§ 18.2 [Amended]

30. Section 18.2 is amended by removing paragraph (c) and redesignating paragraphs (d) through (n) as paragraphs (c) through (m), respectively.

PART 20—ISLE ROYALE NATIONAL PARK; COMMERCIAL FISHING

31. The authority citation for Part 20 continues to read as follows:

Authority: Secs. 1–3, 39 Stat. 535, as amended, sec. 3, 56 Stat. 133, secs. 1, 2, 67 Stat. 495; 16 U.S.C. 1, 1b, 1c, 2, 3, 408(k).

§ 20.1 [Amended]

32.–34. Section 20.1 is amended by removing paragraphs (a) through (c) and redesignating paragraphs (d) and (e) as paragraphs (a) and (b), respectively.

PART 21—HOT SPRINGS NATIONAL PARK; BATHHOUSE REGULATIONS

35. The authority citation for Part 21 continues to read as follows:

Authority: Sec. 3, Act of August 25, 1916, 39 Stat. 535, as amended (16 U.S.C. 3); sec. 3, Act of March 3, 1891, 26 Stat. 842, as amended (16 U.S.C. 363).

§ 21.1 [Amended]

36. Section 21.1 is amended by removing paragraph (a) and redesignating paragraphs (b) through (e) as paragraphs (a) through (d), respectively.

PART 28—FIRE ISLAND NATIONAL SEASHORE: ZONING STANDARDS

37. The authority citation for Part 28 continues to read as follows:

Authority: 16 U.S.C. 1, 3, 459e–2.

§ 28.2 [Amended]

38. Section 28.2 is amended by removing paragraph (m) and redesignating paragraphs (n) and (o) as paragraphs (m) and (n), respectively.

PART 51—CONCESSION CONTRACTS AND PERMITS

39. The authority citation for Part 51 continues to read as follows:

Authority: The Act of August 25, 1916, as amended and supplemented, 16 U.S.C. 1 *et seq.*, particularly the Concessions Policy Act of 1965, 16 U.S.C. 20 *et seq.*, and 16 U.S.C. 3.

§ 51.3 [Removed]

40. Section 51.3(d) is removed.

PART 65—NATIONAL HISTORIC LANDMARKS PROGRAM

41. The authority citation for Part 65 continues to read as follows:

Authority: 16 U.S.C. 461 *et seq.*; 16 U.S.C. 470 *et seq.*

§ 65.3 [Amended]

42.–43. Section 65.3 is amended by removing paragraphs (d) and (o) and redesignating paragraphs (e) through (r) as paragraphs (d) through (p), respectively.

PART 67—HISTORIC PRESERVATION CERTIFICATION S PURSUANT TO SEC. 48(g) AND SEC. 170(h) OF THE INTERNAL REVENUE CODE OF 1986

44. The authority citation for Part 67 continues to read as follows:

Authority: Sec. 101(a)(1) of the National Historic Preservation Act of 1966, 16 U.S.C. 470a–1(a)(170 ed.), as amended; Sec 48(g) of the Internal Revenue Code of 1986 (90 Stat. 1519, as amended by 100 Stat. 2085) 26 U.S.C. 48(g); and Sec. 170(h) of the Internal Revenue Code of 1986 (94 Stat. 3204) 26 U.S.C. 170(h).

§ 67.2 [Amended]

45. Section 67.2, the definition for ''Secretary'' is removed.

PART 73—WORLD HERITAGE CONVENTION

46. The authority citation for Part 73 continues to read as follows:

Authority: 94 Stat. 3000; 16 U.S.C. 470a–1, a–2, d.

§ 73.3 [Amended]

47. Section 73.3, the definitions for ''Secretary'' and ''Director'' are removed.

PART 78—WAIVER OF FEDERAL AGENCY RESPONSIBILITIES UNDER SECTION 110 OF THE NATIONAL HISTORIC PRESERVATION ACT

48. The authority citation for Part 78 continues to read as follows:

Authority: National Historic Preservation Act of 1966, as amended, 16 U.S.C. 470 *et seq.*

§ 78.2 [Amended]

49. Section 78.2, the definition for ''Secretary'' is removed.

Dated: May 16, 1997.

Don Barry,

Deputy Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 97–14410 Filed 6–2–97; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 4

RIN 2900–AE89

Schedule for Rating Disabilities; Muscle Injuries

AGENCY: Department of Veterans Affairs.

ACTION: Final rule.

SUMMARY: This document amends the Department of Veterans Affairs (VA) Schedule for Rating Disabilities of Muscle Injuries. These amendments are made because medical science has advanced, and commonly used medical terms have changed. The effect of these amendments is to update this portion of the rating schedule to ensure that it uses current medical terminology and unambiguous criteria, and that it reflects medical advances that have occurred since the last review.

EFFECTIVE DATE: July 3, 1997.

