental treatment received by the Veterans Benefits Administration (VBA) is referred to VHA, or if the Veteran requests treatment at a VHA clinic, VHA may complete *VA form 10-7131* to request information or a rating from VBA for use in their determination of eligibility to treatment under Class I, II, II(a), II(c) or Class IV. ***References***: For more information on * the classes of dental treatment eligibility, see
* M21-MR Part IX, Subpart ii, 2.2.b, or
* M21-1MR, Part III, Subpart v, 7.B
* determinations VBA may make for dental treatment purposes, see M21-1MR Part IX, Subpart ii, 2.2.d, or
* processing dental claims, see M21-1MR, Part III, Subpart v, 7.C
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| d. Determinations VBA Makes for Dental Treatment Purposes | Per [38 CFR 3.381(a)](http://www.benefits.va.gov/warms/docs/regs/38CFR/BOOKB/PART3/S3_381.DOC) VHA may request determinations from VBA including, but not limited to, whether* a dental condition or disability is a result of combat wounds
* a dental condition or disability is a result of service trauma
* the Veteran has a noncompensable SC dental condition or disability
* the Veteran has a compensable SC disability.
* the Veteran is totally disabled due to an SC disability, or
* the Veteran has former Prisoner of War (FPOW) status.

***Notes***: * This does not mean a formal rating determination is always required. In many cases eligibility for outpatient dental treatment can be decided by VHA without VBA rating action based information of record. Examples include:
* one-time dental treatment for Veterans who apply within 180 days after military discharge (Class II)
* Prisoner of War status (Class II(c)) , and
* total disability (Class IV)
* In lieu of a dental treatment rating decision annotate *VA Form 10-7131* that the Veteran is totally disabled.

***Reference***: For more information on * conditions that can be SC only for treatment purposes, see M21-1MR Part IX, Subpart ii, 2.2.g, and
* verification of FPOW status for dental eligibility, see M21-1MR Part III, Subpart v, 7.C.17.d.
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| e. When to Prepare a Rating for Dental Treatment Purposes | As specified in [38 CFR 3.381(a)](http://www.benefits.va.gov/warms/docs/regs/38CFR/BOOKB/PART3/S3_381.DOC) VBA will develop and decide a claim for service connection for treatment purposes ***only after*** VHA * determines that a Veteran meets the basic eligibility requirements of [38 CFR 17.161](http://www.benefits.va.gov/warms/docs/Regs/38CFR/BookI/Part17/s17_161.doc) and
* ***requests*** that VBA make a determination (provide required information or issuing a rating decision).

***Important***: Provide ***only*** the determination requested.  |

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| f. Service Trauma for Dental Treatment Purposes | Veterans who have a noncompensable dental condition (including tooth disorders for which service connection for compensation purposes cannot be granted) resulting from combat wounds or service trauma may receive any reasonably necessary treatment for the SC dental condition under Class II(a). If VHA provides a *VA Form 10-7131* requesting a dental trauma rating, prepare a rating identifying the specific tooth number(s) that were injured and identify the service trauma.***Note***: [*Neilson v. Shinseki*](http://vbaw.vba.va.gov/bl/21/advisory/CAVCDAD.htm#bmn), 607 F.3d 802 (Fed. Cir, 2010) determined that ***service trauma*** means an injury or wound produced by an external physical force, for example striking the mouth on a vehicle, striking the mouth when falling, and biting down on a cherry pit. Proper in service tooth extraction does not constitute service trauma.  ***References***: For more information on:* service dental trauma, see [VAOPGCPREC 5-97](http://www.va.gov/ogc/docs/1997/PRC05-97.DOC)
* conditions that can be SC only for treatment purposes, see M21-1MR Part IX, Subpart ii, 2.2.g, and
* tooth numbering systems, see M21-1MR, Part IX, Subpart ii, 2.2.n.
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| g. Conditions SC Only for Dental Treatment Purposes | Per [38 CFR 3.381(b)](http://www.benefits.va.gov/warms/docs/regs/38CFR/BOOKB/PART3/S3_381.DOC) the following conditions may not be considered compensable dental disabilities. They may be SC noncompensable dental conditions solely for the purpose of determining entitlement to Class II or Class II(a) dental treatment under [38 CFR 17.161](http://www.benefits.va.gov/warms/docs/Regs/38CFR/BookI/Part17/s17_161.doc).* treatable carious teeth
* chronic periodontal disease (pyorrhea).
* replaceable missing teeth, and
* dental or alveolar abscesses.

