Rating Psychiatric Conditions (Post Challenge)

Trainee Handout

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Objectives

The RVSRwill be able to:

* Recognize pertinent regulations pertaining to rating psychiatric conditions
* Integrate results of DSM-IV and DSM-V findings to assign appropriate evaluations using the Mental Disorder Criteria in the VA Schedule for Rating Disabilities
* Determine whether service connection is warranted for diagnosed conditions

References

All M21-1 references are found in the [Live Manual Website](https://vaww.compensation.pension.km.va.gov/).

* [**38 CFR 3.302 - Service connection for mental unsoundness in suicide**](http://www.ecfr.gov/cgi-bin/text-idx?SID=ad275643432556b9dda942343fb89296&mc=true&node=pt38.1.3&rgn=div58)
* [**38 CFR 3.304(f)(3) - Direct service connection; wartime and peacetime**](http://www.ecfr.gov/cgi-bin/text-idx?SID=ad275643432556b9dda942343fb89296&mc=true&node=pt38.1.3&rgn=div58)
* [**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(a) - 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 3.344 - Stabilization of disability evaluations**](http://www.ecfr.gov/cgi-bin/text-idx?SID=ad275643432556b9dda942343fb89296&mc=true&node=pt38.1.3&rgn=div58)
* [**38 CFR 3.327 - Reexaminations**](http://www.ecfr.gov/cgi-bin/text-idx?SID=ad275643432556b9dda942343fb89296&mc=true&node=pt38.1.3&rgn=div58)
* [**38 CFR 3.384 - Psychosis**](http://www.ecfr.gov/cgi-bin/text-idx?SID=ad275643432556b9dda942343fb89296&mc=true&node=pt38.1.3&rgn=div58)
* [**38 CFR 4.125 – Diagnosis of mental disorders**](http://www.ecfr.gov/cgi-bin/text-idx?SID=ad275643432556b9dda942343fb89296&mc=true&node=pt38.1.4&rgn=div5)
* [**38 CFR 4.126 – Evaluation of disability from mental disorders**](http://www.ecfr.gov/cgi-bin/text-idx?SID=ad275643432556b9dda942343fb89296&mc=true&node=pt38.1.4&rgn=div5)
* [**38 CFR 4.127 – Intellectual disability and personality disorders**](http://www.ecfr.gov/cgi-bin/text-idx?SID=ad275643432556b9dda942343fb89296&mc=true&node=pt38.1.4&rgn=div5)
* [**38 CFR 4.128 – Convalescence ratings following extended hospitalization**](http://www.ecfr.gov/cgi-bin/text-idx?SID=ad275643432556b9dda942343fb89296&mc=true&node=pt38.1.4&rgn=div5)
* [**38 CFR 4.129 – Mental disorders due to traumatic stress**](http://www.ecfr.gov/cgi-bin/text-idx?SID=ad275643432556b9dda942343fb89296&mc=true&node=pt38.1.4&rgn=div5)
* [**38 CFR 4.130 – Schedule of ratings - mental 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.H.6 - Deciding a Claim for Service Connection for PTSD**](https://vaww.compensation.pension.km.va.gov/system/templates/selfservice/va_ka/#agent/portal/554400000001034/article/554400000014201/M21-1-Part-III-Subpart-iv-Chapter-4)
* [**M21-1, Part III, Subpart iv.3.D.2 - Examination Report Requirements**](https://vaww.compensation.pension.km.va.gov/system/templates/selfservice/va_ka/#agent/portal/554400000001034/article/554400000015812/M21-1-Part-III-Subpart-iv-Chapter-3)
* [**M21-1, Part III, Subpart iv, 3, B - Scheduling Examinations**](https://vaww.compensation.pension.km.va.gov/system/templates/selfservice/va_ka/portal.html?portalid=554400000001034https://vaww.compensation.pension.km.va.gov/system/templates/selfservice/va_ka/#agent/portal/554400000001034/article/554400000015810/M21-1-Part-III-Subpart-iv-Chapter-3)

**Topic 1: Mental Disorders Regulations**

Topic objectives:

* Recognize pertinent regulations pertaining to rating psychiatric conditions

The following topic teaching points support the topic objectives:

* Rating schedule discussion
* Conversion from DSM-IV to DSM-V

**38 CFR 4.125 through 4.130 – Mental Disorders**

Refer to the eCFR

**Topic 2: Rating Considerations**

Topic objectives:

* Integrate results of DSM-IV and DSM-V findings to assign appropriate evaluations using the Mental Disorder Criteria in the VA Schedule for Rating Disabilities
* Determine whether service connection is warranted for diagnosed conditions

The following topic teaching points support the topic objectives:

* Identifying claims
* Rating considerations

**Sympathetic Reading**

A claim for a particular mental disorder should be read as a claim for any mental disability that may be reasonably defined by:

* the description of the claim
* the symptoms that the claimant describes
* the information and evidence that the claimant submits, and
* any other information and evidence obtained

