

Register of January 13, 1998, (63 FR 1919), the Office of Management and Budget ("OMB") control number is incorrect. This correction replaces the incorrect OMB control number.

In rule FR Doc. 98-743, published on January 13, 1998, (63 FR 1919) make the following correction. On page 1923, in the first column, lines 2 and 3, remove the words "control number 1506-0063" and add the words "control number 1505-0063 (redesignated by the Office of Management and Budget as 1506-0009)."

Dated: July 8, 1998.

Peter Djinis,

Acting Director,

Financial Crimes Enforcement Network.

[FR Doc. 98-18659 Filed 7-13-98; 8:45 am]

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DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 4

RIN 2900-A146

Schedule for Rating Disabilities: Cold Injuries

AGENCY: Department of Veterans Affairs.

ACTION: Final rule.

SUMMARY: This document amends the Department of Veterans Affairs (VA) Schedule for Rating Disabilities by revising the provisions governing evaluations for cold injury residuals. The intended effect of this amendment is to provide evaluation criteria based on current medical knowledge about the long-term effects of cold injury that can be applied to any part of the body affected by cold injury.

DATES: *Effective Date:* This amendment is effective August 13, 1998.

FOR FURTHER INFORMATION CONTACT:

Caroll McBrine, M.D., Consultant, Regulations Staff (211B), Compensation and Pension Service, Veterans Benefits Administration, Department of Veterans Affairs, 810 Vermont Avenue NW, Washington, DC 20420, (202) 273-7230.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of March 28, 1997 (62 FR 14832), we published a proposal to revise the provisions of VA's rating schedule (38 CFR part 4) governing evaluations for frozen feet (38 CFR 4.104, diagnostic code 7122). The purpose of the proposal was to update the evaluation criteria so that they would be consistent with current medical knowledge and encompass the broad range of residuals now known to result from cold injuries. We proposed

to retitle the diagnostic code from residuals of frozen feet to residuals of cold injury, to indicate that body parts other than the feet could be included. We invited interested persons to submit written comments on the proposal.

As part of a final rule published in the **Federal Register** of December 11, 1997 (62 FR 65207), which revised the cardiovascular portion of the rating schedule (38 CFR 4.104), we adopted the revision proposed on March 28, 1997, with only minor changes. However, we had received comments from the Disabled American Veterans and two interested individuals in response to the March 28, 1997, notice of proposed rulemaking. This document responds to those comments and further revises the rating schedule provisions governing evaluations for cold injury residuals.

One commenter suggested that in rating decisions we change our method of "coding" disabilities associated with cold injury in order to identify the body system or specific body part affected, whether the affected body part is on the left or right side, and the percentage evaluation for each affected body part.

While the information the commenter asks us to include is part of the written rating decision, that information is not, nor does it need to be, reflected by the diagnostic code. The purpose of diagnostic codes is merely to identify disabilities for statistical purposes. Diagnostic codes are numbers assigned to each condition listed in the Schedule for Rating Disabilities. Citation to a diagnostic code in a rating decision identifies the rating criteria used to determine the evaluation assigned to a particular disability and facilitates VA statistical analysis. See 38 CFR 4.27. Adopting the commenter's suggestion would have no substantive effect on veterans' disability ratings. We therefore make no change in response to this comment.

Another commenter submitted a copy of a 1951 article entitled *Cold Injuries in Korea During Winter of 1950-51* by Lt. Col. K. D. Orr, M.C., and Capt. D. C. Fainer, M.C. The commenter maintains that the study reflected in the article, although flawed, is the basis of most thinking regarding cold injuries and has been used to miseducate doctors. The commenter suggested that, rather than focusing on "frostbite," we take into account the impact of extreme cold on internal organs and define cold injury to include a broad range of conditions, including cardiovascular and respiratory conditions, which he contends are the long-term residuals of hypothermia.

There has been considerable research on cold injuries since 1951, when the article to which the commenter refers was published. Medical information reviewed in developing the Veterans Health Administration Information Letter (IL 10-96-030, December 31, 1996) concerning the care and examination of veterans with late effects of cold injuries was the medical basis for our revision of the evaluation criteria for frostbite. The 1951 Orr-Fainer article was not among the authorities cited in the information letter.

Another commenter stated that VA's Adjudication Procedures Manual, M21-1, Part VI, para. 11.20, mentions other signs and symptoms, such as joint pain and stiffness, weakness of hands or feet, Raynaud's phenomenon, and vascular insufficiency, that may represent chronic effects of cold injury. He recommended that we include all of these conditions in the evaluation criteria for cold injury (diagnostic code 7122) so that the criteria are as comprehensive as possible and do not omit any symptoms that could be attributed to cold injuries.

Simply because a condition *could* be the result of cold injury does not mean that it *is* the result of cold injury in a given claim. All of the conditions mentioned have other possible etiologies, and it will require a medical determination in each case to establish whether a condition claimed as a residual of a cold injury is the residual of a cold injury. Furthermore, there are so many conditions which could be residuals of cold injury, that should we attempt to provide a comprehensive list, we might inadvertently omit conditions that individual veterans might suffer as a result of cold injury. Some of the conditions mentioned by the commenter, e.g., Raynaud's phenomenon, might well warrant higher evaluations in their own right than the maximum evaluation of 30 percent allowed under diagnostic code 7122. Therefore, rather than including those conditions in the evaluation criteria for cold injuries, we have revised note (1) to indicate that such conditions may be evaluated separately unless they are used to support an evaluation under diagnostic code 7122.

