Amyotrophic Lateral Sclerosis (ALS) Rating Criteria

Trainee Handout

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Objectives

In order to accomplish the purpose of this lesson, the RVSR will be required to accomplish the following lesson objectives.

TheRVSRwill be able to:

* describe Amyotrophic Lateral Sclerosis and its symptoms
* describe the proper way to evaluate and apply diagnostic codes to ALS claims
* identify the appropriate subordinate issues associated with ALS claims

References

* [38 CFR 3.307 Presumptive service-connection for chronic, tropical or prisoner-of-war related disease, or disease associated with exposure to certain herbicide agents; wartime and service on or after January 1, 1947](http://www.ecfr.gov/cgi-bin/text-idx?SID=ad275643432556b9dda942343fb89296&mc=true&node=pt38.1.3&rgn=div58)
* [38 CFR 3.309 Disease subject to presumptive service connection](http://www.ecfr.gov/cgi-bin/text-idx?SID=ad275643432556b9dda942343fb89296&mc=true&node=pt38.1.3&rgn=div58)
* [38 CFR 3.318 Presumptive service connection for Amyotrophic Lateral Sclerosis](http://www.ecfr.gov/cgi-bin/text-idx?SID=ad275643432556b9dda942343fb89296&mc=true&node=pt38.1.3&rgn=div58)
* [38 CFR 3.350 Special monthly compensation ratings](http://www.ecfr.gov/cgi-bin/text-idx?SID=ad275643432556b9dda942343fb89296&mc=true&node=pt38.1.3&rgn=div58)
* [38 CFR 3.352 Criteria for determining need for aid and attendance and “permanently bedridden”](http://www.ecfr.gov/cgi-bin/text-idx?SID=ad275643432556b9dda942343fb89296&mc=true&node=pt38.1.3&rgn=div58)
* [38 CFR 3.383 Special consideration for paired organs and extremities](http://www.ecfr.gov/cgi-bin/text-idx?SID=ad275643432556b9dda942343fb89296&mc=true&node=pt38.1.3&rgn=div58)
* [38 CFR 3.707 Dependents’ Educational Assistance](http://www.ecfr.gov/cgi-bin/text-idx?SID=ad275643432556b9dda942343fb89296&mc=true&node=pt38.1.3&rgn=div58)
* [38 CFR 3.807 Dependents’ Educational Assistance; certification](http://www.ecfr.gov/cgi-bin/text-idx?SID=ad275643432556b9dda942343fb89296&mc=true&node=pt38.1.3&rgn=div58)
* [38 CFR 3.808 Automobile or other conveyance; certification](http://www.ecfr.gov/cgi-bin/text-idx?SID=ad275643432556b9dda942343fb89296&mc=true&node=pt38.1.3&rgn=div58)
* [38 CFR 3.809 Special home adaptation grants under 38 USC 2101 (a)](http://www.ecfr.gov/cgi-bin/text-idx?SID=ad275643432556b9dda942343fb89296&mc=true&node=pt38.1.3&rgn=div58)
* [38 CFR 4.63 Loss of use of hand or foot](http://www.ecfr.gov/cgi-bin/text-idx?SID=ad275643432556b9dda942343fb89296&mc=true&node=pt38.1.4&rgn=div5)
* [38 CFR 4.124a Schedule of ratings – Neurological Conditions and Convulsive Disorders](http://www.ecfr.gov/cgi-bin/text-idx?SID=ad275643432556b9dda942343fb89296&mc=true&node=pt38.1.4&rgn=div5)
* [M21-1, Part III, Subpart iv, 4, G - Neurological Conditions and Convulsive Disorders](https://vaww.compensation.pension.km.va.gov/system/templates/selfservice/va_ka/portal.html?portalid=554400000001034)
* [M21-1, Part IX, Subpart i, 3 - Specially Adapted Housing (SAH) or Special Housing Adaptation (SHA) Grants](https://vaww.compensation.pension.km.va.gov/system/templates/selfservice/va_ka/portal.html?portalid=554400000001034)
* [M21-1, Part IX, Subpart i, 2 - Automobile and Adaptive Equipment Allowance Under 38 U.S.C. Chapter 39](https://vaww.compensation.pension.km.va.gov/system/templates/selfservice/va_ka/portal.html?portalid=554400000001034)
* [M21-1, Part IV, Subpart ii, 2, H - Special Monthly Compensation (SMC)](https://vaww.compensation.pension.km.va.gov/system/templates/selfservice/va_ka/portal.html?portalid=554400000001034)
* [M21-1, Part III, Subpart ii, 2, A - Department of Veterans Affairs (VA) Benefit Programs](https://vaww.compensation.pension.km.va.gov/system/templates/selfservice/va_ka/portal.html?portalid=554400000001034)

