Higher Level Special Monthly Compensation (SMC)

Trainee Handout

**Table of Contents**

[Objectives 2](#_Toc468440514)

[References 2](#_Toc468440515)

[Topic 1: Review of Basic SMC 2](#_Toc468440516)

[Topic 2: Higher Level SMC Terminology and Paragraphs M, N, O, P, Q, R, and T 5](#_Toc468440517)

[Topic 3: Coding 10](#_Toc468440518)

[Practical Exercise 12](#_Toc468440519)

[Scenario #1 12](#_Toc468440520)

[Scenario #2 14](#_Toc468440521)

[Scenario #3 17](#_Toc468440522)

[Scenario #4 18](#_Toc468440523)

[Scenario #5 19](#_Toc468440524)

Objectives

* Review basic SMC considerations
* Identify terminology
* Differentiate levels of loss and loss of use (LOU) of an extremity
* Explain how to build SMC for a given scenario
* Apply proper SMC coding to ensure correct payment

References

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

* [38 CFR3.350](http://vbaw.vba.va.gov/bl/21/publicat/Regs/Part3/3_350.htm), Special monthly compensation ratings
* [38 CFR3.351](http://vbaw.vba.va.gov/bl/21/publicat/Regs/Part3/3_351.htm), Special monthly dependency and indemnity compensation, death compensation, pension and spouse’s compensation ratings
* [38 CFR 3.352](http://vbaw.vba.va.gov/bl/21/publicat/Regs/Part3/3_352.htm), Criteria for determining the need for aid and attendance and “permanently bedridden.”
* [38 CFR 3.375](http://vbaw.vba.va.gov/bl/21/publicat/Regs/Part3/3_375.htm), Determination of inactivitiy (complete arrest) in tuberculosis
* [38 CFR 3.383](http://vbaw.vba.va.gov/bl/21/publicat/Regs/Part3/3_383.htm), Special consideration for paired organs and extremities
* [M21-1, Part IV, Subpart ii.2.H](https://vaww.compensation.pension.km.va.gov/system/templates/selfservice/va_ka/portal.html?portalid=554400000001034), Special Monthly Compensation (SMC)
* [M21-1, Part IV, Subpart ii.2.H.11](https://vaww.compensation.pension.km.va.gov/system/templates/selfservice/va_ka/#agent/portal/554400000001034/article/554400000014571/M21-1-Part-IV-Subpart-ii-Chapter-2-S), Entitlement to SMC Under 38 U.S.C. 1114(t) Based on the Need for A&A for Residuals of TBI

Topic 1: Review of Basic SMC

Most Common SMC mistakes aren’t with Higher Level SMC. A recent review of SMC entitlement noted most common mistakes are made at the S, K, and L levels. As you review cases for rating activity, it is important to be constantly aware of the criteria for entitlement to these levels. Remember to watch for these basic SMC pitfalls:

* Overlooking entitlement to SMC S
  + Statutory Housebound – 100% + 60%
  + Housebound in Fact
* Improper use of Bradley vs. Peake to grant SMC S when IU is based on multiple disabilities. Remember to use IU for the 100%, it must be based on a ***single*** disability.
* Coding!
  + Failure to close out SMC S when it’s temporary
  + Failure to bring forward an existing SMC entitlement when adding something new (this often happens with a running K when adding S or a higher level SMC).

**A simple review of frequently used SMCs :**

* + ***K***: loss of use or loss of one extremity, specific organs, or sensory functions
  + ***L***: Aid and Attendance or bedridden
  + ***S***: Housebound (statutory or in fact)

The housebound benefit, or SMC S, is awarded to a Veteran who:

* (**Statutory**) Has a single, SC disability evaluated as totally disabling with additional SC disability or combination of disabilities independently evaluated as 60 percent or more disabling; ***or***
* (**In fact**) Is permanently housebound due to a service connected disability

**Housebound in fact or substantially confined to residence and premises means what?**

A housebound in fact determination requires a Veteran’s inability to leave his /her place of residence and immediate premises in order to earn any income. However, it does not require a total inability to leave the place of residence and immediate premises for all circumstances. Leaving home for medical purposes cannot, by itself, serve as the basis for finding that a Veteran is not substantially confined for purposes of SMC housebound benefits. The limitations must be the result of the Veteran’s SC disabilities.

