Evaluating Disabilities

Instructor Lesson Plan

Time Required: 1.5 Hours

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| Lesson Description | |
| The information below provides the instructor with an overview of the lesson and the materials that are required to effectively present this instruction. | |
| TMS # | 4192859 |
| Prerequisites | Prior to this lesson, the Rating Veteran Service Representatives (RVSRs) are not required to have prerequisite training. |
| target audience | The target audience for evaluating disabilities is RVSR, Entry  Although this lesson is targeted to teach the RVSR, Entry employee, it may be taught to other VA personnel as mandatory or refresher type training. |
| Time Required | 1.5 hours |
| Materials/ TRAINING AIDS | Lesson materials:   * Evaluating Disabilities PowerPoint Presentation |
| Training Area/Tools | The following are required to ensure the trainees are able to meet the lesson objectives:   * Classroom or private area suitable for participatory discussions * Seating, writing materials, and writing surfaces for trainee note taking and participation * Handouts, which include a practical exercise * Large writing surface (easel pad, chalkboard, dry erase board, overhead projector, etc.) with appropriate writing materials * Computer with PowerPoint software to present the lesson material   Trainees require access to the following tools:   * VA TMS to complete the assessment * Evaluation Builder or VBMS-R Demo |
| Pre-Planning | * Become familiar with all training materials by reading the Instructor Lesson Plan while simultaneously reviewing the corresponding PowerPoint slides. This will provide you the opportunity to see the connection between the Lesson Plan and the slides, which will allow for a more structured presentation during the training session. * Become familiar with the content of the trainee handouts and their association to the Lesson Plan. * Practice is the best guarantee of providing a quality presentation. At a minimum, do a complete walkthrough of the presentation to practice coordination between this Lesson Plan, the trainee handouts, and the PowerPoint slides and ensure your timing is on track with the length of the lesson. * Ensure that there are copies of all handouts before the training session. * When required, reserve the training room. * Arrange for equipment such as flip charts, an overhead projector, and any other equipment (as needed). * Talk to people in your office who are most familiar with this topic to collect experiences that you can include as examples in the lesson. * This lesson plan belongs to you. Feel free to highlight headings, key phrases, or other information to help the instruction flow smoothly. Feel free to add any notes or information that you need in the margins. |
| Training Day | * Arrive as early as possible to ensure access to the facility and computers. * Become familiar with the location of restrooms and other facilities that the trainees will require. * Test the computer and projector to ensure they are working properly. * Before class begins, open the PowerPoint presentation to the first slide. This will help to ensure the presentation is functioning properly. * Make sure that a whiteboard or flip chart and the associated markers are available. * The instructor completes a roll call attendance sheet or provides a sign-in sheet to the students. The attendance records are forwarded to the Regional Office Training Managers. |

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| Introduction to Evaluating Disabilities | | |
| INSTRUCTOR INTRODUCTION | | Complete the following:   * Introduce yourself * Orient learners to the facilities * Ensure that all learners have the required handouts |
| time required | | .25 hours |
| Purpose of Lesson  Explain the following: | | This lesson is intended to provide an introduction about how to evaluate a variety of disabilities using the applicable laws and tools available to RVSRs. This lesson will contain discussions and exercises that will allow you to gain a better understanding of:   * 38 CFR Part 3 and 4 * Diagnostic Codes |
| Lesson Objectives  Discuss the following:  Slide 2 | In order to accomplish the purpose of this lesson, the RVSR will be required to accomplish the following lesson objectives:   * Apply the regulations and court findings as listed in the references; * Select correct diagnostic code and evaluation criteria for a given disability; and * Identify and apply the notes associated with diagnostic codes in the Rating Schedule. | |
| Explain the following: | Each learning objective is covered in the associated topic. At the conclusion of the lesson, the learning objectives will be reviewed. | |
| Motivation | This lesson will provide information about how to correctly assign evaluations to different diagnosed conditions to provide correct rating decisions to Veterans | |
| STAR Error code(s) | A1; B1 | |
| References  Slide 3 | Explain where these references are located in the workplace.   * [38 CFR 4.7 Higher of two evaluations](http://www.ecfr.gov/cgi-bin/text-idx?SID=44b153d6e72633f1985bce28f4607c2a&node=se38.1.4_17&rgn=div8) * [38 CFR 4.13 Effect of change of diagnosis](http://www.ecfr.gov/cgi-bin/text-idx?SID=44b153d6e72633f1985bce28f4607c2a&node=se38.1.4_113&rgn=div8) * [38 CFR 4.14 Avoidance of pyramiding](http://www.ecfr.gov/cgi-bin/text-idx?SID=01ef04ddd83f729bc3d41eba9c66d00a&mc=true&node=se38.1.4_114&rgn=div8) * [38 CFR 4.21 Application of rating schedule](http://www.ecfr.gov/cgi-bin/text-idx?SID=01ef04ddd83f729bc3d41eba9c66d00a&mc=true&node=se38.1.4_121&rgn=div8) * [38 CFR 4.68 Amputation rule](http://www.ecfr.gov/cgi-bin/retrieveECFR?gp=&SID=9326662dc5925f175acd349f6883a4dd&mc=true&r=SECTION&n=se38.1.4_168) * [M21-1 Part III, Subpart iv, Chapted 4, Section A.12.d Applying the Amputation Rule](https://vaww.compensation.pension.km.va.gov/system/templates/selfservice/va_ka/portal.html?encodedHash=%23!agent%2Fportal%2F554400000001034%2Farticle%2F554400000014194%2FM21-1-Part-III-Subpart-iv-Chapter-4-Section-A-Musculoskeletal-Conditions) * [Tatum v. Shinseki (09/28/09, No. 07-2728) Successive rating criteria & 4.7](https://vaww.compensation.pension.km.va.gov/system/templates/selfservice/va_ka/portal.html?encodedHash=%23!agent%2Fportal%2F554400000001034%2Farticle%2F554400000014537%2FTatum-v-Shinseki-September-28-2009-No-07-2728) * [Medical EPSS](http://cptraining.vba.va.gov/C&P_Training/Job_Aids/Medical_EPSS.htm) | |

