Rater Disability Evaluations and Pyramiding (Overview)

Trainee Handout

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Objectives

In order to accomplish the purpose of this lesson, the RVSR, DRO, or RQRS will be required to accomplish the following lesson objectives. TheRVSR, DRO, or RQRS will be able to:

* Define pyramiding
* Identify the prohibition against pyramiding
* Recognize specific pyramiding principles and how they are applicable to each of the body systems
* Discuss how the **Conflicts tab** in VBMS R assists with preventing Pyramiding

References

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

* [38 CFR 4.14, Avoidance of Pyramiding](https://www.ecfr.gov/cgi-bin/text-idx?SID=ad275643432556b9dda942343fb89296&mc=true&node=pt38.1.4&rgn=div5" \l "se38.1.4_114)
* [38 CFR 4.55, Principles of Combined Ratings for Muscle Injuries](http://www.ecfr.gov/cgi-bin/text-idx?SID=dfe9837fdb70e234eb6088450d0c7320&node=se38.1.4_155&rgn=div8)
* [38 CFR 4.56, Evaluation of Muscle Disabilities](https://www.ecfr.gov/cgi-bin/text-idx?SID=ad275643432556b9dda942343fb89296&mc=true&node=pt38.1.4&rgn=div5#se38.1.4_156)
* [38 CFR 4.73, Schedule of Ratings-Muscle Injuries](https://www.ecfr.gov/cgi-bin/text-idx?SID=ad275643432556b9dda942343fb89296&mc=true&node=pt38.1.4&rgn=div5#se38.1.4_173)
* [38 CFR 4.96, Special Provisions Regarding Evaluation of Respiratory Conditions](http://www.ecfr.gov/cgi-bin/text-idx?SID=fba5f58206272739e8530dca72f7e5de&mc=true&node=se38.1.4_196&rgn=div8)
* [38 CFR 4.115, Nephritis](http://www.ecfr.gov/cgi-bin/retrieveECFR?gp=&SID=98265e56f4fab42ed80bbfcafb08935f&mc=true&r=SECTION&n=se38.1.4_1115)
* [38 CFR 4.114, Schedule of Ratings – Digestive System](http://www.ecfr.gov/cgi-bin/text-idx?SID=678e1a0b35110a17aae704e69f2701f2&mc=true&node=se38.1.4_1114&rgn=div8)
* [38 CFR 3.310(d), Traumatic Brain Injury](http://www.ecfr.gov/cgi-bin/text-idx?SID=f0aa74b3307a3ad4b8794ead73ecfa75&node=se38.1.3_1310&rgn=div8)
* [38 CFR 4.126, Evaluation of Disability from Mental Disorders](http://www.ecfr.gov/cgi-bin/text-idx?SID=8243952e4c087d519ead7ee07bbcc9fd&node=se38.1.4_1126&rgn=div8)
* [38 CFR 4.150, Dental and Oral Conditions](http://www.ecfr.gov/cgi-bin/text-idx?SID=6b1ff7246870c3cd131925c19c59d381&node=se38.1.4_1150&rgn=div8)
* [M21-1 Part III, Subpart iv, 4.A](https://vaww.vrm.km.va.gov/system/templates/selfservice/va_kanew/help/agent/locale/en-US/portal/554400000001034/content/554400000014194/M21-1-Part-III-Subpart-iv-Chapter-4-Section-A-Musculoskeletal-Conditions?articleViewContext=article_view_browse_tree&isFeatured=undefined&topic=undefined), Musculoskeletal Conditions
* [M21-1 Part III, Subpart iv, 4.C](https://vaww.vrm.km.va.gov/system/templates/selfservice/va_kanew/help/agent/locale/en-US/portal/554400000001034/content/554400000014196/M21-1-Part-III-Subpart-iv-Chapter-4-Section-C-Conditions-of-the-Eyes?articleViewContext=article_view_browse_tree&isFeatured=undefined&topic=undefined), Considering Impairments of Both Visual Acuity and Visual Field
* [M21-1 Part III, Subpart iv, 4.F](https://vaww.vrm.km.va.gov/system/templates/selfservice/va_kanew/help/agent/locale/en-US/portal/554400000001034/content/554400000014199/M21-1-Part-III-Subpart-iv-Chapter-4-Section-F-Respiratory-Conditions?articleViewContext=article_view_browse_tree&isFeatured=undefined&topic=undefined), Respiratory Conditions
* [M21-1 Part III, Subpart iv, 4.L](https://vaww.vrm.km.va.gov/system/templates/selfservice/va_kanew/help/agent/locale/en-US/portal/554400000001034/content/554400000074735/M21-1-Part-III-Subpart-iv-Chapter-4-Section-L-Skin-Conditions?articleViewContext=article_view_browse_tree&isFeatured=undefined&topic=undefined), Skin Conditions
* [M21-1 Part III, Subpart iv, 4.N,](https://vaww.vrm.km.va.gov/system/templates/selfservice/va_kanew/help/agent/locale/en-US/portal/554400000001034/content/554400000076269/M21-1-Part-III-Subpart-iv-Chapter-4-Section-N-Neurological-Conditions-and-Convulsive-Disorders?articleViewContext=article_view_browse_tree&isFeatured=undefined&topic=undefined) Neurological Conditions and Convulsive Disorders
* [M21-1 Part III, Subpart iv, 6.D](https://vaww.vrm.km.va.gov/system/templates/selfservice/va_kanew/help/agent/locale/en-US/portal/554400000001034/content/554400000014207/M21-1-Part-III-Subpart-iv-Chapter-6-Section-D-Codesheet-Section?articleViewContext=article_view_browse_tree&isFeatured=undefined&topic=undefined), Sample Draft Code-sheet, Amputation Rule
* [M21-1, Part III, Subpart iv 6.C](https://vaww.vrm.km.va.gov/system/templates/selfservice/va_kanew/help/agent/locale/en-US/portal/554400000001034/content/554400000014206/M21-1-Part-III-Subpart-iv-Chapter-6-Section-C-Completing-the-Rating-Decision-Narrative?articleViewContext=article_view_browse_tree&isFeatured=undefined&topic=undefined) , Completing the Rating Decision Narrative
* Decision Assessment Document (DAD), [Esteban v. Brown, No. 92-693](https://vbaw.vba.va.gov/bl/21/advisory/CAVC/1994dec/Esteban.doc) - Pyramiding