FOR FURTHER INFORMATION CONTACT: Caroll McBrine, M.D., Consultant, Regulations Staff, Compensation and Pension Service (213A), Veterans Benefits Administration, Department of Veterans Affairs, 810 Vermont Ave., NW, Washington DC, 20420 (202) 273–7230.

SUPPLEMENTARY INFORMATION: VA published in the **Federal Register** of June 16, 1993 (58 FR 33235), a proposal to amend those sections of 38 CFR part 4, subpart B, concerning muscle injuries. Interested persons were invited to submit written comments, suggestions or objections on or before July 16, 1993. We received comments from Disabled American Veterans, Veterans of Foreign Wars, Paralyzed Veterans of America and two individuals.

Before this amendment, several sections preceding § 4.71a, ''Schedule of ratings-musculoskeletal system,'' contained loosely organized and ambiguous medical discussions of injuries and general physiology of the muscles. We proposed to delete redundant material and reorganize the rest.

Three of the commenters suggested that the sections preceding the evaluation criteria be retained without change, since the information in those sections is neither redundant nor readily available elsewhere, especially to the public.

Much of the material in the sections preceding the musculoskeletal portion of the rating schedule was background medical information, and some of it was directed toward medical examiners. We

proposed to remove that material because it neither prescribed VA policy nor established procedures a rating board must follow and was, therefore, not appropriate in a regulation, which is an agency statement of general applicability and future effect that the agency intends to have the force and effect of law. Excluding this material enhances the clarity of the regulations, and we make no change based on these comments. Those portions of the deleted sections that were substantive rules, such as the requirement in former § 4.49 to review the complete history of an injury, are contained elsewhere in VA's regulations and need not be repeated here.

One commenter suggested that the sections concerning only muscle injuries or diseases be moved to immediately precede § 4.73, ''Schedule of ratings-muscle injuries.''

Although the commenter has a valid point, previously, §§ 4.40 through 4.73 dealt with various aspects of the musculoskeletal system as a whole. With this rulemaking we have begun the process of addressing ''muscle injuries'' and ''the orthopedic system'' separately. We will address the orthopedic system in a separate rulemaking and will review the remaining introductory sections in that rulemaking.

Proposed § 4.55(d) would have limited the combined evaluation for muscle groups acting on a single unankylosed joint to the evaluation for intermediate ankylosis of that joint. One commenter pointed out that § 4.71a, diagnostic code (DC) 5256, provides two evaluations for intermediate ankylosis of the knee, and suggested that § 4.55(d) specify which of those two evaluations would be assigned under these circumstances.

As the commenter noted, ankylosis of a joint that is less severe than unfavorable ankylosis is not always expressed as ''intermediate ankylosis.'' For the sake of clarity, we have revised § 4.55(d) to require that the combined evaluation of muscle groups acting upon a single unankylosed joint must be lower than the evaluation for unfavorable ankylosis of that joint. This is not a substantive change.

We proposed to state the principles of combined ratings for muscle injuries in § 4.55. Proposed paragraph (e) states that for compensable muscle group injuries which are in the same anatomical region but do not act on the same joint, the evaluation for the most severely injured muscle group will be increased by one level and used as the combined evaluation for the affected muscle groups. A commenter suggested removing proposed § 4.55(e) because it would provide a lower evaluation than § 4.55(d) would for an equally disabled veteran.

The combined evaluation for muscle injuries in the same anatomical region and the combined evaluation for muscle injuries affecting a single joint represent assessments of two different types of disability and are not directly comparable. In both cases, however, the intent of § 4.55 is to assure that the combined evaluation of muscle injuries will not exceed the highest evaluation that the schedule assigns for other types of musculoskeletal or neurologic disabilities affecting a single joint or anatomical region. Proposed § 4.55(e) was derived from former § 4.55(a) and involves no substantive change from the earlier provision, and we make no change based on this comment.

Proposed § 4.56 provides guidelines for evaluating certain muscle disabilities and gives detailed descriptions of the expected history and findings in muscle injuries of various degrees of severity. One commenter suggested that retaining ''evidence of unemployability because of inability to keep up with work requirements'' in proposed § 4.56(d)(3)(ii) and (4)(ii) under the ''History and complaints'' headings for moderately severe and severe muscle disability is inappropriate because evidence of unemployability should entitle a veteran to a total rating on an extraschedular basis.

We agree that evidence of unemployability is not an appropriate criterion for less than total evaluations, so we have revised § 4.56 to delete the references to unemployability.

Proposed § 4.56(d)(3)(iii) required that an entrance scar be large to qualify for moderately severe muscle disability. One commenter pointed out the incongruity between requiring a large entrance scar when a small, high velocity missile will qualify for moderately severe muscle disability under proposed § 4.56(d)(3)(i) and suggested that the word ''large'' be repositioned so as to apply only to exit scars.