Topic 1: ALS Overview

**Definition of Amyotrophic Lateral Sclerosis**

Amyotrophic Lateral Sclerosis Disease (ALS), is a rapidly progressive, invariably fatal disease. To better understand ALS, we must look at the disease itself and its symptoms. As stated earlier, ALS is a rapidly progressive, invariably fatal neurological disease that attacks the nerve cells responsible for controlling voluntary muscles. ALS causes weakness with a wide range of disabilities. Eventually, all muscles under voluntary control are affected, and patients lose their strength and ability to move their arms, legs, and body. When the muscles of the diaphragm and chest wall fail, patients lose their ability to breathe without ventilator support. Most people die from respiratory failure, usually within 3 to 5 years from the onset of symptoms. However, about 10 percent of ALS patients survive for 10 or more years.

ALS is not reported to affect a person’s ability to see, smell, taste, hear, or recognize touch. Patients usually maintain control of eye muscles, as well as bladder and bowel functions, although they may need assistance getting to and from the bathroom.

**Symptoms Of ALS**

Medical research notes the onset of symptoms may be so subtle that the symptoms are often overlooked. The earliest symptoms may include; twitching, cramping, stiffness of muscles, muscle weakness affecting and arm or leg, slurred and nasal speech, or difficulty chewing or swallowing.

The parts of the body affected by early symptoms depend on which muscles are damaged first. In some cases, it may affect one of the legs with the patient experiencing trouble walking or running, and noticing they are tripping and stumbling more often. Others may experience weakness in the hand or arm, with difficulty buttoning a shirt, writing, or turning a key in a lock. Others may notice speech problems.

To be diagnosed, the ALS patient must have signs and symptoms of both upper and lower motor neuron damage that cannot be attributed to other causes.

Symptoms include:

* Difficulty breathing
* Difficulty swallowing
  + Gagging
  + Chokes easily
* Head drop due to weak spinal and neck muscles
* Muscle cramps
* Muscle weakness that slowly gets worse
  + Commonly involves one part of the body first, such as the arm or hand
  + Eventually leads to difficulty lifting, climbing stairs, and walking
* Paralysis
* Speech problems, such as slow or abnormal speech pattern
* Voice changes, hoarseness
* Other symptoms:
  + Drooling
  + Muscle contractions
  + Muscle spasms
  + Ankle, feet, and leg swelling
  + Weight loss

Treatment – no known cure. Riluzole is reported to prolong life, but does not reverse or stop the disease from getting worse.

**38 CFR 3.318 - Presumptive Service Connection for Amyotrophic Lateral Sclerosis**

(a) Except as provided in paragraph (b) of this section, the development of amyotrophic lateral sclerosis manifested at any time after discharge or release from active military, naval, or air service is sufficient to establish service connection for that disease.

(b) Service connection will not be established under this section:

(1) If there is affirmative evidence that amyotrophic lateral sclerosis was not incurred during or aggravated by active military, naval, or air service;

(2) If there is affirmative evidence that amyotrophic lateral sclerosis is due to the veteran's own willful misconduct; or

(3) If the veteran did not have continuous active service of 90 days or more.