Non-medical indicators of housebound status may include but are not limited to:

* inability to walk substantial distances
* leaving the home with assistance only occasionally for
* appointments
* grocery shopping, or
* church, or
* inability to mow one’s lawn.

***Example 1***: A Veteran is totally disabled due to SC diabetes mellitus and related complications. He leaves his house weekly for dialysis treatment. His SC conditions limit his ability to independently ambulate to less than 30 feet before requiring significant rest. The Veteran is entitled to SMC based on housebound in fact status as his inability to leave the home other than for medical visits demonstrates substantial confinement to place of residence and immediate premises. Furthermore, the diabetes mellitus and complications are so disabling that he is rendered unable to leave his residence and immediate premises to earn income.

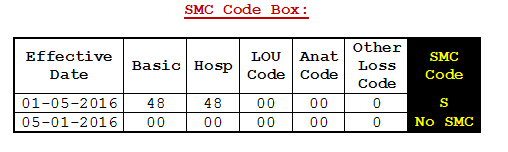
***Example 2***: A Veteran is SC for multiple disabilities including CAD, which is totally disabling. His wife drives him to all medical appointments. If the Veteran experiences a good day, they may run some minor errands while out of the home. The Veteran is entitled to SMC based on housebound in fact status as leaving his home for medical visits does not preclude a finding of substantial confinement to his dwelling or immediate premises. Furthermore, the other visits where the Veteran’s activity is limited to minor errands does not preclude a finding of substantial confinement since the Veteran is not shown to be able to leave his place of residence and immediate premises in order to earn income.

**Failure to “close out” a temporary SMC S causes overpayments!**

This happens a lot when temp 100% is granted for surgery or hospitalization. Often the paragraph is correct ***but*** the codes are wrong.

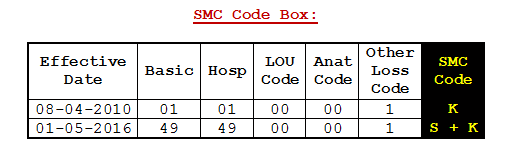
***Reminder – the code box is what determines the amount the Veteran will be paid!***

SMC code box must contain the close out effective date. (Correct example below).



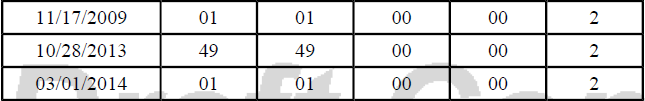
Veterans frequently have a running SMC K when SMC S is temporarily granted. Remembering to bring forward the K at the beginning of a new SMC S grant and remembering to retain the K when S is stopped, is critical!

This example shows a correct addition of the S to a currently running SMC K.



Not only do employees often fail to carry forward an existing K, it is common to forget to retain the K when stopping a temporary S (they zero out all lines instead of changing basic and hospital rates to 01 01)

In this example, line 1 shows pre-existing K, line 2 shows the addition of the temporary S, and line 3 shows the correct return of the coding to a plain K.



**Entitlement to SMC S based on IU + 60%** - Bradley v. Peake needs to be based on IU from single disability. Remind people that Guerra v. Shinseki reiterates the point saying that the regulation’s reference to a “single service-connected disability rated as 100 percent” resolves any ambiguity in the statute and makes it clear that SMC S is only payable if the Veteran has a single disability rated 100 percent.

**Don’t forget that L can be more than A&A; ways to reach L include:**

* Permanently bedridden **or** in need of Aid and Attendance
* Bilateral visual acuity of 5/200 or less
* Loss/LOU of both feet
* Loss/LOU 1 hand and 1 foot

*Note: bedridden must be permanent, but A&A does not require permanent nature.*

Topic 2: Higher Level SMC Terminology and Paragraphs M, N, O, P, Q, R, and T

**Topic objectives:**

* Identify abbreviations and terminology
* Differentiate between levels of loss and loss of use (LOU)
* Familiarize with criteria for M, N, O, P, Q, R, and T.