This list is not exclusive and other dental conditions may qualify. ***Important***: Periodontal disease is not treatable except for Class II purposes -- even if secondary to an SC disability. ***Reference***: For more information on SC compensation for dental disabilities, see M21-1MR Part IX, Subpart ii, 2.3. |

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| h. Dental Conditions not Considered SC Even for Treatment Purposes | Under [38 CFR 3.381(f)](http://www.benefits.va.gov/warms/docs/regs/38CFR/BOOKB/PART3/S3_381.DOC) the following ***must not*** be considered SC even for treatment purposes:* calculus
* acute periodontal disease
* third molars, ***unless*** disease or pathology of the tooth
* developed after 180 days or more of active service, or
* was due to combat or in-service trauma, and
* impacted or malposed teeth, and other developmental defects, ***unless*** disease or pathology of these teeth developed after 180 days or more of active service.

***Notes***: * Third molars injured by combat or other in-service trauma may be considered for Class II(a) purposes upon VHA request for a service trauma determination.
* 180 days is that this is the requisite service specified for Class II eligibility under [38 CFR 17.161(b)(1)(i)(A)](http://www.benefits.va.gov/warms/docs/Regs/38CFR/BookI/Part17/s17_161.doc) and [38 CFR 17.161(b)(1)(ii)](http://www.benefits.va.gov/warms/docs/Regs/38CFR/BookI/Part17/s17_161.doc)
 |

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| i. Separate Consideration of Each Condition for Dental Treatment Purposes | [38 CFR 3.381(c)](http://www.benefits.va.gov/warms/docs/regs/38CFR/BOOKB/PART3/S3_381.DOC) specifies that the rating activity must consider each defective or missing tooth, each disease of the teeth and each periodontal tissue separately to determine whether the condition was incurred or aggravated in the line of duty for the purpose of Class II(a) or II treatment eligibility.  ***Note***: This includes determinations of whether there was combat related or other service trauma. |

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| j. Dental Conditions on Service Entry and Aggravation - for Treatment Purposes | Under [38 CFR 3.381(d)](http://www.benefits.va.gov/warms/docs/regs/38CFR/BOOKB/PART3/S3_381.DOC) the condition of teeth and periodontal tissues at the time of entry into active duty must be considered.Treatment during service, including filling or extraction of a tooth, or placement of a prosthesis, must not be considered evidence of aggravation of a condition that was noted at entry for treatment purposes, unless additional pathology developed after 180 days or more of active service. |

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| k. Service Connection for Dental Treatment - Noted at Entry and Treated During Service | The table below, summarizes [38 CFR 3.381(e)](http://www.benefits.va.gov/warms/docs/regs/38CFR/BOOKB/PART3/S3_381.DOC) guidance on service connection for treatment purposes of dental conditions noted at entry and treated during service. |

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

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| ***Note***: If service dental records are incomplete, consider the doctrine of reasonable doubt under [38 CFR 3.102](http://www.benefits.va.gov/warms/docs/regs/38CFR/BOOKB/PART3/S3_102.DOC). |

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| l. Service Connection for Dental Treatment – Extracted Teeth from Chronic Periodontal Disease | [38 CFR 3.381(g)](http://www.benefits.va.gov/warms/docs/regs/38CFR/BOOKB/PART3/S3_381.DOC) states that teeth extracted because of chronic periodontal disease may be SC for treatment purposes if they were extracted after 180 days or more of active service, per [38 U.S.C. 1712](http://law.cornell.edu/uscode/html/uscode38/usc_sec_38_00001712----000-.html). |