Topic 2: Complications of ALS

**Evidence Needed For Service Connection**

*As with all claims for service-connection, there must be evidence to support your decision, whether a grant or denial.*

Federal evidence:

DD214, Certificate of Discharge

Personnel Records

Medical Evidence:

Outpatient treatment records – whether from a private physician

or from a VA Medical Center – showing a confirmed diagnosis

*- Any of the following records will assist with the claim:*

- ALS Functional Respiratory Rating Sheet

- Pulmonary Function Test results

**38 CFR 4.124: Schedule of ratings-neurological conditions and convulsive disorders**

The guidelines under § 4.124a state to rate disability from ALS at the 100 percent evaluation. With partial loss of use of one or more extremities from neurological lesions, rate by comparison with the mild, moderate, severe, or complete paralysis of the peripheral nerves.

The minimum rating under diagnostic code 8017 is 100 percent.

1. If there is no single 100 percent disabling complication, the Veteran warrants the minimum 100 percent evaluation under DC 8017. This includes all compensable complications.
2. Do not use the minimum 100 percent evaluation if there are other complications that warrant a 100 percent evaluation, (an example would be loss of use of the lower extremities, which would warrant a 100 percent evaluation under DC5110, and would be coded as 8017-5110.
3. Do not assign a 100 percent evaluation under 8017 and a separate 100 percent evaluation for a complication of ALS, as this is pyramiding under 38 CFR 4.14.
4. Remember to consider entitlement to SMC, especially when there is a complication rated as 100 percent disabling, and there are additional complications that may warrant entitlement.

**Suggested Diagnostic Codes For Rating ALS:**

**Musculoskeletal:**

5109: Loss of use of both hands 100%

5110: Loss of use of both feet 100%

5111: Loss of use of one hand and one foot 100%

**Respiratory:**

6519: Aphonia 10% 30% 60% 100%

*6825:* Diffuse interstitial fibrosis *(interstitial pneumonitis, fibrosing alveolitis)*

10% 30% 60% 100%

**Digestive:**

7203: Stricture of the esophagus 30% 50% 80%

**Neurological:**

8017: Amyotrophic Lateral Sclerosis (minimum) 100%

8512: Paralysis of the lower radicular group

major: 20% 40% 50% 70%

minor: 20% 30% 40% 60%

8521: Paralysis of external popliteal nerve (common peroneal)

10% 20% 30% 40%

**Mental:**

9434: Major depressive disorder 10% 30% 50% 70% 100%

This list is not all-inclusive, but rather reflects what could be analogous to the symptoms and conditions of the veteran’s ALS.

M21-1MR, Part IV, subpart ii. 2.H.37: Combining Disabilities When Entitlement to SMC Is at Issue. Under certain circumstances, loss of use of both lower extremities, together with loss of anal and bladder sphincter control, satisfies the requirements of 38 CFR 3.350(e)(2) for entitlement to SMC under 38 USC 1114(o).

38 CFR 3.383: Special consideration for paired organs and extremities

(a) *Entitlement criteria.* Compensation is payable for the combinations of service-connected and nonservice-connected disabilities specified in paragraphs (a)(1) through (a)(5) of this section as if both disabilities were service-connected, provided the nonservice-connected disability is not the result of the veteran's own willful misconduct.

(4), “Loss or loss of use of one hand or one foot as a result of service-connected disability and loss or loss of use of the other hand or foot as a result of nonservice-connected disability”.

Topic 3: Additional Considerations

**Special Monthly Compensation**

As with other claims for Special Monthly Compensation, the requirements for each level must be met.

**SMC K**: Special monthly compensation under 38 U.S.C. 1114(k) is payable for each anatomical loss or loss of use of one hand, one foot, both buttocks, one or more creative organs, blindness of one eye having only light perception, deafness of both ears, having absence of air and bone conduction, complete organic aphonia with constant inability to communicate by speech or, in the case of a woman veteran, loss of 25% or more of tissue from a single breast or both breasts in combination (including loss by mastectomy or partial mastectomy), or following receipt of radiation treatment of breast tissue.