**Abbreviations**

Pay attention to abbreviations. For example LPO (Light Perception Only) vs. NLP (No Light Perception) will indicate different levels of severity in blindness. See PowerPoint slide 15 for additional abbreviations and details.

**Building Blocks**

Although SMC paragraphs are mostly alphabetical by level of payment, that’s not always the case. Explain that S is a lesser benefit than L – O, and P is an add-on. K stands alone.

The following sections will look at each of the higher level SMC paragraphs. The detailed considerations and notes below are also provided on the tabs in the SMC Job Aid.

**SMC M**

According to 38 CFR 3.350 (c)(1)(i), the loss or loss of use of both hands is met when:

* Their function would be no better than if they were amputated and

replaced by prosthesis

* They are not capable of grasping or manipulation.

**Note:** *10/01/1981 change from L to M for SMC based on L/LOU of both hands*

*It is important to note that “Natural elbow or knee action” means*

*retention of the ability to move the prosthesis with natural joint action*

*without resorting to a mechanical device attached to the prosthesis.*

According to 38 CFR 3.350 (c)(1)(ii), in order to receive SMC (m) for

both legs above the knee, the Veteran must have:

* Anatomical loss or
* LOU of both legs at a level that prevents natural knee action or
* Complications preventing natural knee action

According to 38 CFR 3.350 (c)(1)(iii), in order to qualify for SMC (m), a Veteran must meet all of the following criteria:

• Anatomical loss or loss of use of one arm at a level that prevents natural elbow action.

• Anatomical loss or loss of use of one leg at a level that prevents natural knee action.

According to in 38 CFR 3.350 (c)(1)(iv), a Veteran meets the criteria for SMC (m) with: blindness in both eyes with light perception only.

According to 38 CFR 3.350 (c)(1)(v), a Veteran may also qualify for SMC (m) for blindness if he/she meets all of the following criteria: Blindness in both eyes rated 5/200 or worse or concentric contraction in both eyes reduced to 5 degrees and needs A&A solely due to blindness.

**SMC N**

According to 38 CFR 3.350 (d)(1), in order to qualify for SMC (n), a Veteran must have: loss (or loss of use) at a level, or with complications, preventing natural elbow action with prosthesis in place.

According to 38 CFR 3.350 (d)(2), in order to qualify for SMC (n), a Veteran must have: Anatomical loss of both legs so near the hip as to prevent the use of a prosthetic appliance.

According to 38 CFR 3.350 (d)(3), in order to meet the SMC (n) criteria for leg and arm, the Veteran must have:

\* Anatomical loss (amputation) of one arm so near the shoulder as to prevent use of a prosthetic appliance

\* Anatomical loss (amputation) of one leg so near the hip as to prevent use of a prosthetic appliance.

***Note:*** although the loss of both arms above elbow does not require anatomical loss (can be loss of use), both the loss of both legs at hip level and the loss of one arm and one leg ***do*** require anatomical loss to qualify for N.

According to 38 CFR 3.350 (d)(4), the SMC (n) criteria for entitlement based on blindness require: anatomical loss of both eyes ***or*** blindness without light perception in both eyes.

**SMC O**

(**Arms**) According to 38 CFR 3.350 (e)(1)(i), Veterans will be assigned SMC (o) rate for the ***anatomical*** loss of both arms when: loss is the result of amputation that occurs so close to the shoulder that the use of a prosthetic appliance is prevented.

(**Combo of rates L to N**) According to 38 CFR 3.350 (e)(1)(ii), Veterans may receive SMC (o) if they are entitled to two or more SMC rates (l), (m), or (n) in any combination, provided that no condition is considered twice.

(**Blindness and deafness**) According to 38 CFR 3.350 (e)(1)(iii) and 38 CFR 3.350 (e)(1)(iv), Veterans may qualify for SMC (o) if they have either of the following combinations of blindness and deafness:

1. A Veteran suffers from bilateral deafness rated at 60% or more disabling in combination with bilateral visual acuity of 20/200 or less (prior to 12/26/07, (B) acuity had to be 5/200 or less).
2. A Veteran suffers from total deafness in one ear or bilateral deafness rated at 40 percent or more disabling in combination with blindness of both eyes having LPO or less.