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

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

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

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

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

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

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| q. Dental Examinations in Treatment Claims | Generally, a claim for dental treatment may be rated on service records without a dental examination. However, a dental examination may be required to identify teeth or chronic periodontal disease for which service connection for treatment or examination purposes may be in order under [38 CFR 17.160](http://www.benefits.va.gov/warms/docs/Regs/38CFR/BookI/Part17/s17_160.doc). |

#### 3. Service Connected (SC) Compensation for Dental Disabilities

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| --- | --- |
| Introduction | This topic contains information on SC compensation for dental disabilities including* [service connection of dental/oral disabilities for compensation purposes](#_a._Service_ConnectionC)
* [dental exams in compensation cases](#_b._Dental_Exams)
* [denying dental claims for SC compensation](#_c._Denying_Dental)
* [rating bony abnormalities of the jaw](#_d.__Rating)
 |

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| Change Date | January 20, 2015 |

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

|  |  |
| --- | --- |
| b. Dental Exams in Compensation Claims | ***Reference***: For more information on when an examination is necessary under the duty to assist see M21-1MR Part I, Subpart 1, C.7. |

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| --- | --- |
| c. Denying Dental Claims for SC Compensation | Consider the issue of service connection for compensation purposes for the conditions listed in [38 CFR 3.381(b)](http://www.benefits.va.gov/warms/docs/regs/38CFR/BOOKB/PART3/S3_381.DOC) in a formal rating and deny the claim if * a Veteran claims compensation for one of these conditions and
* the record shows no complicating condition that is subject to service connection.

In the narrativeof the rating decision, discuss that under the regulation service connection for such conditions can be established only for treatment purposes, and note if dental treatment in service was limited to conditions affecting only the teeth or gums. |

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| d. Rating Bony Abnormalities of the Jaw | Rate bony abnormalities of the jaw that are subject to service connection according to the 9900-series DCs. |

#### 4. Rating for Medical Care

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| Introduction | This topic contains information on rating for medical care, including * receiving requests for eligibility determinations for medical care, and
* the action to take after eligibility for medical care is determined.
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| Change Date | April 13, 2009 |

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| a. Receiving Requests for Eligibility Determinations for Medical Care | VHA submits requests for eligibility determinations under [38 U.S.C. 1710](http://law.cornell.edu/uscode/html/uscode38/usc_sec_38_00001710----000-.html) advising what information is required* via CAPRI, or
* on *VA Form 10-7131*.

***Reference***: For more information on eligibility for VA treatment, see M21-1MR, Part III, Subpart v, 7.A. |

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| b. Action to Take After Eligibility for Medical Care Is Determined | If the authorization activity has already made a determination of eligibility, furnish the requested information as provided in M21-1MR, Part III, Subpart v, 7.A.For any condition not covered in a prior rating decision, prepare a rating using the following statement under the part “Decision”: “*Eligibility for medical care under 38 U.S.C. 1710* **[is] [is not]** *established.*” |

#### 5. Rating for Service Connection for Mental Disorders Under 38 U.S.C. 1702

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| --- | --- |
| Introduction | This topic contains information on rating to determine service connection for mental disorders under 38 U.S.C. 1702, including* [service connection for mental disorders for treatment purposes under 38 U.S.C. 1702, generally](#_a.__Service)
* [when VBA must decide the issue of service connection under 38 U.S.C. 1702](#_b.__When)
* [38 U.S.C. 1702 criteria for service connection for mental disorders](#_c.__38)
* [VHA Requests for 38 U.S.C. 1702 Determinations](#_d.__VHA)
* [addressing a VHA requested 38 U.S.C. 1702 determination in the rating decision](#_e.__Addressing), and
* [addressing the subordinate issue of 38 U.S.C. 1702 in the rating decision](#_f.__Addressing)
 |

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| --- | --- |
| Change Date | January 20, 2015 |

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| a. Service Connection for Mental Disorders for Treatment Purposes Under 38 U.S.C. 1702, Generally | [38 U.S.C. 1702](http://law.cornell.edu/uscode/html/uscode38/usc_sec_38_00001702----000-.html) creates a presumption of service connection for the purpose of eligibility for VA treatment for* psychoses based on wartime service, or
* any mental disorder based on Gulf War service.