**SMC L**: The special monthly compensation provided by 38 U.S.C. 1114(l) is payable for anatomical loss or loss of use of both feet, one hand and one foot, blindness in both eyes with visual acuity of 5/200 or less or being permanently bedridden or so helpless as to be in need of regular aid and attendance.

**SMC S**: The special monthly compensation provided by 38 U.S.C. 1114(s) is payable where the veteran has a single service-connected disability rated as 100 percent and:

(1) Has additional service-connected disability or disabilities independently ratable at 60 percent, separate and distinct from the 100 percent service-connected disability and involving different anatomical segments or bodily systems, or

(2) Is permanently housebound by reason of service-connected disability or disabilities. This requirement is met when the veteran is substantially confined as a direct result of service-connected disabilities to his or her dwelling and the immediate premises or, if institutionalized, to the ward or clinical areas, and it is reasonably certain that the disability or disabilities and resultant confinement will continue throughout his or her lifetime.

These can be considered the basic levels of SMC.

**SMC M**: The special monthly compensation provided by 38 U.S.C. 1114(m) is payable for any of the following conditions:

(i) Anatomical loss or loss of use of both hands;

(ii) Anatomical loss or loss of use of both legs at a level, or with complications, preventing natural knee action with prosthesis in place;

(iii) Anatomical loss or loss of use of one arm at a level, or with complications, preventing natural elbow action with prosthesis in place with anatomical loss or loss of use of one leg at a level, or with complications, preventing natural knee action with prosthesis in place;

(iv) Blindness in both eyes having only light perception;

(v) Blindness in both eyes leaving the veteran so helpless as to be in need of regular aid and attendance.

**SMC N**: The special monthly compensation provided by 38 U.S.C. 1114(n) is payable for any of the conditions which follow: Amputation is a prerequisite except for loss of use of both arms and blindness without light perception in both eyes. If a prosthesis cannot be worn at the present level of amputation but could be applied if there were a reamputation at a higher level, the requirements of this paragraph are not met; instead, consideration will be given to loss of natural elbow or knee action.

(1) Anatomical loss or loss of use of both arms at a level or with complications, preventing natural elbow action with prosthesis in place;

(2) Anatomical loss of both legs so near the hip as to prevent use of a prosthetic appliance;

(3) Anatomical loss of one arm so near the shoulder as to prevent use of a prosthetic appliance with anatomical loss of one leg so near the hip as to prevent use of a prosthetic appliance;

(4) Anatomical loss of both eyes or blindness without light perception in both eyes.

**SMC O**: The special monthly compensation provided by 38 U.S.C. 1114(o) is payable for any of the following conditions:

(i) Anatomical loss of both arms so near the shoulder as to prevent use of a prosthetic appliance;

(ii) Conditions entitling to two or more of the rates (no condition being considered twice) provided in 38 U.S.C. 1114(l) through (n);

(iii) Bilateral deafness rated at 60 percent or more disabling (and the hearing impairment in either one or both ears is service connected) in combination with service-connected blindness with bilateral visual acuity 20/200 or less.

(iv) Service-connected total deafness in one ear or bilateral deafness rated at 40 percent or more disabling (and the hearing impairment in either one of both ears is service-connected) in combination with service-connected blindness of both eyes having only light perception or less.

**SMC P**: An intermediate rate authorized by this paragraph shall be established at the arithmetic mean, rounded to the nearest dollar, between the two rates concerned. (Authority: 38 U.S.C. 1114 (p))

(1) *Extremities.*

(i) Anatomical loss or loss of use of one foot with anatomical loss or loss of use of one leg at a level, or with complications preventing natural knee action with prosthesis in place, shall entitle to the rate between 38 U.S.C. 1114(l) and (m).

(ii) Anatomical loss or loss of use of one foot with anatomical loss of one leg so near the hip as to prevent use of prosthetic appliance shall entitle to the rate under 38 U.S.C. 1114(m).