Topic 1: Pyramiding

It remains the RVSR’s responsibility to ensure that when rating a Veterans case that you remain vigilant against pyramiding situations and to recognize specific pyramiding principles applicable to each of the body systems.

**38 CFR 4.14, Avoidance of Pyramiding:**

The evaluation of the same disability under various diagnoses is to be avoided. Disability from injuries to the muscles, nerves, and joints of an extremity may overlap to a great extent, so that special rules are included in the appropriate bodily system for their evaluation. Dyspnea, tachycardia, nervousness, fatigability, etc., may result from many causes; some may be service connected, others, not. 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.

**Pyramiding: Joints and Pain:**

[38 CFR 4.59](http://www.ecfr.gov/cgi-bin/text-idx?SID=ad275643432556b9dda942343fb89296&mc=true&node=pt38.1.4&rgn=div5) does not permit separate compensable evaluations for each painful joint motion.

When each qualifying joint motion is painful but motion is not actually limited to a compensable degree under its applicable 52XX-series DC, only one compensable evaluation can be assigned.

When more than one qualifying joint motion is actually limited to a compensable degree and there is painful but otherwise non-compensable limitation of the complementary movement(s), only one compensable evaluation can be assigned.

**Pyramiding: Musculoskeletal Conditions:**

**Degenerative Arthritis**: Separate evaluations under diagnostic code 5003 with any other joint evaluation based on limitation of motion or painful motion, due to degenerative arthritis, is prohibited.

**Forearm:** Do not assign a compensable evaluation for both limitation of pronation and limitation of supination of the forearm in the same extremity.

**Fibromyalgia:** The criteria for the evaluation of fibromyalgia does not exclude assignment of separate evaluations when secondary disabilities are diagnosed. The same signs and symptoms; however, cannot be used to assign separate evaluations under different DCs.

**IVDS:** If the evaluation of IVDS is based on incapacitating episodes, a separate evaluation may not be assigned for limitation of motion, radiculopathy, or any other associated objective neurological abnormality.

**Arthroplasty:** Once joint replacement occurs, separate evaluations for range of motion and/or instability in the joint is prohibited.