We agree that there is an incongruity. We have therefore changed § 4.56(d)(3)(iii) to require an entrance scar without specifying its size.

One commenter stated that the rearrangement of language in proposed § 4.56(d)(4)(i) in effect requires a more serious injury than former § 4.56(d) did to qualify for severe muscle disability.

Since we did not intend to propose a substantive change, we have revised the wording in § 4.56(d)(4)(i) to retain the requirement of former § 4.56(d) with only minor editorial changes for clarity.

One commenter stated that changing the degree of impairment of function required under ''Objective findings'' in severe muscle disability (in proposed § 4.56(d)(4)(iii)) from ''severe'' to ''extreme'' is a substantive change to a more stringent requirement. The commenter thought that ''severe'' should be replaced with an objective and quantifiable synonym for severe.

The use of ''extreme'' rather than ''severe'' was inadvertent and not intended to be a substantive change. Section 4.56(d)(4) objectively defines ''severe'' disability of muscles, and for the sake of consistency, and to prevent any misunderstanding about the extent of functional impairment required, we have changed ''extreme'' back to ''severe.''

One commenter feared that the evaluation instructions for proposed DC 5325, ''Muscle injury, facial muscles,'' could easily be misinterpreted to require cranial nerve injury for a compensable rating for facial muscle injury. The commenter suggested that the instructions be changed back to the instructions in former § 4.54: ''Facial muscles will be rated in accordance with interference with the functions supplied by the cranial nerves.'' The commenter also suggested an appropriate cross-reference under DC 5325 to DC 7800, ''Scars, disfiguring, head, face or neck.''

We agree that the evaluation instructions under proposed DC 5325 were ambiguous and have revised them in response to the comment by directing that functional impairment due to injury to facial muscles be evaluated as seventh (facial) cranial nerve neuropathy (DC 8207), disfiguring scar (DC 7800), etc.

Two commenters suggested that we retain the footnote that refers to special monthly compensation, which we proposed to delete.

We agree and have reinstated a footnote following the 50-percent evaluation for DC 5317, muscle group XVII, reminding the rater to refer to § 3.350(a)(3) to determine whether the veteran may be entitled to special monthly compensation. We are also retaining the note at the beginning of § 4.73, referring to § 3.350, to clearly remind rating specialists that there is potential entitlement to special monthly compensation when evaluating any muscle injuries resulting in loss of use of any extremity or of both buttocks.

One commenter stated that proposed § 4.73, DC's 5327 and 5329, should provide a one-year convalescent period following cessation of treatment for malignant growths of the muscles. Another commenter pointed out that

total ratings might be assigned under those diagnostic codes after the expiration of the six-month period at which a VA examination is mandated, and questioned how such cases will be processed under the proposed rule.

We make no change based on the first comment. Former § 4.73, DC's 5327 and 5329, provided a total rating that would extend to six months after cessation of treatment, when, in the absence of local recurrence or metastasis, a rating was to be made on residuals. As proposed, these diagnostic codes would provide that a total rating continue following cessation of treatment with a VA examination required after the expiration of six months. In the absence of local recurrence or metastasis, the rating would be based on residual impairment of function. However, the total rating will continue as long as the findings on examination warrant it.

The second commenter's concern appears to be whether medical information justifying a convalescence evaluation submitted months after the event would require application of the provisions of § 3.105(e). Since § 3.105(e) applies only to reductions in ''compensation payments currently being made,'' it would not apply in cases where a total evaluation is assigned and reduced retroactively.

One commenter suggested that there should be specific instructions for rating muscle impairment associated with muscle disease, such as multiple sclerosis.

Some muscle diseases, such as muscle neoplasms, are likely to produce impairment similar to that produced by muscle injuries. Disability resulting from such diseases should be evaluated under the provisions of § 4.73, as neoplasms are under DC 5327–5329. Other muscle diseases, however, produce impairment more similar to that produced by neurological diseases than that produced by muscle injuries. Disability resulting from those muscle diseases should be evaluated under appropriate criteria in § 4.124a. Furthermore, nothing in § 4.73 precludes evaluation of disability resulting from a muscle disease if the impairment is more similar to that produced by muscle injuries. Therefore, we make no change based on this comment.

One commenter stated that ''absence of impairment of function'' is an objective finding and should, therefore, be under ''Objective findings'' in § 4.56(d)(1)(iii) rather than ''Type of injury'' in § 4.56(d)(1)(i).

We agree and have removed this reference to impairment of function from the ''Type of injury'' subparagraph. It is already included in the ''Objective findings'' subparagraph.

One commenter stated that proposed § 4.55(c)(2) is a substantive change in that it, unlike former § 4.50, does not provide a separate rating for the extrinsic muscles of an ankylosed shoulder where these muscles are less than severely disabled.