(iii) Anatomical loss or loss of use of one foot with anatomical loss or loss of use of one arm at a level, or with complications, preventing natural elbow action with prosthesis in place, shall entitle to the rate between 38 U.S.C. 1114(l) and (m).

(iv) Anatomical loss or loss of use of one foot with anatomical loss or loss of use of one arm so near the shoulder as to prevent use of a prosthetic appliance shall entitle to the rate under 38 U.S.C. 1114(m).

(v) Anatomical loss or loss of use of one leg at a level, or with complications, preventing natural knee action with prosthesis in place with anatomical loss of one leg so near the hip as to prevent use of a prosthetic appliance, shall entitle to the rate between 38 U.S.C. 1114(m) and (n).

(vi) Anatomical loss or loss of use of one leg at a level, or with complications, preventing natural knee action with prosthesis in place with anatomical loss or loss of use of one hand, shall entitle to the rate between 38 U.S.C. 1114(l) and (m).

(vii) Anatomical loss or loss of use of one leg at a level, or with complications, preventing natural knee action with prosthesis in place with anatomical loss of one arm so near the shoulder as to prevent use of a prosthetic appliance, shall entitle to the rate between 38 U.S.C. 1114(m) and (n).

(viii) Anatomical loss of one leg so near the hip as to prevent use of a prosthetic appliance with anatomical loss or loss of use of one hand shall entitle to the rate under 38 U.S.C. 1114(m).

(ix) Anatomical loss of one leg so near the hip as to prevent use of a prosthetic appliance with anatomical loss or loss of use of one arm at a level, or with complications, preventing natural elbow action with prosthesis in place, shall entitle to the rate between 38 U.S.C. 1114(m) and (n).

(x) Anatomical loss or loss of use of one hand with anatomical loss or loss of use of one arm at a level, or with complications, preventing natural elbow action with prosthesis in place, shall entitle to the rate between 38 U.S.C. 1114(m) and (n).

(xi) Anatomical loss or loss of use of one hand with anatomical loss of one arm so near the shoulder as to prevent use of a prosthetic appliance shall entitle to the rate under 38 U.S.C. 1114(n).

(xii) Anatomical loss or loss of use of one arm at a level, or with complications, preventing natural elbow action with prosthesis in place with anatomical loss of one arm so near the shoulder as to prevent use of a prosthetic appliance, shall entitle to the rate between 38 U.S.C. 1114(n) and (o).

(2) *Eyes, bilateral, and blindness in connection with deafness and/or loss or loss of use of a hand or foot.*

(i) Blindness of one eye with 5/200 visual acuity or less and blindness of the other eye having only light perception will entitle to the rate between 38 U.S.C. 1114(l) and (m).

(ii) blindness of one eye with 5/200 visual acuity or less and anatomical loss of, or blindness having no light perception in the other eye, will entitle to a rate equal to 38 U.S.C. 1114(m).

(iii) Blindness of one eye having only light perception and anatomical loss of, or blindness having no light perception in the other eye, will entitle to a rate between 38 U.S.C. 1114(m) and (n).

(iv) Blindness in both eyes with visual acuity of 5/200 or less, or blindness in both eyes rated under subparagraph [(2)(i)](http://vbaw.vba.va.gov/bl/21/Publicat/Regs/Part3/#f2i) or [(ii)](http://vbaw.vba.va.gov/bl/21/Publicat/Regs/Part3/#f2ii) of this paragraph, when accompanied by service-connected total deafness in one ear, will afford entitlement to the next higher intermediate rate of if the veteran is already entitled to an intermediate rate, to the next higher statutory rate under 38 U.S.C. 1114, but in no event higher than the rate for (o).