**Meniscus (semilunar cartilage):** Do not assign separate evaluations for a meniscus disability (DC 5258/DC 5259) and limitation of motion in the same knee OR with subluxation/lateral instability.

**Shin Splints:** If the evaluation of shin splints is based on impairment of the knee and/or ankle joint, do not assign separate evaluations for shin splints and the applicable joint(s).

**Ankle Instability:** Separate evaluations for limitation of motion and instability of the ankle are prohibited.

**Pes Planus/Plantar Fasciitis:** When SC is established for both pes planus and plantar fasciitis, the symptoms of both symptoms are evaluated together under DC 5276 and cannot be separately evaluated.

**Muscles:** A separate evaluation cannot be assigned for each muscle within a single muscle group.

**Muscles/Joints:** 38 CFR 4.55, Principles of Combined Ratings for Muscle Injuries

**Muscles/Peripheral Nerves:** A muscle injury and a peripheral nerve paralysis of the same body part, whether associated with the muscle injury OR originating from other etiologies, may not be rated separately unless entirely different functions are affected.

**Pyramiding: Skin and Scars:**

**Disfigurement:** Multiple scars may not be added together to meet the width of scarring requirement under characteristics of disfigurement.

**Painful Scar(s):** A separate evaluation for a painful scar under DC 7804 may be assigned when the functional impairment is:

* distinct and separate from the functional impairment addressed by another DC, and is not,
* duplicative or overlapping with symptomatology addressed under another DC.
* **Scars associated with Muscle Injury**: If there is scarring that results in functional loss under DC 7805 that is compensable, do not assign a separate evaluation if the body part affected and the functional impairment resulting from the scar are the same as the part and function affected by the muscle injury.
* **Alternative Rating Criteria**: When evaluating skin conditions where the DC offers variable methods to evaluate the disability, assign only a single evaluation using the criteria that results in the higher rating. Do not assign separate evaluations.

**Example:**



**Percentage of Exposed Skin/Entire Body Affected**: Multiple skin conditions may receive separate evaluations based on the percentage of exposed areas affected by each skin condition.

**Pyramiding: Multiple Skin Conditions:**

If an examiner cannot provide separate percentages solely due to each skin condition, separate evaluations cannot be assigned using that criteria alone.

Medication Criteria: If the same medication is used to treat each skin condition, separate evaluations may not be assigned unless the separately evaluated condition uses alternative criteria to establish a disability evaluation.

**Pyramiding: Organs of Special Sense:**

**Vision:** Separate evaluations cannot be assigned for impairments of both visual acuity and visual field defect. The evaluations must be combined as a single disability.

**Meniere’s Syndrome:** Do not combine an evaluation for hearing impairment, tinnitus, or vertigo with an evaluation of Meniere’s disease under DC 6205.

**Pyramiding: Respiratory Conditions:**

**Co-existing Respiratory Conditions:** 38 CFR 4.96(a)

* Ratings under DCs 6600-6817 and 6822-6847 cannot be separately evaluated.
* Where there is lung or pleural involvement, ratings under DCs 6819 and 6820 cannot be separately evaluated from each other or the DCs noted above.
* Single ratings are assigned under the diagnostic code which reflects the predominant disability with elevation to the next higher evaluation when the severity of the overall disability warrant such elevation.

**GSW and Respiratory**: Separate evaluations for restrictive lung disease due to gunshot wound and muscle group XXI cannot be assigned

**Pyramiding: Cardiovascular System**

**Hypertension:** Evaluate hypertension due to aortic insufficiency or hyperthyroidism, as part of the condition causing it rather than by a separate evaluation.

**Cardiovascular and Nephritis:** 38 CFR 4.115 Separate ratings are not to be assigned for disability from disease of the heart (which includes hypertension) and any form of nephritis unless there is absence of a kidney or regular dialysis is required.

**Cold Injury:** Separately diagnosed residuals of cold injuries, such as Raynaud’s phenomenon, muscle atrophy, etc., cannot be assigned as separate evaluations if they are used to support an evaluation under DC 7122.