Claims for medical or psychological treatment are normally determined by VHA without referral to VBA. However a medical facility may require information or a determination from VBA. ***Reference***: For more information on determining eligibility for medical care see M21-1MR, Part III, Subpart v, 7.A.1. |

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| b. When VBA Must Decide the Issue of Service Connection Under 38 U.S.C. 1702 | VBA must decide the issue of service connection for a psychosis or other mental disorder under [38 U.S.C. 1702](http://law.cornell.edu/uscode/html/uscode38/usc_sec_38_00001702----000-.html) when * requested by VHA or
* when a decision maker finds the facts ***support*** the [38 U.S.C. 1702](http://law.cornell.edu/uscode/html/uscode38/usc_sec_38_00001702----000-.html) criteria in the course of denying service connection for compensation purposes for
* a psychosis based on wartime service or
* any mental disorder based on Gulf War service.

***References***: For more information on * the [38 U.S.C. 1702](http://law.cornell.edu/uscode/html/uscode38/usc_sec_38_00001702----000-.html) criteria, see M21-1MR Part IX, Subpart ii, 2.5.c
* VHA requested determinations, see M21-1MR Part IX, Subpart ii, 2.5.d.
* rating decision requirements, see M21-1MR Part IX, Subpart ii, 2.5.e
* inferred issues generally, see M21-1MR Part III, Subpart iv, 6.B.3.d.
 |

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| c. 38 U.S.C. 1702 Criteria for Service Connection for Mental Disorders | [38 U.S.C. 1702](http://law.cornell.edu/uscode/html/uscode38/usc_sec_38_00001702----000-.html) provides that service connection is presumed for VA treatment purposes for* a Veteran of any war period who develops a psychosis or
* a Veteran of the Gulf War who develops any mental disorder

within* two years after the date of separation (under other than dishonorable conditions) from such service, *and*
* two years after the end of the war period.

***Important***:*Both* criteria must be met for the presumption to arise. The presumption that the qualifying disability was incurred in service for treatment purposes does *not* apply if* a qualifying mental disorder develops *more than* two years after the end of the *war period*, even if the condition develops *less than, or at*, two years after *discharge*, or
* a qualifying mental disorder develops *more than* two years after *service discharge* even if that was *during* wartime or *less than, or at*, two years thereafter.

***Note***: It is *not* necessary for the Veteran to have had 90 days of service to qualify.***References***: For a definition of “psychosis,” see* [38 CFR 3.384](http://www.benefits.va.gov/warms/docs/regs/38CFR/BOOKB/PART3/S3_384.DOC), and
* M21-1MR, Part III, Subpart iv, 4.H.27.d.
 |

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

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

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

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

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

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

|  |  |
| --- | --- |
| If ... | Then ... |
| The criteria for service connection under [38 U.S.C. 1702](http://law.cornell.edu/uscode/html/uscode38/usc_sec_38_00001702----000-.html) are established, | * in the rating decision address the subordinate Section 1702 issue as a separate decision from the decision on the mental disorder.
* Ensure that the rating codesheet, shows “*Active Psychosis/GW Mental--SC for Treatment Only*” or equivalent.

***Exception***: If a previous decision has awarded entitlement, there is no need to address it again. |
| If the criteria for service connection under [38 U.S.C. 1702](http://law.cornell.edu/uscode/html/uscode38/usc_sec_38_00001702----000-.html) are not established, | Do not address the matter at all in the rating decision. |

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| ***Important***: Service connection for treatment purposes under Section 1702 is not a subordinate issue and should not be decided in cases where * a Section 1702 determination has not been requested by VHA
* a claim for service connection for compensation purposes for a psychosis based on any wartime service or any mental disorder based on Gulf War service is denied, *and*
* under the facts of record the Section 1702 presumption would not arise.
 |