***Note: In both cases, the hearing impairment and blindness must be SC.***

(**Paraplegia** w/loss of bowel & bladder control) According to 38 CFR 3.350 (e)(2), veterans are entitled to SMC (o) when they suffer from paraplegia (the paralysis of both lower extremities) together with the loss of anal and sphincter control.

***Note: Veterans receive the maximum rate under SMC (o) because it results in helplessness; the requirement is met even if incontinence has been overcome by rehabilitation.***

**Additional criteria**:

1. Must be based on separate and distinct disabilities 38 CFR 3.350(e)(3)
2. May qualify for max SMC O rate if helplessness is considered to be one of the multiple entitling disabilities. 38 CFR 3.350 (e)(4)

**SMC P**

**Note! Although the (f) (1) and (f)(2) paragraphs granting additional half or full steps are discussed first, these show up on the codesheet as just the L1/2 or M or whatever level the P took the SMC up to.**

**In contrast, P1 – 3 (additional 50% combined, additional single 100%, and 3rd extremity) get their own paragraphs and are typically what is referred to as P.**

38 CFR 3.350 (f)(2) contains the criteria for half- and full-step elevations for bilateral loss of vision and blindness in connection with deafness and/or loss of use of a hand or foot. (Steps and half steps shown in PowerPoint slides).

According to 38 CFR 3.350 (f)(2)(iv) through 38 CFR 3.350 (f)(2)(vi) as well as 38 CFR 3.350 (e)(1)(iii) and (e)(1)(iv), combinations of **blindness and deafness** will result in either an additional half or full-step increase in compensation, depending on the level of service-connected blindness and severity of the hearing loss.

38 CFR 3.350 (f)(2)(vii)(A)(B) and (C) show the various combinations of **blindness and loss of use of an upper or lower extremity**. In order to qualify for an elevated SMC level, the blindness must be 5/200 or less and be accompanied with:

* Loss/LOU 1 hand – add full step
* Loss/LOU 1 foot ratable at 50% or more, by itself or in combination with another SC disability - add full step.
* Loss/LOU 1 foot ratable at less than 50% which is only compensable disability other than blindness – add half-step.

***In no event will the step increases be to a rate higher than the rate under SMC (o).***

According to 38 CFR 3.350 (f)(3), a Veteran with **additional disabilities rated 50%** or more is entitled to the next higher intermediate rate (half -step). According to 38 CFR 3.350 (f)(4), a Veteran with **additional single, permanent disability rated 100%** is entitled to the next higher statutory rate (full-step).

**Limitations:**

*- If there are enough separate disabilities for both 50% and 100%, only a fullstep increase can be given.*

*- The same etiological disease or injury supporting SMC (l-o) may not be used to support the independent 50% or 100%.*

*- Permanent residuals of tuberculosis may be used but not graduated ratings.*

Elevated rates may be authorized for the loss or loss of use of **three extremities**. The Veteran is entitled to the next higher rate regardless of whether that rate is a statutory or intermediate rate. The maximum monthly payment may not exceed amount stated in 38 U.S.C. 1114(p).

**SMC Q**

Rarely used. Not payable with any other compensation.

For inactive TB prior to 8/19/68.

If you're interested in extra reading on Q, see these two public laws.

* *PL 82-427*, effective August 1, 1952, established a minimum level of SMC for Veterans whose tuberculosis was completely arrested.
* *PL 90-493*, effective August 19, 1968, repealed [38 U.S.C. 1114(q)](http://www.law.cornell.edu/uscode/text/38/1114) except for those Veterans who on August 19, 1968, were receiving or entitled to receive disability compensation for tuberculosis.