(v) Blindness in both eyes having only light perception or less, or rated under subparagraph [(2)(iii)](http://vbaw.vba.va.gov/bl/21/Publicat/Regs/Part3/#f2iii) of this paragraph, when accompanied by bilateral deafness (and the hearing impairment in either one or both ears is service-connected) rated at 10 or 20 percent disabling, will afford entitlement to the next higher intermediate rate, or if the veteran is already entitled to an intermediate rate, to the next higher statutory rate under 38 U.S.C. 1114, but in no event higher than the rate for (o). (Authority: Sec. 112, Pub. L. 98-223)

(vi) Blindness in both eyes rated under 38 U.S.C. 1114(l), (m) or (n), or rated under subparagraphs [(2)(i)](http://vbaw.vba.va.gov/bl/21/Publicat/Regs/Part3/#f2i), [(ii)](http://vbaw.vba.va.gov/bl/21/Publicat/Regs/Part3/#f2ii) or [(iii)](http://vbaw.vba.va.gov/bl/21/Publicat/Regs/Part3/#f2iii) of this paragraph, when accompanied by bilateral deafness rated at no less than 30 percent, and the hearing impairment in one or both ears is service-connected, will afford entitlement to the next higher statutory rate under 38 U.S.C. 1114, or if the veteran is already entitled to an intermediate rate, to the next higher intermediate rate, but in no event higher than the rate for (o). (Authority: 38 U.S.C. 1114(p))

(vii) Blindness in both eyes rated under 38 U.S.C. 1114(l), (m), or (n), or under the intermediate or next higher rate provisions of this subparagraph, when accompanied by:

(A) Service-connected loss or loss of use of one hand, will afford entitlement to the next higher statutory rate under 38 U.S.C. 1114 or, if the veteran is already entitled to an intermediate rate, to the next higher intermediate rate, but in no event higher than the rate for (o); or

(B) Service-connected loss or loss of use of one foot which by itself or in combination with another compensable disability would be ratable at 50 percent or more, will afford entitlement to the next higher statutory rate under 38 U.S.C. 1114 or, if the veteran is already entitled to an intermediate rate, to the next higher intermediate rate, but in no event higher than the rate for (o); or

(C) Service-connected loss or loss of use of one foot which is ratable at less than 50 percent and which is the only compensable disability other than bilateral blindness, will afford entitlement to the next higher intermediate rate or, if the veteran is already entitled to an intermediate rate, to the next higher statutory rate under 38 U.S.C. 1114, but in no event higher than the rate for (o). (Authority: 38 U.S.C. 1114(p))

(3) *Additional independent 50 percent disabilities.* In addition to the statutory rates payable under 38 U.S.C. 1114(l) through (n) and the intermediate or next higher rate provisions outlined above, additional single permanent disability or combinations of permanent disabilities independently ratable at 50 percent or more will afford entitlement to the next higher intermediate rate or if already entitled to an intermediate rate to the next higher statutory rate under 38 U.S.C. 1114, but not above the (o) rate. In the application of this subparagraph the disability or disabilities independently ratable at 50 percent or more must be separate and distinct and involve different anatomical segments or bodily systems from the conditions establishing entitlement under 38 U.S.C. 1114(l) through (n) or the intermediate rate provisions outlined above. The graduated ratings for arrested tuberculosis will not be utilized in this connection, but the permanent residuals of tuberculosis may be utilized.

(4) *Additional independent 100 percent ratings.* In addition to the statutory rates payable under 38 U.S.C. 1114(l) through (n) and the intermediate or next higher rate provisions outlined above additional single permanent disability independently ratable at 100 percent apart from any consideration of individual unemployability will afford entitlement to the next higher statutory rate under 38 U.S.C. 1114 or if already entitled to an intermediate rate to the next higher intermediate rate, but in no event higher than the rate for (o). In the application of this subparagraph the single permanent disability independently ratable at 100 percent must be separate and distinct and involve different anatomical segments or bodily systems from the conditions establishing entitlement under 38 U.S.C. 1114(l) through (n) or the intermediate rate provisions outlined above.

(i) Where the multiple loss or loss of use entitlement to a statutory or intermediate rate between 38 U.S.C. 1114(l) and (o) is caused by the same etiological disease or injury, that disease or injury may not serve as the basis for the independent 50 percent or 100 percent unless it is so rated without regard to the loss or loss of use.