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| Topic 1: Evaluating Disabilities | |
| Introduction | This topic will allow the trainee to assign proper evaluations to Veterans’ |
| Time Required | .75 hours |
| OBJECTIVES/ Teaching Points | Topic objectives:   * Apply the regulations and court findings as listed in the references; * Select correct diagnostic code and evaluation criteria for a given disability; and * Identify and apply the notes associated with diagnostic codes in the Rating Schedule.   The following topic teaching points support the topic objectives:   * Diagnostic Codes * 38 CFR Part 3 & 4 |
| 38 CFR 4.7 Higher of two Evaluations  Slide 4 | Where there is a question as to which of two evaluations shall be applied, the higher evaluation will be assigned if the disability picture more nearly approximates the criteria required for that rating. Otherwise, the lower rating will be assigned.  Explain that this is one of the Golden Rules for evaluating service connected disabilities. If the Veteran’s symptoms do not point neatly and clearly to one evaluation and we must decide between two levels, we must always assign the higher of the two evaluations. |
| 38 CFR 4.13 Effect of Change of Diagnosis  *Slide 5* | * The aim should be the reconciliation and continuance of the diagnosis or etiology upon which service connection for the disability had been granted * The relevant principle enunciated in §4.125, entitled “Diagnosis of mental disorders,” should have careful attention in this connection. * When any change in evaluation is to be made, the rating agency should assure itself that there has been an actual change in the conditions, for better or worse, and not merely a difference in thoroughness of the examination or in use of descriptive terms. This will not, of course, preclude the correction of erroneous ratings, nor will it preclude assignment of a rating in conformity with §4.7. |
| 38 CFR 4.14 Avoidance of Pyramiding  Slide 6 | * The evaluation of the same disability under various diagnoses is to be avoided. * Both the use of manifestations not resulting from service-connected disease or injury in establishing the service-connected evaluation and the evaluation of the same manifestation under different diagnoses are to be avoided. * Always look for any special rules – notes – included in the appropriate body system, for their evaluation.   Explain thatwe may not evaluate the same condition under two different diagnostic codes, and we may not use the same symptom in our evaluations of two different conditions. This is pyramiding, which is prohibited by law. |
| 38 CFR 4.21 Application of Rating Schedule  *Slide 7* | * Findings sufficiently characteristic to identify the disease and the disability therefrom, and above all, coordination of rating with impairment of function will, however, be expected in all instances. * Basically we use the objective findings (sometimes subjective findings) along with the diagnosis, match it up with the characteristics of the claimants functional impairment and we decide on an evaluation they most relate to (4.7) |
| 38 CFR 4.68 Amputation Rule  Slide 8 | * The combined rating for disabilities of an extremity shall not exceed the rating for the amputation at the elective level, were amputation to be performed * Only applies to musculoskeletal disabilities along with their associated neurological disabilities   Explain that this regulation prohibits us from giving a higher evaluation for multiple injuries/disabilities of an extremity than is available for amputation of that extremity.   * Only applies to musculoskeletal disabilities   ReviewDC 5160 to 5166, lower extremity amputations for example. |
| How is the rating schedule set up  Slide 9 | * Explainthat the online Rating Schedule (38 CFR Part 4) has Appendices that can be used to locate a condition alphabetically (Appendix C), numerically (Appendix B), and a table of amendments and effective dates since 1946 (Appendix A) * Explain that the current rating schedule does not always reflect cutting edge medical technology or terminology though it is being updated and changed in the CPKM new M21 update. * Explain that the rating schedule is:   + Divided into individual body systems   + Each body system contains the specific disabilities   + Not all disabilities known to the medical community are included in the rating schedule   We will now display and discuss the [rating schedule](http://www.ecfr.gov/cgi-bin/text-idx?SID=0786f4a4932951e9d0b119fd439a3a66&mc=true&tpl=/ecfrbrowse/Title38/38cfr4_main_02.tpl)  Pay close attention to the composition of the rating schedule and the various items that can be found there.  \*\*Pull up Rating Schedule; 38 CFR 4.114, Diagnostic Code 7339 in eCFR to show as an example of how the rating schedule is laid out. \*\* |
|  | Review diagnostic code 7339   * Note the location of the diagnostic code   + Four Digit number to the far left * Note the location of the evaluation criteria   + Descriptive text in the middle * Note the location of the disability percentages   + Number from 0-100 to the far right   Explain the diagnostic codes:   * Review diagnostic code 7339 * Note the location of the diagnostic code   + Four Digit number to the far left * Note the location of the evaluation criteria   + Descriptive text in the middle * Note the location of the disability percentages * Number from 0-100 to the far right   Review analogous codes using GERD (DC 7399-7346), tonsillitis/tonsillectomy(DC 6599-6516), and fractured nose (6599-6502) as examples. These can be found in Medical TPSS. |
| DEMONSTRATION  Evaluation Instructions | Display 38 CFR 4.71a, DC 5003 in eCFR.  Review the notes for diagnostic codes 5003, 7804 and 7528 (as they are discussed in the rating schedule.).  Discuss the different instructions and guidelines for these disabilities outside of the normal evaluation criteria  Discuss the DC and emphasize that within the rating schedule there will be notes that assist us with our evaluations.  Discuss the notes for DC5003.  Explain that evaluating musculoskeletal disabilities will be discussed in the Musculoskeletal IWT course. |
| DEMONSTRATION  Multiple Codes for One Disability | Display diagnostic codes 7800 through 7805   * Discuss the use of five codes to rate different types of scars and their residuals and the associated notes for the scars   Discuss the different instructions, notes, and guidelines for this disability outside of the normal evaluation criteria  7804 Scar(s), unstable or painful  Note (1): An unstable scar is one where, for any reason, there is frequent loss of covering of skin over the scar.  Note (2): If one or more scars are both unstable and painful, add 10 percent to the evaluation that is based on the total number of unstable or painful scars.  Note (3): Scars evaluated under diagnostic codes 7800, 7801, 7802, or 7805 may also receive an evaluation under this diagnostic code, when applicable.  Evaluating scars will be covered in detail when the body system SKIN is covered later. |
| Diagnostic Code 7528 - Notes | Display DC 7528 Malignant neoplasms of the genitourinary system  Note: Following the cessation of surgical, X-ray, antineoplastic chemotherapy or other therapeutic procedure, the rating of 100 percent shall continue with a mandatory VA examination at the expiration of six months. 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 residuals as voiding dysfunction or renal dysfunction, whichever is predominant.  Discuss the different instructions and guidelines for this disability outside of the normal evaluation criteria |
| Tatum v. Shinseki Sept 2009 (07-2728)  Slide 8 | Explain what the Courts holding was in this case from the Decision Assessment Document for this case.  Explainthat successive rating criteria requires that if a component of the rating criteria is not met at any one level, the Veteran can only be rated at the level that does not require the missing component. |
| Tatum Review  Slide 9 | Review diagnostic code 7913. This is an example of successive rating criteria.  Explainthat when a diagnostic code does not have successive rating criteria,38 CFR 4.7 is always for consideration.  Review diagnostic code 7903 (the code that was at issue in the court case). Note that this condition (hypothyroidism) does not have successive rating criteria.The Court found that since the Veteran exhibited two of the symptoms required for a 30 percent evaluation, this evaluation should have been considered—using 38 CFR 4.7. |
| Questions  Slide 20 | Questions |
| Exercise | The exercise is a five question overview of the class |