The same commenter suggested that, since pain is one of the evaluation criteria for cold injury residuals, including arthralgia (joint pain) as well is redundant.

Since the medical concept that arthralgia may result from cold injury is relatively new, we believe it is important to specify that symptom in the evaluation criteria along with the less specific symptom of pain.

Nevertheless, we have revised that portion of the criteria to clarify that arthralgia is but one type of pain that will satisfy that evaluation criterion.

We have made several nonsubstantive technical corrections.

VA appreciates the comments submitted in response to the proposed rule. Based on the rationales presented in the March 28, 1997, notice of proposed rulemaking and the December 11, 1997, final rule that effected the proposed revision, we affirm the revision adopted in that final rule, except for the changes made in this final rule for the reasons explained above.

The Secretary hereby certifies that this final rule 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. The reason for this certification is that this final rule will not directly affect any small entities. Only VA beneficiaries will be directly affected. Therefore, pursuant to 5 U.S.C. 605(b), this final rule is exempt from the initial and final regulatory flexibility analysis requirements of sections 603 and 604.

This final rule has been reviewed by the Office of Management and Budget under the provisions of Executive Order 12866, Regulatory Planning and Review, dated September 30, 1993.

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

List of Subjects in 38 CFR Part 4

Disability benefits, Individuals with disabilities, Pensions, Veterans.

Approved: June 30, 1998.

Togo D. West, Jr.,

Secretary of Veterans Affairs.

For the reasons set out in the preamble, 38 CFR part 4 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, unless otherwise noted.

Subpart B—Disability Ratings

2. Section 4.104 is amended by revising diagnostic code 7122 to read as follows:

§ 4.104 Schedule of ratings—cardiovascular system.

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DISEASES OF THE ARTERIES AND VEINS

	Rating
7122 Cold injury residuals: With the following in affected parts:	
Arthralgia or other pain, numbness, or cold sensitivity plus two or more of the following: tissue loss, nail abnormalities, color changes, locally impaired sensation, hyperhidrosis, X-ray abnormalities (osteoporosis, subarticular punched out lesions, or osteoarthritis)	30
Arthralgia or other pain, numbness, or cold sensitivity plus tissue loss, nail abnormalities, color changes, locally impaired sensation, hyperhidrosis, or X-ray abnormalities (osteoporosis, subarticular punched out lesions, or osteoarthritis)	20
Arthralgia or other pain, numbness, or cold sensitivity	10

Note (1): Separately evaluate amputations of fingers or toes, and complications such as squamous cell carcinoma at the site of a cold injury scar or peripheral neuropathy, under other diagnostic codes. Separately evaluate other disabilities that have been diagnosed as the residual effects of cold injury, such as Raynaud's phenomenon, muscle atrophy, etc., unless they are used to support an evaluation under diagnostic code 7122.

Note (2): Evaluate each affected part (e.g., hand, foot, ear, nose) separately and combine the ratings in accordance with §§ 4.25 and 4.26.

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

[FR Doc. 98-18642 Filed 7-13-98; 8:45 am]

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DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 17

RIN 2900-AJ34

Provision of Drugs and Medicines to Certain Veterans in State Homes

AGENCY: Department of Veterans Affairs.

ACTION: Interim final rule with request for comments.

SUMMARY: This document amends the "Medical" regulations concerning the provision of drugs and medicines prescribed by non-VA physicians for certain veterans who are permanently housebound or in need of regular aid and attendance. The regulations are amended to allow prescriptions to be

filled by non-VA pharmacies in state homes under contract with VA for filling prescriptions for patients in state homes. This is consistent with VA's special relationship with state homes. It will eliminate duplication of services and will help improve timeliness for filling prescriptions in state homes.

DATES: Effective Date: July 14, 1998.

Comment Date: Comments must be received on or before September 14, 1998.

ADDRESSES: Mail or hand-deliver written comments to: Director, Office of Regulations Management (02D), Department of Veterans Affairs, 810 Vermont Ave., NW, Room 1154, Washington, DC 20420. Comments should indicate that they are submitted in response to "RIN: 2900-AJ34." All written comments received will be available for public inspection at the above address in the Office of Regulations Management, Room 1158, between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday (except holidays).

FOR FURTHER INFORMATION CONTACT: Jeff Ramirez, Pharmacy Service (119), Veterans Health Administration, Department of Veterans Affairs, 810 Vermont Avenue NW, Washington, DC 20420, (202) 273-8428. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: This document amends the "Medical" regulations set forth at 38 CFR Part 17. More specifically, it amends the provisions of § 17.96 which concern the criteria for providing drugs and medicines prescribed by non-VA physicians for certain veterans who are permanently housebound or in need of regular aid and attendance.

Prior to the effective date of this document § 17.96 stated:

Any prescription, which is not part of authorized Department of Veterans Affairs hospital or outpatient care, for drugs and medicines ordered by a private or non-Department of Veterans Affairs doctor of medicine or doctor of osteopathy duly licensed to practice in the jurisdiction where the prescription is written, shall be filled by a Department of Veterans Affairs pharmacy, provided:

(a) The prescription is for:

(1) A veteran who by reason of being permanently housebound or in need of regular aid and attendance is in receipt of increased compensation under 38 U.S.C. chapter 11, or increased pension under § 3.1(u) (Section 306 Pension) or § 3.1(w) (Improved Pension), of this title, as a veteran of the Mexican Border Period, World War I, World War II, the Korean Conflict, or the Vietnam Era (or, although eligible for such pension, is in receipt of compensation as the greater benefit), or