We do not agree. Former § 4.50 did not authorize a rating for less-than-severely disabled extrinsic muscles of the shoulder girdle acting on an ankylosed joint. Former § 4.50 must be read with former § 4.55(d). Read together, they clearly limit the assignment of a separate rating for extrinsic muscles of the shoulder girdle acting on an ankylosed joint to such muscles at least severely disabled. The provisions of proposed § 4.55(c) are derived directly from former § 4.55 (b) and (d), which stated that severe injury to the extrinsic muscles of the shoulder (groups I and II) with ankylosis of the shoulder may elevate the rating of the shoulder to that for unfavorable ankylosis of the joint. Thus, former § 4.50, when read with former § 4.55 (b) and (d), did not provide for a separate rating for less-than-severely disabled extrinsic muscles acting on an ankylosed shoulder. The reorganization of these instructions has helped clarify these exceptions to the rule precluding a separate rating for muscle groups which act upon an ankylosed joint but is nothing more than an editorial change.

We have made several other nonsubstantive, editorial changes to the proposed rule based on our own review of the proposed regulation.

We also corrected the proposed list of the plantar group of intrinsic muscles of the foot under Group X (DC 5310) by adding ''adductor hallucis'' (which was inadvertently omitted in the proposed rule), removing ''opponens digiti V'' (a hand muscle), moving ''dorsal interossei'' from the dorsal group (the plantar and dorsal interossei are both considered plantar muscles in standard anatomy textbooks), and changing ''flexor hallucis'' to ''flexor hallucis brevis,'' its more complete name, in order to distinguish it from ''flexor hallucis longus,'' a muscle in another group. We added ''peroneus brevis'' and ''plantaris'' to the proposed list of posterior and lateral crural muscles and muscles of the calf in Group XI (DC 5311) because they were not included in the proposed rule, and standard anatomy textbooks place them in this group. We corrected the proposed list of muscles in Group XII (DC 5312) by removing ''flexor digitorum longus,'' which does not belong in this group, and adding ''extensor digitorum longus'' and ''extensor hallucis longus.''

VA appreciates the comments submitted in response to the proposed rule, which is now adopted with the amendments noted above.

The Secretary hereby certifies that this regulatory amendment will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601–612. This amendment would not directly affect any small entities. Only VA beneficiaries could be directly affected. Therefore, pursuant to 5 U.S.C. 605(b), this amendment is exempt from the initial and final flexibility analysis requirements of sections 603 and 604. This regulatory action has been reviewed by the Office of Management and Budget under Executive Order 12866.

The Catalog of Federal Domestic Assistance numbers are 64.104 and 64.109.

List of Subjects in 38 CFR Part 4

Disability benefits, Individuals with disabilities, Pensions, Veterans.

Approved: March 5, 1997.

Jesse Brown,

Secretary of Veterans Affairs.

For the reasons set out in the preamble, 38 CFR part 4, subpart B, is amended as set forth below:

PART 4—SCHEDULE FOR RATING DISABILITIES

1. The authority citation for part 4 continues to read as follows:

Authority: 38 U.S.C. 1155.

Subpart B—Disability Ratings

§§ 4.47—4.54 [Removed and reserved]

2. Sections 4.47 through 4.54 are removed and reserved.

3. Section 4.55 is revised to read as follows:

§ 4.55 Principles of combined ratings for muscle injuries.

(a) A muscle injury rating will not be combined with a peripheral nerve paralysis rating of the same body part, unless the injuries affect entirely different functions.

(b) For rating purposes, the skeletal muscles of the body are divided into 23 muscle groups in 5 anatomical regions: 6 muscle groups for the shoulder girdle and arm (diagnostic codes 5301 through 5306); 3 muscle groups for the forearm and hand (diagnostic codes 5307 through 5309); 3 muscle groups for the foot and leg (diagnostic codes 5310 through 5312); 6 muscle groups for the

pelvic girdle and thigh (diagnostic codes 5313 through 5318); and 5 muscle groups for the torso and neck (diagnostic codes 5319 through 5323).

(c) There will be no rating assigned for muscle groups which act upon an ankylosed joint, with the following exceptions:

(1) In the case of an ankylosed knee, if muscle group XIII is disabled, it will be rated, but at the next lower level than that which would otherwise be assigned.

(2) In the case of an ankylosed shoulder, if muscle groups I and II are severely disabled, the evaluation of the shoulder joint under diagnostic code 5200 will be elevated to the level for unfavorable ankylosis, if not already assigned, but the muscle groups themselves will not be rated.

(d) The combined evaluation of muscle groups acting upon a single unankylosed joint must be lower than the evaluation for unfavorable ankylosis of that joint, except in the case of muscle groups I and II acting upon the shoulder.

(e) For compensable muscle group injuries which are in the same anatomical region but do not act on the same joint, the evaluation for the most severely injured muscle group will be increased by one level and used as the combined evaluation for the affected muscle groups.