#### 6. Rating for Insanity Determination

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| --- | --- |
| Introduction | This topic contains information on rating for an insanity determination, including * [when a rating for insanity is required](#_a.__When), and
* [making a rating determination of insanity](#_b.__Making).
 |

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| --- | --- |
| Change Date | November 21, 2006 |

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| a. When Rating for Insanity Is Required | A rating of insanity is required to determine whether the Veteran was insane at the time of commission of an act or acts that resulted in a service department character of discharge, line-of-duty, or misconduct determination which precludes entitlement to benefits. Ratings of insanity are prepared only at the request of the authorization activity because of a* specific allegation by the claimant, or
* question raised by the evidence in the claims folder.

***Reference***: For more information on cases involving the sanity of a beneficiary involved in homicide, see M21-1MR, Part III, Subpart v, 1.E. |

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| --- | --- |
| b. Making a Rating Determination of Insanity | Prior to making a determination as to whether a Veteran was insane at the time he/she committed an offense leading to his/her court-martial, discharge, or resignation* request all obtainable evidence related to the period involved
* state under Decision on the rating decision, “*The Veteran* **[was] [was not]** *insane at the time* **[he] [she]** *committed an offense*,” and
* apply the definition of insanity found in [38 CFR 3.354](http://www.benefits.va.gov/warms/docs/regs/38CFR/BOOKB/PART3/S3_354.DOC).

***Result***: A rating decision finding the Veteran to have been sane at the time in question, supported by the necessary explanation, is sufficient as to the particular period of service or offense at issue. |

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

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| --- | --- |
| Introduction | This topic contains information on rating determination for Veteran’s civil service disability preference, including * [certifying civil service disability preference](#_a.__Certifying)
* [requirements for civil service evaluations](#_b.__Requirements)
* [when a rating is required for civil service preference](#_c.__When), and
* [the rating conclusion for civil service preference determinations](#_d.__Rating_1).
 |

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| Change Date | November 16, 2004 |

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

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

|  |  |
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| c. When a Rating Is Required for Civil Service Preference | A rating is necessary if a previous rating did not establish entitlement to compensation, which includes Special Monthly Compensation (SMC) or entitlement under [38 CFR 3.324.](http://vbaw.vba.va.gov/bl/21/publicat/Regs/Part3/3_324.htm)  |

|  |  |
| --- | --- |
| d. Rating Conclusion for Civil Service Preference Determinations | In the rating conclusion, show the DC, diagnosis, and an evaluation of either* “*less than ten percent*,” or
* “*The noncompensable service-connected disabilities have no ascertainable residuals*.”
 |

#### 8. Rating to Extend the Delimiting Dates for Educational Assistance

|  |  |
| --- | --- |
| Introduction | This topic contains information on rating to extend the delimiting dates for educational assistance based on disability, including * [Regional Processing Office (RPO) jurisdiction](#_a.__RPO)
* [when the delimiting dates may be extended](#_b.__When_1)
* [determining whether the disability was the result of willful misconduct](#_c.__Determining)
* [when medical infeasibility may be found](#_d.__When)
* [time limitation for requesting a delimiting date extension](#_e.__Time)
* [when to refer claims for delimiting date extensions to the rating activity](#_f.__When)
* [processing claims for delimiting date extensions](#_g.__Processing)
* [reviewing medical records for evidence relating to non-Education Service benefits](#_h.__Reviewing), and
* [rating conclusion for determinations of delimiting date extensions](#_i.__Rating).
 |

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| --- | --- |
| Change Date | February 3, 2011 |

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| a. RPO Jurisdiction | The jurisdiction of all rating determinations required in claims for extension of the educational assistance delimiting date resides with the Regional Processing Offices (RPO) in* Atlanta
* Buffalo
* St. Louis, and
* Muskogee.