**SMC R1 & R2**

**SMC (r)(1) deals with special A&A and SMC (r)(2) requires a higher level of care.**

Whenever a Veteran is entitled to the maximum rate of compensation payable under 38 USC 1114 (o) or (p), you must consider entitlement to (r)(1) or (r)(2) benefits (38 CFR 3.350 (h) and [M21-1 IV.ii.2.H.8](https://vaww.compensation.pension.km.va.gov/system/templates/selfservice/va_ka/#agent/portal/554400000001034/article/554400000014571/M21-1-Part-IV-Subpart-ii-Chapter-2-S) and 9, Entitlement to a Higher A&A Allowance Under 38 U.S.C.1114(r)(2)). Special monthly compensation under SMC (r)(1) and SMC (r)(2) is also applicable where there is entitlement under SMC (n)½+ (k) and there is a factual need for regular A&A or a higher level of care. In this case, the service-connected disabilities that established entitlement to the (n)½+ (k) rate may also be used to establish eligibility to the A&A rate if factual entitlement is shown (38 CFR 3.350 (h)(2) and [M21-1 IV.ii.2.H.9](https://vaww.compensation.pension.km.va.gov/system/templates/selfservice/va_ka/#agent/portal/554400000001034/article/554400000014571/M21-1-Part-IV-Subpart-ii-Chapter-2-S)).

Once you have determined that a Veteran might be eligible for SMC (r)(1) or (r)(2), you must then look at the criteria for each to determine for which level the Veteran qualifies.

Under PL 96-128, entitlement to SMC under:

* [38 U.S.C. 1114(r)(1)](http://www.law.cornell.edu/uscode/html/uscode38/usc_sec_38_00001114----000-.html) exists if the basic criteria contained in [38 CFR 3.352(a)](http://www.ecfr.gov/cgi-bin/text-idx?SID=e6f2e1039c661eae823325f3d5752344&mc=true&node=se38.1.3_1352&rgn=div8) are met, and
* [38 U.S.C. 1114(r)(2)](http://www.law.cornell.edu/uscode/html/uscode38/usc_sec_38_00001114----000-.html) exists if the basic criteria contained in [38 CFR 3.352(b)](http://www.ecfr.gov/cgi-bin/text-idx?SID=e6f2e1039c661eae823325f3d5752344&mc=true&node=se38.1.3_1352&rgn=div8) are met.

Veterans who receive the maximum SMC rate under (o) or (p) and who qualify for (r)(1) or (r)(2) are entitled to an additional allowance during periods in which he/she is not hospitalized at government expense. If the Veteran is hospitalized at government expense, the additional A&A allowance is discontinued.

To establish entitlement to a higher A&A allowance (R2), the evidence of record must indicate

* an ongoing need for skilled personal care and,
* in the absence of such care, the Veteran would require hospitalization, nursing home care, or other residential institutional care.

***Note***: Entitlement may be established by evidence which shows the

* conditions justifying the need for this level of care
* nature, extent, and frequency of the services provided, and
* nature and extent of the supervision being provided, if the services are actually provided by a nonprofessional.

**SMC T**

This benefit is based on legislation, which is effective October 1, 2011. The effective date assigned for an award of SMC (T) may be no earlier than October 1, 2011.

Public Law (PL) 111-275 authorized the payment of SMC at the newly-created (T) rate, which is equal to the (R)(2) rate, to Veterans who:

• need regular aid and attendance (A&A) for residuals of traumatic brain injury (TBI), but

• are not eligible for higher level of A&A under subsection (R)(2), and

• would require hospitalization, nursing home care, or other residential institutional care in the absence of regular aid and attendance.

You may accept a private physician’s report certifying need for both A&A and the need for hospitalization, nursing home care, or other residential institutional care if the examination and opinion meet all of the requirements described above.

In all cases where examination or opinion is required, the following medical opinion must be requested from the physician:

*In the absence of regular aid and attendance for the residuals of traumatic brain injury, would the Veteran require hospitalization, nursing home care, or other residential institutional care?*

The examiner must answer the question clearly and provide a rationale for his or her answer. If the physician’s conclusions, findings, or reasoning are unclear, inconsistent, or otherwise conflict with the remainder of the evidence of record, the examination report must be returned for clarification.

**Important**: If entitlement to the (R)(2) rate is shown without regard to (T) provisions, process as a regular (R)(2) award.

When entitlement to the (R)(2) rate is shown based on (T) provisions and the hospital code is 48, 49, 50 or 39, use Generate and Override procedures to promulgate the proper award.