(f) For muscle group injuries in different anatomical regions which do not act upon ankylosed joints, each muscle group injury shall be separately rated and the ratings combined under the provisions of § 4.25. (Authority: 38 U.S.C. 1155)

4. Section 4.56 is revised to read as follows:

§ 4.56 Evaluation of muscle disabilities.

(a) An open comminuted fracture with muscle or tendon damage will be rated as a severe injury of the muscle group involved unless, for locations such as in the wrist or over the tibia, evidence establishes that the muscle damage is minimal.

(b) A through-and-through injury with muscle damage shall be evaluated as no less than a moderate injury for each group of muscles damaged.

(c) For VA rating purposes, the cardinal signs and symptoms of muscle disability are loss of power, weakness, lowered threshold of fatigue, fatigue-pain, impairment of coordination and uncertainty of movement.

(d) Under diagnostic codes 5301 through 5323, disabilities resulting from muscle injuries shall be classified as slight, moderate, moderately severe or severe as follows:

(1) *Slight disability of muscles.*

(i) *Type of injury.* Simple wound of muscle without debridement or infection.

(ii) *History and complaint.* Service department record of superficial wound with brief treatment and return to duty. Healing with good functional results. No cardinal signs or symptoms of muscle disability as defined in paragraph (c) of this section.

(iii) *Objective findings.* Minimal scar. No evidence of fascial defect, atrophy, or impaired tonus. No impairment of function or metallic fragments retained in muscle tissue.

(2) *Moderate disability of muscles.*

(i) *Type of injury.* Through and through or deep penetrating wound of short track from a single bullet, small shell or shrapnel fragment, without explosive effect of high velocity missile, residuals of debridement, or prolonged infection.

(ii) *History and complaint.* Service department record or other evidence of in-service treatment for the wound. Record of consistent complaint of one or more of the cardinal signs and symptoms of muscle disability as defined in paragraph (c) of this section, particularly lowered threshold of fatigue after average use, affecting the particular functions controlled by the injured muscles.

(iii) *Objective findings.* Entrance and (if present) exit scars, small or linear, indicating short track of missile through muscle tissue. Some loss of deep fascia or muscle substance or impairment of muscle tonus and loss of power or lowered threshold of fatigue when compared to the sound side.

(3) *Moderately severe disability of muscles.*

(i) *Type of injury.* Through and through or deep penetrating wound by small high velocity missile or large low-velocity missile, with debridement, prolonged infection, or sloughing of soft parts, and intermuscular scarring.

(ii) *History and complaint.* Service department record or other evidence showing hospitalization for a prolonged period for treatment of wound. Record of consistent complaint of cardinal signs and symptoms of muscle disability as defined in paragraph (c) of this section and, if present, evidence of inability to keep up with work requirements.

(iii) *Objective findings.* Entrance and (if present) exit scars indicating track of missile through one or more muscle groups. Indications on palpation of loss of deep fascia, muscle substance, or normal firm resistance of muscles compared with sound side. Tests of strength and endurance compared with sound side demonstrate positive evidence of impairment.

(4) *Severe disability of muscles.*

(i) *Type of injury.* Through and through or deep penetrating wound due to high-velocity missile, or large or multiple low velocity missiles, or with shattering bone fracture or open comminuted fracture with extensive debridement, prolonged infection, or sloughing of soft parts, intermuscular binding and scarring.

(ii) *History and complaint.* Service department record or other evidence showing hospitalization for a prolonged period for treatment of wound. Record of consistent complaint of cardinal signs and symptoms of muscle disability as defined in paragraph (c) of this section, worse than those shown for moderately severe muscle injuries, and, if present, evidence of inability to keep up with work requirements.

(iii) *Objective findings.* Ragged, depressed and adherent scars indicating wide damage to muscle groups in missile track. Palpation shows loss of deep fascia or muscle substance, or soft flabby muscles in wound area. Muscles swell and harden abnormally in contraction. Tests of strength, endurance, or coordinated movements compared with the corresponding muscles of the uninjured side indicate severe impairment of function. If present, the following are also signs of severe muscle disability:

(A) X-ray evidence of minute multiple scattered foreign bodies indicating intermuscular trauma and explosive effect of the missile.

(B) Adhesion of scar to one of the long bones, scapula, pelvic bones, sacrum or vertebrae, with epithelial sealing over the bone rather than true skin covering in an area where bone is normally protected by muscle.

(C) Diminished muscle excitability to pulsed electrical current in electrodiagnostic tests.

(D) Visible or measurable atrophy.

(E) Adaptive contraction of an opposing group of muscles.

(F) Atrophy of muscle groups not in the track of the missile, particularly of the trapezius and serratus in wounds of the shoulder girdle.

(G) Induration or atrophy of an entire muscle following simple piercing by a projectile.