If an RO receives a request for a delimiting date extension, the RO should route the request to the RPO of jurisdiction.***Note***: The address of the claimant’s educational facility determines which RPO has jurisdiction over the claim.***Reference***: For information on the alignment of ROs and RPOs, see M21-1MR, Part IX, Subpart ii, 2.12. |

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

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

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

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

|  |  |
| --- | --- |
| If applying for educational benefits under … | Then … |
| [38 U.S.C. Chapter 31](http://assembler.law.cornell.edu/uscode/html/uscode38/usc_sup_01_38_10_III_20_31.html) | there is no time limitation for requesting a delimiting date extension. |
| * [38 U.S.C. Chapter 30](http://assembler.law.cornell.edu/uscode/html/uscode38/usc_sup_01_38_10_III_20_30.html)
* [38 U.S.C. Chapter 32](http://assembler.law.cornell.edu/uscode/html/uscode38/usc_sup_01_38_10_III_20_32.html)
* [38 U.S.C. Chapter 33](http://assembler.law.cornell.edu/uscode/html/uscode38/usc_sup_01_38_10_III_20_33.html)
* [38 U.S.C. Chapter 35](http://assembler.law.cornell.edu/uscode/html/uscode38/usc_sup_01_38_10_III_20_35.html), and
* [38 U.S.C. Chapter 1606](http://assembler.law.cornell.edu/uscode/html/uscode10/usc_sup_01_10_10_E_20_IV_30_1606.html)
 | the application for an extension of the delimiting date must be received in VA within one year of the latter:* the last date of the delimiting period, otherwise applicable, or
* the termination of the period of mental or physical disability.
 |

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

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

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| Step | Action |
| 1 | An RPO receives a claim for a delimiting date extension. |
| 2 | Is there sufficient evidence of record to warrant referral of the claim to the rating activity at the co-located RO?* If ***yes***, the RPO
* scans the evidence into The Image Management System (TIMS), an electronic database
* forwards the hard copy of the evidence to the RO rating activity, and
* goes to Step 4.
* If ***no***, the RPO
* sends a development letter to the claimant, and
* goes to Step 3.

***Reference***: For information on when to refer claims to the rating activity, see M21-1MR, Part IX, Subpart ii, 2.9.f. |
| 3 | Did the claimant provide the evidence requested?* If ***yes***, the RPO
* scans the medical evidence into TIMS
* forwards the hard copy of the medical evidence to the RO rating activity, and
* goes to Step 4.
* If ***no***, the RPO
* denies the claim, and
* notifies the claimant of the decision.
 |
| 4 | The RO rating activity* prepares a rating decision, and
* furnishes the RPO
* a copy of the decision, and
* the evidence considered in the claim.
 |
| 5 | The RPO* scans the rating decision into TIMS
* takes final action on the claim based on the rating determination, and
* notifies the claimant of the decision.
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| ***Note***: Information from a Veteran’s claims folder needed to process a claim should be furnished electronically (via telephone, fax, e-mail, etc.) whenever possible. If review of a claims folder is required, an RPO may request its temporary transfer.  |

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| h. Reviewing Medical Records for Evidence Relating to Non-Education Service Benefits | RO Rating Veterans Service Representatives (RSVRs) must carefully review medical records furnished by RPOs for evidence that could relate to non-Education Service benefits.When reviewing medical records, RSVRs should* access the appropriate Share screens to determine
* the existence and location of the Veteran’s claims folder, and
* what SC disabilities, if any, have been established
* contact the RO where the claims folder is located for clarification of SC disabilities, if necessary
* examine the medical records for
* any informal or formal claims for non-Education Service benefits, such as compensation, and
* records that pertain to a previously-established SC disability, and
* forward the pertinent medical records and/or claims for benefits to the RO where the claims folder is located.
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| i. Rating Conclusion for Determination of Delimiting Date Extension | In the rating decision, under the *Decision*, show either* “*Extension of Delimiting Date Under Ch. 30, 38 U.S.C. 3031(d)* **[is] [is not]** *granted*”
* “*Extension of Delimiting Date Under Ch. 31, 38 U.S.C. 3103* **[is] [is not]** *granted*”
* “*Extension of Delimiting Date Under Ch. 32, 38 U.S.C. 3232(2)(A) and (B)* **[is] [is not]** *granted*”
* “*Extension of Delimiting Date Under Ch. 33, 38 U.S.C. 3312(b)(1)* **[is] [is not]** *granted*”
* “*Extension of Delimiting Date Under Ch. 35, 38 U.S.C. 3512(B)* **[is] [is not]** *granted*,” or
* “*Extension of Delimiting Date Under Ch. 1606, 10 U.S.C. 16133(b)(3)* **[is] [is not]** *granted*.”