Topic 3: Coding

**Correct Coding = Correct Payment**

**What to watch for:**

* Is there a reduced hospital rate?
* Should there be?
* Example Yes – L A&A should have reduced hospital rate
* Example No – L for Loss/LOU of both feet should not
* Does the coding carry forward any previously established SMCs? (Usually this is a K of record when you add S or higher).
* Do the Loss/LOU and Other Codes make sense and capture all of the disabilities on which you are basing SMC?

***Double check what the SMC calculator tells you! It is only as good as the information you give it, and it’s important to be meticulous about the dates of each item adding to the SMC and to know how to check your work!***

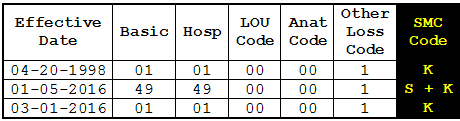
***Remember that per M21-1, Part IV.ii.2.H.1.h, use of the SMC calculator is mandatory.***

**Where do the codes come from?**

* The basic and hospital rate determine payment to the Veteran
  + Basic – what the Veteran will normally receive
  + Hospital rate is a reduced rate paid in situations such as when the Veteran is receiving A&A and is being hospitalized at VA expense
* The LOU, Loss, and Other Loss codes show what the basic & hospital rates are being built on.

*See job aid tabs Coding Paragraph, Coding Loss/LOU, and Coding-other for more information.*

***K-1 for Loss of use of a creative organ; S-1 (statutory) temporary 100% + 60%***

****

**Codes explained**

* Basic & hospital 01 = 1K
* Basic & hospital 49 = S+K
* LOU 00 = No loss of use
* Anatomical loss 00 = no anatomical loss
* Other loss 1 = LOU Creative Organ

***Note:*** *because there is no reduction for hospitalization for K or S, in this case the basic and hospital codes should be the same!*

**Higher Level SMC Coding Scenario**

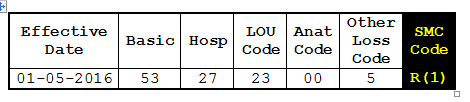
*K-1 for Loss of use of a creative organ*

*L-1 for A&A*

*M-1 for LOU of both hands*

*O-3 (M-1 + L-1)*

*R-1 based on O-3 with need for A&A*



**Codes explained**

**Basic 53** = R1 built off of O [L (A&A) + M]

**Hospital 27** = rate for P (N+K) due to VA paid care

**LOU 23** = Loss of use of both hands

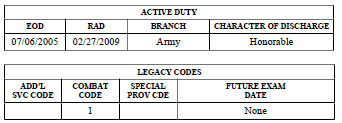
**Anatomical loss 00** = no anatomical loss

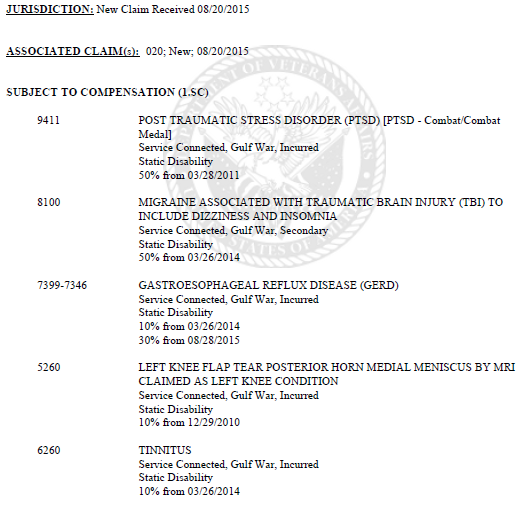
**Other loss 5** = LOU Creative Organ + A&A

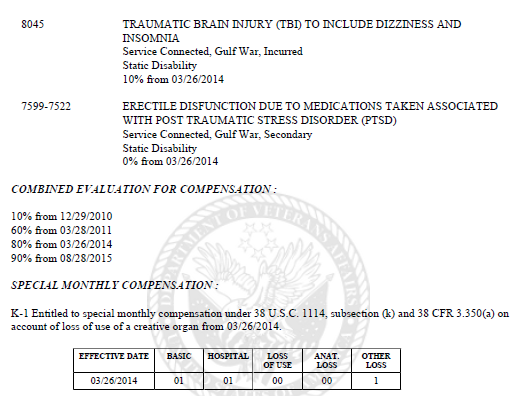
Don’t forget ancillary benefits: DEA, SHA, Auto Allowance