(Authority: 38 U.S.C. 1155)

5. Section 4.69 is revised to read as follows:

§ 4.69 Dominant hand.

Handedness for the purpose of a dominant rating will be determined by the evidence of record, or by testing on VA examination. Only one hand shall be considered dominant. The injured hand, or the most severely injured hand, of an ambidextrous individual will be considered the dominant hand for rating purposes.

(Authority: 38 U.S.C. 1155)

§ 4.72 [Removed and Reserved]

6. Section 4.72 is removed and reserved.

7. Section 4.73 is revised to read as follows:

§ 4.73 Schedule of Ratings—Muscle Injuries.

Note: When evaluating any claim involving muscle injuries resulting in loss of use of any extremity or loss of use of both buttocks (diagnostic code 5317, Muscle Group XVII), refer to § 3.350 of this chapter to determine whether the veteran may be entitled to special monthly compensation.

THE SHOULDER GIRDLE AND ARM

	Rating	
	Dominant	Non-dominant
5301 Group I. *Function:* Upward rotation of scapula; elevation of arm above shoulder level. *Extrinsic muscles of shoulder girdle:* (1) Trapezius; (2) levator scapulae; (3) serratus magnus.		
Severe	40	30
Moderately Severe	30	20
Moderate	10	10
Slight	0	0
5302 Group II. *Function:* Depression of arm from vertical overhead to hanging at side (1, 2); downward rotation of scapula (3, 4); 1 and 2 act with Group III in forward and backward swing of arm. *Extrinsic muscles of shoulder girdle: (1) Pectoralis major II (costosternal); (2) latissimus dorsi and teres major (teres major, although technically an intrinsic muscle, is included with latissimus dorsi); (3) pectoralis minor; (4) rhomboid.*		
Severe	40	30
Moderately Severe	30	20
Moderate	20	20
Slight	0	0
5303 Group III. *Function:* Elevation and abduction of arm to level of shoulder; act with 1 and 2 of Group II in forward and backward swing of arm. *Intrinsic muscles of shoulder girdle: (1) Pectoralis major I (clavicular); (2) deltoid.*		
Severe	40	30
Moderately Severe	30	20
Moderate	10	10
Slight	0	0
5304 Group IV. *Function:* Stabilization of shoulder against injury in strong movements, holding head of humerus in socket; abduction; outward rotation and inward rotation of arm. *Intrinsic muscles of shoulder girdle: (1) Supraspinatus; (2) infraspinatus and teres minor; (3) subscapularis; (4) coracobrachialis.*		
Severe	30	20
Moderately Severe	20	20
Moderate	10	10
Slight	0	0
5305 Group V. *Function:* Elbow supination (1) (long head of biceps is stabilizer of shoulder joint); flexion of elbow (1, 2, 3). *Flexor muscles of elbow: (1) Biceps; (2) brachialis; (3) brachioradialis.*		
Severe	40	30
Moderately Severe	30	20
Moderate	10	10
Slight	0	0
5306 Group VI. *Function:* Extension of elbow (long head of triceps is stabilizer of shoulder joint). *Extensor muscles of the elbow:* (1) Triceps; (2) anconeus..		
Severe	40	30
Moderately Severe	30	20
Moderate	10	10
Slight	0	0

THE FOREARM AND HAND

	Rating	
	Dominant	Non-dominant
5307 Group VII. *Function:* Flexion of wrist and fingers. *Muscles arising from internal condyle of humerus:* Flexors of the carpus and long flexors of fingers and thumb; pronator.		
Severe	40	30
Moderately Severe	30	20
Moderate	10	10
Slight	0	0
5308 Group VIII. *Function:* Extension of wrist, fingers, and thumb; abduction of thumb. *Muscles arising mainly from external condyle of humerus:* Extensors of carpus, fingers, and thumb; supinator.		
Severe	30	20
Moderately Severe	20	20
Moderate	10	10
Slight	0	0

THE SHOULDER GIRDLE AND ARM—Continued

	Rating	
	Dominant	Non-dominant
Severe	40	30
Moderately Severe	30	20
Moderate	20	20
Slight	0	0
5304 Group IV. *Function:* Stabilization of shoulder against injury in strong movements, holding head of humerus in socket; abduction; outward rotation and inward rotation of arm. *Intrinsic muscles of shoulder girdle: (1) Supraspinatus; (2) infraspinatus and teres minor; (3) subscapularis; (4) coracobrachialis.*		
Severe	30	20
Moderately Severe	20	20
Moderate	10	10
Slight	0	0
5305 Group V. *Function:* Elbow supination (1) (long head of biceps is stabilizer of shoulder joint); flexion of elbow (1, 2, 3). *Flexor muscles of elbow: (1) Biceps; (2) brachialis; (3) brachioradialis.*		
Severe	40	30
Moderately Severe	30	20
Moderate	10	10
Slight	0	0
5306 Group VI. *Function:* Extension of elbow (long head of triceps is stabilizer of shoulder joint). *Extensor muscles of the elbow:* (1) Triceps; (2) anconeus..		
Severe	40	30
Moderately Severe	30	20
Moderate	10	10
Slight	0	0