In the coded conclusion, show either * “*Training medically infeasible from* **[date]** *through* **[date]**,” or
* “*Disability did not make training medically infeasible*.”
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#### 9. Rating for Insurance Purposes

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| Introduction | This topic contains information on rating for insurance purposes, including * [eligibility for Service-Disabled Veterans Insurance (SDVI)](#_a.__Eligibility)
* [when to apply for SDVI](#_b.__When_2)
* [who may apply for SDVI](#_c.__Who)
* [eligibility for Gratuitous SDVI after death](#_d.__Eligibility)
* [when a rating decision is required for determination of SDVI eligibility](#_e.__When)
* [handling insurance cases involving coma incident to the terminal state](#_f.__Handling)
* [handling insurance cases involving suicide](#_g.__Handling), and
* [preparing the rating decision for insurance purposes](#_h.__Preparing).
 |

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| Change Date | November 21, 2006 |

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| a. Eligibility for SDVI | Veterans may apply for non-participating Service-Disabled Veterans Insurance (SDVI) if they* were released from active service on or after April 25, 1951, under other than dishonorable conditions, and
* have an SC disability or disabilities evaluated at zero percent or higher.

***Note***: SDVI is also called “RH Insurance” because the policy numbers are prefixed with “*RH*.” |

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

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

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

***Note***: To be eligible for Gratuitous SDVI, the Veteran must have remained continuously mentally incompetent until date of death, and must have died before the appointment of a guardian, or within two years after the appointment of a guardian. |

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| e. When a Rating Decision Is Required for Determination of SDVI Eligibility | A rating decision is required when the Insurance Center (IC) refers * an e-mail request, or
* *VA Form 29-4373*, “*Request for Disability Compensation Rating for Insurance Purposes--Government Life Insurance*.”
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| f. Handling Insurance Cases Involving Coma Incident to the Terminal State | Brief periods of coma incident to the terminal state are commonly encountered.In the absence of other manifestations of mental incapacity to contract, manage personal affairs, or disburse funds, such brief periods of coma may be insufficient to support a rating of mental incompetency under [38 U.S.C. 1922(b)](http://assembler.law.cornell.edu/uscode/html/uscode38/usc_sec_38_00001922----000-.html). The fact that service connection has been established for the cause of death does not carry with it the implication that the Veteran was mentally incompetent at the time of death or at any time during the critical period for purposes of [38 U.S.C. 1922(b)](http://assembler.law.cornell.edu/uscode/html/uscode38/usc_sec_38_00001922----000-.html). |

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| g. Handling Insurance Cases Involving Suicide | A finding in a death rating that a Veteran was of unsound mind at the time of suicide under the provisions of [38 CFR 3.302](http://www.benefits.va.gov/warms/docs/regs/38CFR/BOOKB/PART3/S3_302.DOC) does not mean the Veteran was mentally incompetent for purposes of [38 U.S.C. 1922(b)](http://assembler.law.cornell.edu/uscode/html/uscode38/usc_sec_38_00001922----000-.html). Make a rating under [38 U.S.C. 1922(b)](http://assembler.law.cornell.edu/uscode/html/uscode38/usc_sec_38_00001922----000-.html) based on all the evidence of record, and support any rating of mental incompetency by objective evidence that shows the Veteran’s state of mind. ***Reference***: For a definition of mental incompetency, see [38 CFR 3.353](http://www.benefits.va.gov/warms/docs/regs/38CFR/BOOKB/PART3/S3_353.DOC). |