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| Practical Exercise | |
| Time Required | .25 hours |
| EXERCISE | Please instruct the trainees to go to the trainee handout and complete the exercise on page 4. The Answers are listed with the questions below.  Ask if there are any questions about the information presented in the exercise, and then proceed to the Review. |
| Practical Exercise | 1. Which regulation deals with the higher of two evaluations?   **38 CFR 4.7**   1. What is the diagnostic code for anxiety disorder, which is a mental disorder?   **DC 9413  (Trainees may also suggest 9400, which would only apply if the diagnosis included the descriptor “generalized”.)**   1. How many notes are listed for diagnostic code 5003?   **Two**   1. How is the rating schedule organized?   **Divided by individual body systems.**   1. What was the primary diagnostic code discussed in the decision Tatum v Shinseki dated September 28, 2009? And what was the condition?   **DC 7903 hyperthyroidism/Graves’ disease** |

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| Lesson Review, Assessment, and Wrap-up | |
| Introduction  Discuss the following: | The Evaluating Disabilities lesson is complete.  Review each lesson objective and ask the trainees for any questions or comments. |
| Time Required | .25 hours |
| Lesson Objectives | You have completed the Evaluating Disabilities lesson.  The trainee should be able to:   * Apply the regulations and court findings as listed in the references; * Select correct diagnostic code and evaluation criteria for a given disability; and * Identify and apply the notes associated with diagnostic codes in the Rating Schedule. |