**Establishing Service Connection**

Service connection for psychiatric conditions may be established in any of the four possible methods:

* direct incurrence
* aggravation of pre-existing condition
* presumption under 38 CFR 3.309(a)
* secondary basis

**General Rating Considerations**

Here are some key points to remember when addressing claims for psychiatric conditions:

* if requesting an examination, ensure DBQ is complete and conforms with relevant DSM
* review the entire body of evidence and gain a clear understanding of how the psychiatric symptoms impact social and industrial functioning
* when establishing service connection, establish based on a confirmed DSM diagnosis, not merely symptoms
* remember, only one evaluation is allowed for mental conditions. If multiple diagnoses warrant service connection, rate them together

**Eating Disorders**

Although rarely addressed, remember the separate rating formula for Eating Disorders. This portion of the rating schedule covers DCs 9520 and 9521.

* anorexia nervosa and bulimia
* severe disturbances in eating behaviors
* separately evaluated from other mental conditions, and 38 CFR 4.14 does not apply (Avoidance of Pyramiding)

**Topic 3: Miscellaneous Topics**

Topic objectives:

* Recognize pertinent regulations pertaining to rating psychiatric conditions
* Integrate results of DSM-IV and DSM-V findings to assign appropriate evaluations using the Mental Disorder Criteria in the VA Schedule for Rating Disabilities
* Determine whether service connection is warranted for diagnosed conditions

The following topic teaching points support the topic objectives:

* Exams and exam builder
* Additional topics for consideration

**Examinations**

Examinations, in the form of DBQs, are an important component of deciding psychiatric condition claims. There are specific rules that apply to examinations of mental conditions. Discuss the following things:

* Diagnostic and Statistical Manual of Mental Disorders (DSM) published by American Psychiatric Association
* DSM-V diagnoses were incorporated into Schedule for Rating Disabilities, effective August 4, 2014
* DSM-V no longer uses ‘Multiaxial Format’ or Global Assessment of Functioning (GAF) scores
* Diagnoses made using DSM-IV criteria remain valid

**Mental Disorder Exams-Qualification Requirements**

Regulations require examiners hold specific credentials in order to perform VA DBQ examinations.

* The requirements for initial and review/increase exams are different
* VA medical facilities (or the medical examination contractor) are responsible for ensuring that examiners are adequately qualified.
* Veterans Service Center (VSC) employees are not expected to routinely review the credentials of clinical personnel to determine the acceptability of their reports, unless there is contradictory evidence of record. (M21-1, III.iv.3.D.2.b.)

**Insuficient Examinations**

When reviewing DBQ examinations, consider the following:

* VA examinations are to be conducted using DBQs which are disease and condition-specific
* Contain brief medical and industrial history
* Record subjective complaints
* Record objective findings
* List diagnosis of described conditions

\*If exam does not meet above criteria, it is insufficient

**Reductions in evaluations**

* Do not make drastic reductions in evaluations in ratings for psychiatric disorders if a reduction to an intermediate rate is more in agreement with the degree of disability.
* Observe the general policy of gradually reducing the evaluation to afford the Veteran all possible opportunities for adjustment.
* Reference: For more information on the stabilization of disability evaluations, see 38 CFR 3.344.

**Evaluating Coexisting Mental and Physical Conditions**

Per 38 CFR 4.126(d), when a single disability has been diagnosed both as a physical condition and as a mental disorder, the rating agency shall evaluate it using a diagnostic code which represents the dominant (more disabling) aspect of the condition (see §4.14).

With this in mind, discuss the following:

* Avoid assigning separate evaluations for SC disabilities based on the same manifestations as this constitutes pyramiding. To warrant separate evaluations, symptoms considered must be distinct and not overlap.
* Example: PTSD and fibromyalgia may not be assigned separate evaluations based on shared symptoms of anxiety as this represents rating the same manifestations twice.
* References: For more information on
  + evaluating a single disability that has been diagnosed both as a physical condition and as a mental disorder, see 38 CFR 4.126, and
  + pyramiding, see 38 CFR 4.14

**Potential Pyramiding Conditions**

There are several physical conditions that include similar symptoms as mental conditions. These include:

* + DC 8045 TBI memory loss, neurobehavioral effects
  + DC 5025 fibromyalgia depression, anxiety, sleep disturbance
  + DC 6351 HIV depression, memory loss
  + DC 7903 hypothyroidism mental disturbance (dementia, slowing of thought, depression)
  + DC 8914 epilepsy hallucinations, memory abnormalities
  + DC 6354 chronic fatigue syndrome sleep disturbance

**Future Exams**

Future examinations are only required or permitted under certain circumstances:

* when assigning a pre-stabilization rating per 38 CFR 4.28
* six months following after discharge or release to nonbed care when the Veteran has been hospitalized for six months or more for a service connected mental condition
* when the evidence of record clearly shows the likelihood for improvement

It is not our prerogative to request a reexamination just because we think or believe the Veteran should improve. (ie. A young Vetran with a high evaluation is not an indication that improvement is likely.) Sound medical evidence is required, indicating the likelihood of improvement, to warrant a future exam. Other than those reasons listed above, there are no automatic future exams required or allowed by regulations.