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| h. Preparing the Rating Decision for Insurance Purposes | When preparing the rating decision* prepare a copy of the rating for the IC
* under the *Decision*, show either
* “Incompetency for insurance purposes **[is] [is not]** established,” or
* “Entitlement to Gratuitous Insurance under 38 U.S.C. 1922 **[is] [is not]** established”
* show the Veteran’s address, including the zip code above the *Jurisdiction* section
* dispose of conditions listed on *VA Form 29-4373*, which are considered to be symptoms of a rated disability by a statement to this effect in the narrative part of the rating decision, and
* in the coded conclusion, show the codes and evaluations appropriate to compensation entitlement.
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#### 10. Rating for the Polish and Czechoslovakian Armed Forces Under 38 U.S.C. 109(c)

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| Introduction | This topic contains information on rating for the Polish and Czechoslovakian Armed Forces under 38 U.S.C. 109(c), including* [jurisdiction for determinations under 38 U.S.C. 109(c)](#_a.__Jurisdiction)
* [basing rating determinations 38 U.S.C. 109(c) on the evidence](#_b.__Basing), and
* [rating decision for eligibility under 38 U.S.C. 109(c).](#_c.__Rating)
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| Change Date | November 21, 2006 |

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| a. Jurisdiction for Determinations Under 38 U.S.C. 109(c) | The VSC of the Wilmington VA Medical and Regional Office Center (VAM&ROC) has sole jurisdiction for all rating determinations required for the Polish and Czechoslovakian Armed Forces under [38 U.S.C. 109(c)](http://assembler.law.cornell.edu/uscode/html/uscode38/usc_sec_38_00000109----000-.html) per [38 CFR 3.359](http://www.benefits.va.gov/warms/docs/regs/38CFR/BOOKB/PART3/S3_359.DOC). Route requests received by any other RO to the Wilmington VAM&ROC with information as to the referral provided to the submitting health care facility. |

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

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| c. Rating Decision for Eligibility Under 38 U.S.C. 109(c) | In the rating decision, under the part Decision, show “Eligibility for hospital or outpatient treatment Under 38 U.S.C. 109(c) **[is] [is not]** established.”In the coded conclusion, evaluate conditions established as SC with a statement of either “*50 percent or more*” or “*less than 50 percent*.”Notes:* Apply existing criteria for the determination of service connection and degree of disability.
* Return the completed rating and all other materials to the Medical Administration Service, Wilmington, for their maintenance of eligibility records.
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#### 11. Addendum A. Alignment of ROs and RPOs

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| Change Date | February 3, 2011 |

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| a. Alignment of ROs and RPOs for Jurisdiction of Education Claims | The jurisdiction of an RPO over an education claim is based on the address of the educational facility where the beneficiary is enrolled. For example, if the beneficiary attends a college in Ohio, the Buffalo RPO would have jurisdiction over the education claim. The table below shows which ROs are aligned with RPOs in* Atlanta
* Buffalo
* St. Louis, and
* Muskogee.
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| RPO Atlanta | RPO Buffalo | RPO St. Louis | RPO Muskogee |
| **Atlanta** | Baltimore | Chicago | Albuquerque |
| Columbia | Boston | Denver/Cheyenne | Anchorage |
| Jackson | **Buffalo** | Des Moines | Boise |
| Montgomery | Cleveland | Detroit | Honolulu |
| San Juan | Hartford | Fargo | Houston |
| St. Petersburg | Huntington | Ft. Harrison | Little Rock |
| Winston-Salem | Manchester | Indianapolis | Los Angeles |
|  | Newark | Lincoln | Manila |
|  | New York | Louisville | **Muskogee** |
|  | Philadelphia | Milwaukee | New Orleans |
|  | Pittsburgh | Nashville | Oakland |
|  | Providence | Sioux Falls | Phoenix |
|  | Roanoke | **St. Louis** | Portland |
|  | Togus | St. Paul | Reno |
|  | White River Junction | Wichita | Salt Lake City |
|  | Wilmington |  | San Diego |
|  | National CapitalRegion Benefits Office |  | Seattle |
|  |  |  | Waco |