(ii) The graduated ratings for arrested tuberculosis will not be utilized in this connection, but the permanent residuals of tuberculosis may be utilized.

(5) *Three extremities.* Anatomical loss or loss of use, or a combination of anatomical loss and loss of use, of three extremities shall entitle a veteran to the next higher rate without regard to whether that rate is a statutory rate or an intermediate rate. The maximum monthly payment under this provision may not exceed the amount stated in 38 U.S.C. 1114(p).

**SMC R**: (1) *Maximum compensation cases.* A veteran receiving the maximum rate under 38 U.S.C. 1114 (o) or (p) who is in need of regular aid and attendance or a higher level of care is entitled to an additional allowance during periods he or she is not hospitalized at United States Government expense. (See [§3.552(b)(2)](http://vbaw.vba.va.gov/bl/21/Publicat/Regs/Part3/3_552.htm#b2) as to continuance following admission for hospitalization.) Determination of this need is subject to the criteria of [§3.352](http://vbaw.vba.va.gov/bl/21/Publicat/Regs/Part3/3_352.htm). The regular or higher level aid and attendance allowance is payable whether or not the need for regular aid and attendance or a higher level of care was a partial basis for entitlement to the maximum rate under 38 U.S.C. 1114(o) or (p), or was based on an independent factual determination.

(2) *Entitlement to compensation at the intermediate rate between 38 U.S.C. 1114(n) and (o) plus special monthly compensation under 38 U.S.C. 1114(k).* A veteran receiving compensation at the intermediate rate between 38 U.S.C. 1114(n) and (o) plus special monthly compensation under 38 U.S.C. 1114(k) who establishes a factual need for regular aid and attendance or a higher level of care, is also entitled to an additional allowance during periods he or she is not hospitalized at United States Government expense. (See [§3.552(b)(2)](http://vbaw.vba.va.gov/bl/21/Publicat/Regs/Part3/3_552.htm#b2) as to continuance following admission for hospitalization.) Determination of the factual need for aid and attendance is subject to the criteria of [§3.352](http://vbaw.vba.va.gov/bl/21/Publicat/Regs/Part3/3_352.htm).

(3) *Amount of the allowance.* The amount of the additional allowance payable to a veteran in need of regular aid and attendance is specified in 38 U.S.C. 1114(r)(1). The amount of the additional allowance payable to a veteran in need of a higher level of care is specified in 38 U.S.C. 1114(r)(2). The higher level aid and attendance allowance authorized by 38 U.S.C. 1114(r)(2) is payable in lieu of the regular aid and attendance allowance authorized by 38 U.S.C. 1114(r)(1).

**As this is an insidious disease, care should be taken to provide for the maximum amount of service-connection allowable by law. Also, remember that there should be no future examinations. Most individuals who are diagnosed with ALS will pass within 3-5 years of the diagnosis.**

**Ancillary Benefits**

Ancillary benefits are provided to those veterans and their dependents who meet the criteria. Some of those benefits are Dependents Educational Assistance, Chapter 35; Specially Adapted Housing; Special Housing Adaptation; and the Automobile Allowance.

**Dependents’ Educational Assistance – a.k.a. - Chapter 35**

Dependents’ educational assistance (DEA) under 38 U.S.C. Chapter 35 provides payment of a monthly education or training allowance to the spouse and children of a veteran who:

* Has a total disability permanent in nature incurred or aggravated in the line of duty in the active military, naval, or air service; is a member of the Armed Forces who is hospitalized or receiving outpatient medical care, services, or treatment for such disability; and is likely to be discharged or released from such service for such disability. [Statute amended by Public Law 109-461, December 22, 2006]
* Is on active duty and has, for more than 90 days, been missing in action, captured in the line of duty by a hostile force, or forcibly detained or interned in the line of duty by a foreign Government or power.
* Has a total SC disability that is permanent in nature, or
* Died -
* of a SC disability, or
* while a SC disability was evaluated as total and permanent in nature. This includes 38 USC 1318 benefits – permanent and total for minimum of 10 years.