THE FOREARM AND HAND

	Rating	
	Dominant	Non-dominant
5309 Group IX. *Function:* The forearm muscles act in strong grasping movements and are supplemented by the intrinsic muscles in delicate manipulative movements. *Intrinsic muscles of hand:* Thenar eminence; short flexor, opponens, abductor and adductor of thumb; hypothenar eminence; short flexor, opponens and abductor of little finger; 4 lumbricales; 4 dorsal and 3 palmar interossei.		
NOTE: The hand is so compact a structure that isolated muscle injuries are rare, being nearly always complicated with injuries of bones, joints, tendons, etc. Rate on limitation of motion, minimum 10 percent.		

THE FOOT AND LEG

	Rating
5310 Group X. *Function:* Movements of forefoot and toes; propulsion thrust in walking. *Intrinsic muscles of the foot: Plantar:* (1) Flexor digitorum brevis; (2) abductor hallucis; (3) abductor digiti minimi; (4) quadratus plantae; (5) lumbricales; (6) flexor hallucis brevis; (7) adductor hallucis; (8) flexor digiti minimi brevis; (9) dorsal and plantar interossei. Other important plantar structures: Plantar aponeurosis, long plantar and calcaneonavicular ligament, tendons of posterior tibial, peroneus longus, and long flexors of great and little toes.	
Severe	30
Moderately Severe	20
Moderate	10
Slight	0
Dorsal: (1) Extensor hallucis brevis; (2) extensor digitorum brevis. Other important dorsal structures: cruciate, crural, deltoid, and other ligaments; tendons of long extensors of toes and peronei muscles.	
Severe	20
Moderately Severe	10
Moderate	10
Slight	0
NOTE: Minimum rating for through-and-through wounds of the foot—10.	
5311 Group XI. *Function:* Propulsion, plantar flexion of foot (1); stabilization of arch (2, 3); flexion of toes (4, 5); lexion of knee (6). *Posterior and lateral crural muscles, and muscles of the calf:* (1) Triceps surae (gastrocnemius and soleus); (2) tibialis posterior; (3) peroneus longus; (4) peroneus brevis; (5) flexor hallucis longus; (6) flexor digitorum longus; (7) popliteus; (8) plantaris.	
Severe	30
Moderately Severe	20
Moderate	10
Slight	0

THE FOOT AND LEG—Continued

	Rating
5312 Group XII. *Function:* Dorsiflexion (1); extension of toes (2); stabilization of arch (3). *Anterior muscles of the leg:* (1) Tibialis anterior; (2) extensor digitorum longus; (3) extensor hallucis longus; (4) peroneus tertius.	
Severe	30
Moderately Severe	20
Moderate	10
Slight	0

THE PELVIC GIRDLE AND THIGH

	Rating
5313 Group XIII. *Function:* Extension of hip and flexion of knee; outward and inward rotation of flexed knee; acting with rectus femoris and sartorius (see XIV, 1, 2) synchronizing simultaneous flexion of hip and knee and extension of hip and knee by belt-over-pulley action at knee joint. *Posterior thigh group, Hamstring complex of 2-joint muscles:* (1) Biceps femoris; (2) semimembranosus; (3) semitendinosus.	
Severe	40
Moderately Severe	30
Moderate	10
Slight	0
5314 Group XIV. *Function:* Extension of knee (2, 3, 4, 5); simultaneous flexion of hip and flexion of knee (1); tension of fascia lata and iliotibial (Maissiat's) band, acting with XVII (1) in postural support of body (6); acting with hamstrings in synchronizing hip and knee (1, 2). *Anterior thigh group:* (1) Sartorius; (2) rectus femoris; (3) vastus externus; (4) vastus intermedius; (5) vastus internus; (6) tensor vaginae femoris.	
Severe	40
Moderately Severe	30
Moderate	10
Slight	0
5315 Group XV. *Function:* Adduction of hip (1, 2, 3, 4); flexion of hip (1, 2); flexion of knee (4). *Mesial thigh group:* (1) Adductor longus; (2) adductor brevis; (3) adductor magnus; (4) gracilis.	
Severe	30
Moderately Severe	20
Moderate	10
Slight	0
5316 Group XVI. *Function:* Flexion of hip (1, 2, 3). *Pelvic girdle group 1:* (1) Psoas; (2) iliacus; (3) pectineus.	
Severe	40
Moderately Severe	30
Moderate	10
Slight	0
5317 Group XVII. *Function:* Extension of hip (1); abduction of thigh; elevation of opposite side of pelvis (2, 3); tension of fascia lata and iliotibial (Maissiat's) band, acting with XIV (6) in postural support of body steadying pelvis upon head of femur and condyles of femur on tibia (1). *Pelvic girdle group 2:* (1) Gluteus maximus; (2) gluteus medius; (3) gluteus minimus.	
Severe	*50
Moderately Severe	40
Moderate	20
Slight	0