Practical Exercise

**Directions**: Review the scenarios and answer the associated questions.

Scenario #1

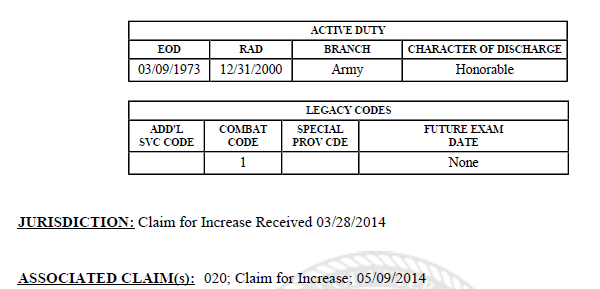
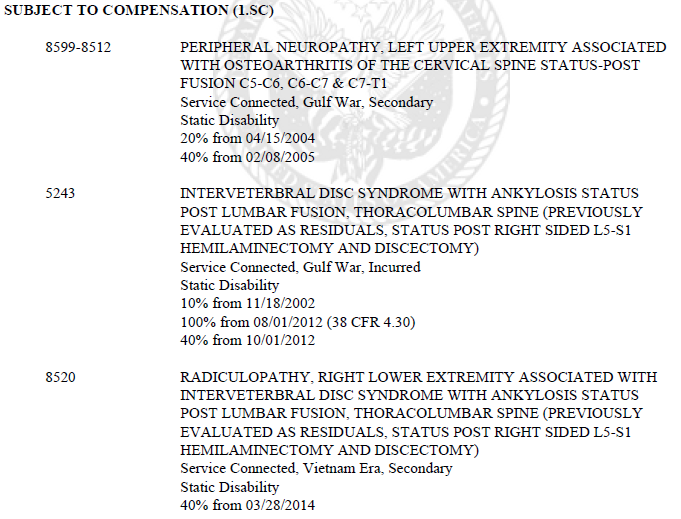


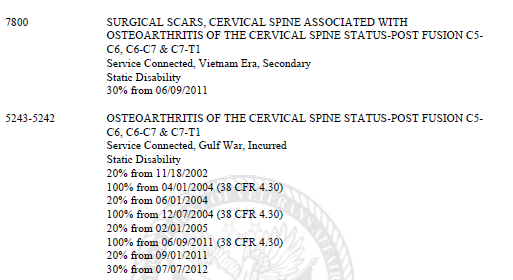


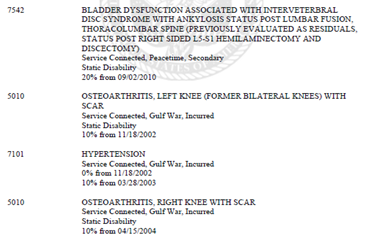
**Question 1**: What SMC, if any, would this Veteran be entitled to? Provide basis for any SMC entitlement.

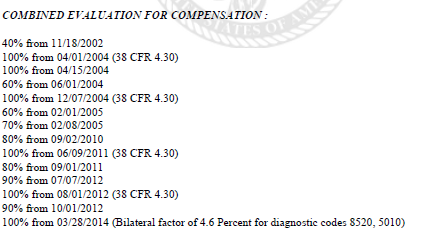
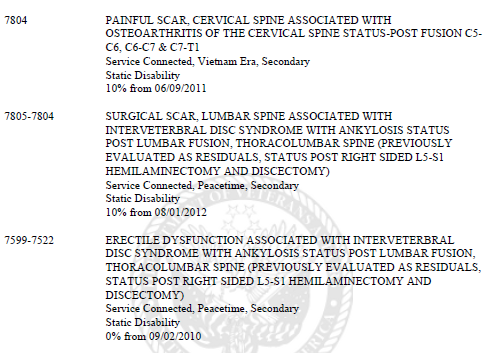
**Question 2**: If entitlement is shown, what is the coding?