The Education Service administers payment of DEA benefits.

This is the one ancillary benefits that appears to be overlooked by RVSRs on a consistent basis. This benefit must be granted on a Dependency and Indemnity Compensation (DIC) claim even if the benefit had been previously granted under the veteran’s name. The DIC claimant, if eligible, must receive the Chapter 35 benefits on their own behalf.

NOTE: As the minimal evaluation for ALS is now 100 percent, DEA should be automatically granted.

**Specially Adapted Housing Grant**

Effective December 3, 2013, 38 C.F.R. 3.809d provides that service connected ALS is a qualifying condition for the purpose of entitlement to specially adapted housing.

When granting service connection for ALS, SAH becomes a subordinate issue and will be addressed per M21-1, Part, IX.Subpart I,.3.3.f.

**Special Housing Adaptation**

Eligibility for Special Housing Adaptations (SHA) is granted when the claimant has a service connected condition which:

* Is due to blindness in both eyes with 20/200 visual acuity (corrected) or less in the better eye
  + An eye with a limitation in the fields of vision such that the widest diameter of the visual field subtends an angle no greater than 20 degrees shall be considered as having a central visual acuity of 20/200 or less, or
* Deep partial thickness burns that have resulted in contractures with limitation of motion of two or more extremities or of at least one extremity and the trunk, or
* Full thickness or sub-dermal burns that have resulted in contracture(s) with limitation of motion of one or more extremities of the trunk, or
* Residuals of an inhalation injury (including, but not limited to, pulmonary fibrosis, asthma, and chronic obstructive pulmonary disease), or
* Includes the anatomical loss or loss of use of both hands.

This assistance will not be available to any veteran more than once.

VA Form 26-4555 “Veteran’s Application in Acquiring Specially Adapted Housing or Special Housing Adaptation Grant” is sent to the veteran or service person when the SAH Agent has been notified of a basic eligibility determination. The form is then used by the veteran or service person to file for the benefit and is processed by Loan Guaranty.

If the VSR receives a VA Form 26-4555 and an eligibility determination has not been previously made, the VSR must expedite the eligibility determination and then refer the completed rating and application to the SAH agent in Loan Guaranty.

**Automobile And Other Conveyance**

Effective February 25, 2015, 38 CFR 3.808 provides that SC ALS is a qualifying condition for entitlement to a certificate of eligibility for automobile or other conveyance and adaptive equipment. The amendment applies to all applications pending before VA on, or received after, February 25, 2015.

When granting service connection for ALS, Automobile and Adaptive Equipment Allowance becomes a subordinate issue and will be addressed per M21-1, Part IX, Subpart.i.2.3.b

Practical Exercise

Directions: Review the following scenario and provide answers to the attached questions.

An original claim for compensation is received February 16, 2016, on VA Form 21-526EZ. The Veteran claims service connection for amyotrophic lateral sclerosis (ALS). Service is verified, indicating the Veteran served honorably in the US Navy from November 17, 1985 through April 2, 1992. Service treatment records are complete, and contain no evidence of ALS in service. Private treatment records submitted with the claim show a diagnosis of ALS was made on December 23, 2015. There is no evidence to suggest the diagnosis is a result of the Veteran’s own willful misconduct.

Further review of the PTRs shows the right-handed Veteran is experiencing changes in all four extremities associated with ALS. There is no visible or measurable atrophy at this point, but there is evidence of slight weakness and reduced reflexes in the bilateral upper extremitites affecting all radicular groups. The lower extremitities are much worse. Ankle reflexes were absent bilaterally. The Veteran has difficulty standing from bed and is only able to transfer to his wheelchair.

All other systems are found to be normal at this time.

Complete the following:

1. Is service connected warranted?
2. What evaluations are warranted?
3. What additional subordinate issues must be addressed?