THE PELVIC GIRDLE AND THIGH—Continued

	Rating
5318 Group XVIII. *Function:* Outward rotation of thigh and stabilization of hip joint. *Pelvic girdle group 3:* (1) Pyriformis; (2) gemellus (superior or inferior); (3) obturator (external or internal); (4) quadratus femoris.	
Severe	30
Moderately Severe	20
Moderate	10
Slight	0

*If bilateral, see § 3.350(a)(3) of this chapter to determine whether the veteran may be entitled to special monthly compensation.

THE TORSO AND NECK

	Rating
5319 Group XIX. *Function:* Support and compression of abdominal wall and lower thorax; flexion and lateral motions of spine; synergists in strong downward movements of arm (1). *Muscles of the abdominal wall:* (1) Rectus abdominis; (2) external oblique; (3) internal oblique; (4) transversalis; (5) quadratus lumborum.	
Severe	50
Moderately Severe	30
Moderate	10
Slight	0
5320 Group XX. *Function:* Postural support of body; extension and lateral movements of spine. *Spinal muscles:* Sacrospinalis (erector spinae and its prolongations in thoracic and cervical regions).	
Cervical and thoracic region:.	
Severe	40
Moderately Severe	20
Moderate	10
Slight	0
Lumbar region:.	
Severe	60
Moderately Severe	40
Moderate	20
Slight	0
5321 Group XXI. *Function:* Respiration. *Muscles of respiration:* Thoracic muscle group.	
Severe or Moderately Severe	20
Moderate	10
Slight	0
5322 Group XXII. *Function:* Rotary and forward movements of the head; respiration; deglutition. *Muscles of the front of the neck:* (Lateral, supra-, and infrahyoid group.) (1) Trapezius I (clavicular insertion); (2) sternocleidomastoid; (3) the ''hyoid'' muscles; (4) sternothyroid; (5) digastric.	
Severe	30
Moderately Severe	20
Moderate	10
Slight	0
5323 Group XXIII. *Function:* Movements of the head; fixation of shoulder movements. *Muscles of the side and back of the neck:* Suboccipital; lateral vertebral and anterior vertebral muscles.	
Severe	30
Moderately Severe	20
Moderate	10
Slight	0

MISCELLANEOUS

	Rating
5324 Diaphragm, rupture of, with herniation. Rate under diagnostic code 7346.	
5325 Muscle injury, facial muscles. Evaluate functional impairment as seventh (facial) cranial nerve neuropathy (diagnostic code 8207), disfiguring scar (diagnostic code 7800), etc. Minimum, if interfering to any extent with mastication—10.	
5326 Muscle hernia, extensive. Without other injury to the muscle—10.	
5327 Muscle, neoplasm of, malignant (excluding soft tissue sarcoma)—100.	
NOTE: A rating of 100 percent shall continue beyond the cessation of any surgery, radiation treatment, antineoplastic chemotherapy or other therapeutic procedures. Six months after discontinuance of such treatment, the appropriate disability rating shall be determined by mandatory VA examination. Any change in evaluation based upon that or any subsequent examination shall be subject to the provisions of § 3.105(e) of this chapter. If there has been no local recurrence or metastasis, rate on residual impairment of function.	
5328 Muscle, neoplasm of, benign, postoperative. Rate on impairment of function, i.e., limitation of motion, or scars, diagnostic code 7805, etc.	
5329 Sarcoma, soft tissue (of muscle, fat, or fibrous connective tissue)—100.	
NOTE: A rating of 100 percent shall continue beyond the cessation of any surgery, radiation treatment, antineoplastic chemotherapy or other therapeutic procedures. Six months after discontinuance of such treatment, the appropriate disability rating shall be determined by mandatory VA examination. Any change in evaluation based upon that or any subsequent examination shall be subject to the provisions of § 3.105(e) of this chapter. If there has been no local recurrence or metastasis, rate on residual impairment of function.	

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DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 17

RIN 2900–AI60

Guidelines for Furnishing Sensori-neural Aids (i.e., Eyeglasses, Contact Lenses, Hearing Aids)

AGENCY: Department of Veterans Affairs.

ACTION: Interim final rule.

SUMMARY: This document amends the Department of Veterans Affairs (VA) medical regulations to provide guidelines for when VA will furnish veterans with sensori-neural aids (i.e., eyeglasses, contact lenses, hearing aids). These amendments are necessary to implement a requirement imposed in the recently enacted Veterans' Health