**Substance Abuse**

* Service connection for alcohol abuse as a primary condition is prohibited
* Service connection for drug abuse in claims filed after November 1, 1990, is prohibited
* However, service connection is allowed for an alcohol-abuse or drug-abuse disability acquired as secondary to, or as a symptom of, a Veteran’s service-connected disability

**FSADs**

Female Sexual Arousal Disorder (FSAD) is the lack of, or significantly reduced, sexual interest/arousal. There are both psychological and biological causes of FSAD, and the two often overlap.

* FSAD or sexual dysfunction as secondary to a mental health disability and the examination threshold described in 38 CFR 3.159(c)(4) is met then order the appropriate mental health DBQ as well as the gynecological DBQ
* There is specific language to be included in the exam request, found in M21-1, III.iv.4.I

**Other Issues for Rating Consideration**

Remember to consider the following topics:

* Individual Unemployability
* Service connection for Mental Unsoundness in Suicide (38 CFR 3.302)
* Competency (38 CFR 3.353)
* Determination of Insanity (38 CFR 3.354)
* Psychosis under 38 USC 1702

Note: Competency, 1702, and IU are covered in other TMS courses.

Practical Exercise

Directions: Answer the following questions peratingin to Rating Psyciatric Disorders.

1. True or False: When a single disability has been diagnosed as both a physical condition and as a mental disorder, the rating agency shall evaluate it using a diagnostic code, which represents the dominant aspect of the condition.

2. True or False: A diagnosed disability and symptoms should be listed as separate issues when preparing a rating decision.

3. Two mental conditions, generalized anxiety disorder (GAD) and schizophrenia, are claimed but only GAD is diagnosed. If service connection is warranted:

a. Rate the conditions of GAD and schizophrenia together as one issue.

b. Dispose of each condition, GAD and schizophrenia, separately by granting both.

c. Dispose of each condition, GAD and schizophrenia, separately granting the diagnosed condition of GAD and denying schizophrenia.

d. Dispose of only the diagnosed condition, GAD.

4. If symptoms of a mental disorder are not severe enough to interfere with either occupational or social functioning, but require continuous medication, what evaluation should be assigned?

a. 0%

b. 10%

c. 30%

d. 50%

5. True or False: Psychotic disorders cannot be service connected.

6. True or False: A GAF score, used solely in psychiatric evaluations, is the only basis for the evaluation of a psychiatric condition.

7. Under the *Allen v. Principi* decision, Veterans can obtain compensation for alcohol- or drug-abuse related disabilities:

a. Even if the abuse is willful misconduct.

b.Where substance abuse is secondary to a service-connected condition.

c. Only when the abuse results in a physical condition.

d.Where substance abuse is a symptom of worsening of a service connected condition that results in a higher rating for that condition.

**e.** b and d

f. None of the Above

8. Consider competency as an issue whenever a mental disorder is evaluated as \_\_\_\_\_\_, or if other evidence raises a question as to the beneficiary's mental capacity to contract or to manage his or her own affairs.

a. 50%

b. 70%

c. 100%

d. service connected

9. Occupational and social impairment with occasional decrease in work efficiency and intermittent periods of inability to perform occupational tasks due to such symptoms as: depressed mood, anxiety, suspiciousness, panic attacks, chronic sleep impairment and mild memory loss will establish entitlement to what rating?

a. 10%

b. 30%

c. 50%

d. 70%

10. The Veteran served from January 1978 to January 1981. He filed a claim for compensation for a nervous condition in July 1981. Service treatment records are negative for complaint or treatment of a nervous disorder. Psychiatric examination showed the Veteran had a personality disorder with mental deficiency. Should entitlement to service connected compensation be established for the nervous condition?

11. A claim for entitlement to service connected compensation was received for schizophrenia on a presumptive basis. Service treatment records show treatment for schizophrenia. VA examination, within one year of discharge, diagnosed major depression. Is entitlement to service connection in order? For what condition? Explain.

12. The Veteran served from February 1985 to February 1987. Service treatment records show acute psychosis during service. The separation examination finds no psychiatric abnormalities. The Veteran files a claim for entitlement to service connected compensation for a nervous condition in February 2005. He presents no medical evidence, nor does he allege any treatment subsequent to discharge. Should entitlement to service connection be established? Explain.

13. The facts remain the same as Question #13, but this time the Veteran submits evidence of a current psychiatric condition with his claim. Should entitlement to service connection be established? Explain.

14. Entitlement to service connected compensation for severe facial burns has been established. The Veteran has been seeing a counselor who gives the opinion that the Veteran has an anxiety disorder secondary to the facial burns. The RVSR has prepared a rating establishing entitlement to service connection for anxiety. Is the rating action appropriate?