Scenario #2





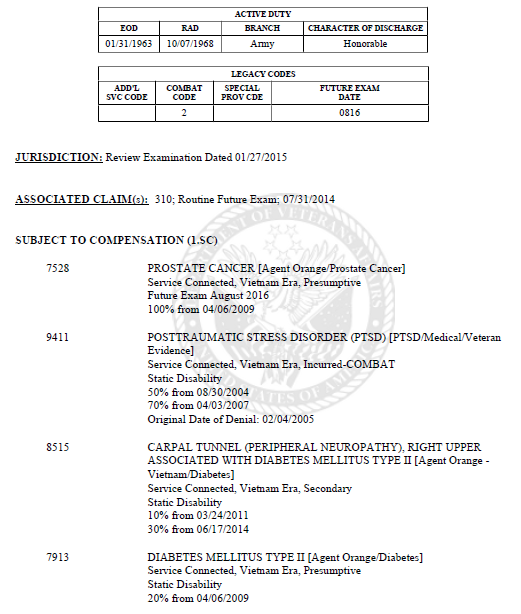
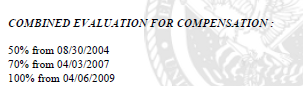




**Question 1**: If shown, what level of SMC would this Veteran be entitled to? Provide a basis for your response.

**Question 2**: Demonstrate proper coding for this scenario… hint, there will be multiple effective dates/code lines.

Scenario #3



**Question 1**: If shown, what level of SMC would this Veteran be entitled to? Provide a basis for your response.

**Question 2**: If entitlement is shown, what is the coding?

**Question 3:** Is entitlement to SMC permanent?

Scenario #4

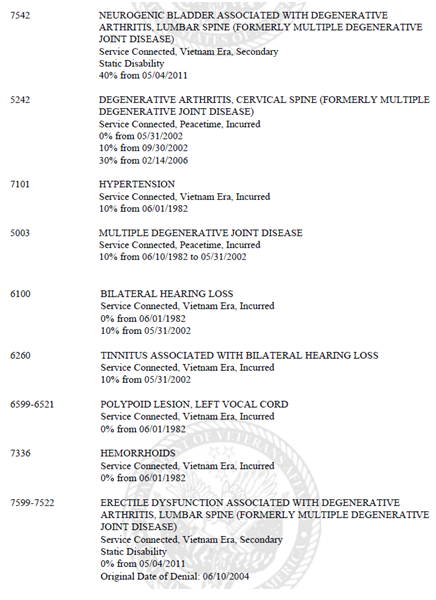
Note: 12/01/15 a claim for A&A was received and 21-2680 shows inability to dress, feed himself, prepare meals, or bathe without assistance due to upper extremity weakness; 12/21/2015 VA records 1st show LOU of both hands; 1/13/2016 a claim was received for LOU of both hands and automobile allowance.

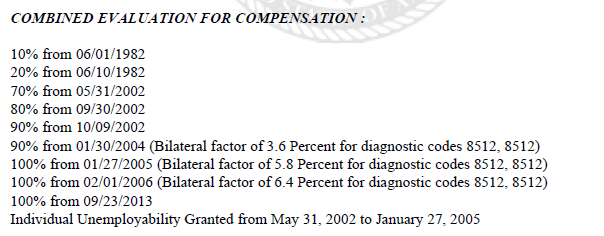


**Question**: Would this scenario require a staged rating for SMC?

**Activity**: Generate a correct SMC calculator for this scenario.

Scenario #5





***NOTE: higher level of care is needed from 9/23/2013 when the Veteran has LOU of both hands and both feet.***

**Question 1**: If shown, what is the first date of entitlement to SMC? What is the level of SMC entitlement?

**Question 2**: On 6/10/2005, the Veteran becomes entitled to SMC L based on what?

**Question 3:** P steps are available under this scenario for what reasons?

**Question 4:** From 9/23/2013 loss of use of both hands entitles the Veteran to what SMC?

**Question 5:** From 9/23/2013 the Veteran needs a higher level of care, what SMC should be considered?

**Final Jeopardy:** Run an SMC calculator showing the correct SMC grants for this scenario.