**Pyramiding: Digestive Body System**

38 CFR 4.114: Evaluations of digestive conditions under certain DCs will not be combined with each other or assigned separate evaluations. Instead, a single evaluation should be assigned under the DC which reflects the predominant disability, with elevation to the next higher evaluation when the severity of the overall disability warrants such elevation.

Do not combine separate evaluations of digestive conditions with each other under the following 38 CFR 4.114 DCs:

* 7301 to 7329, inclusive (meaning all the DCs from 7301 to 7329)
* 7331
* 7342, and
* 7345 to 7348, inclusive (meaning all the DCs from 7345 to 7348).

**Pyramiding: Endocrine System**

**Diabetic Complications**:

* Evaluate compensable complications of diabetes mellitus separately unless they are a part of the criteria used to support a 100-percent evaluation under DC 7913.
* Non-compensable complications of diabetes mellitus are considered part of the diabetic process under DC 7913.

**Hyperthyroidism**: Symptoms of hyperthyroidism used to support the evaluation of other DCs; or, granted as separate disabilities, cannot be used to support an evaluation under DC 7900.

**Pyramiding: Traumatic Brain Injury (TBI)**

**Multiple Evaluations**: In addition to the evaluation for TBI manifestations under DC 8045, separate evaluations of comorbid mental, neurologic, or other physical disorder can be assigned unless the manifestation was used to assign an evaluation under DC 8045.

**TBI and Vertigo**: A separate evaluation of vertigo cannot be assigned. Vertigo is a subjective symptom that is already considered in the facets of TBI criteria.

**Pyramiding: Peripheral Nerves**

**Upper Extremities**: Separate evaluations may not be assigned for disability affecting multiple nerve branches of the same upper extremity.

**Lower Extremities**: Separate evaluations for disability affecting lower extremity nerves are warranted when symptoms arise from any of the five individual nerve branches.

* If symptoms arise from within the same nerve branch of any of the five individual nerve branches in the lower extremity, assigning separate evaluation for those symptoms would constitute pyramiding.

**Pyramiding: ALS/MS**

**Amyotrophic Lateral Sclerosis (ALS):** If a single 100 percent evaluation is warranted for a complication of ALS, assign a 100 percent for that complication and separately evaluate additional complications. Do not assign a separate evaluation under DC 8017; however, as this would constitute pyramiding.

**Multiple Sclerosis (MS):** Residuals of MS are evaluated separately when the combined evaluation for the residuals are 30 percent or greater. When residuals are separately evaluated, the minimum evaluation under DC 8018 may not be concurrently assigned.

Pyramiding: Mental

Physical/Mental Disorders: 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 DC which represents the dominant (more disabling) aspect of the condition.

* To warrant separate evaluations, the symptoms considered must be distinct and not overlap.

**Reference:** 38 CFR 4.126(d), Evaluation of disability from mental disorders

**Pyramiding: Dental and Oral Conditions**

**Inter-Incisal Motion**: In assigning an evaluation for TMJ or any other dental disability on the basis of limited motion of temporomandibular articulation under DC 9905, do not assign separate evaluations for limited inter-incisal motion involving each side of the jaw.

* If both sides of the jaw are affected, use the limitation of motion on the side that affords the highest evaluation.

Topic 2: Review of VBMS-R Conflicts Tab

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| --- |
| Built within VBMS R is the **Conflicts tab**. This function was created to assist the RVSR with recognizing “potential” conflicts that could arise when processing a rating decision. One such recognition that this tab supports is the prevention of pyramiding. The **Conflicts tab** is programmed to assist us with resolving those problems.Review the screen shots below which demonstrate the functionality of the **Conflicts tab** and when engaged and reviewed will assist the RVSR in ensuring that pyramiding is prevented.*The example in the slides refers to GERD and IBS.* |
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Practical Exercise

Directions: Answer the following questions:

**The instructor is to review the scenarios with the trainees and provide the answers to the associated questions.**

1. Which of the following are considered pyramiding? (select all that apply)
* Assigning separate evaluations for TBI and a mental disorder when there is clear and unequivocal medical evidence showing the disabilities are separate and distinct
* Assigning separate evaluations for multiple nerve branches of the same lower extremity
* Assigning separate compensable evaluations for each painful joint motion under 38 CFR 4.59
* Assigning separate evaluations for limited inter-incisal motion affecting both sides of the jaw
* Assigning separate evaluations for multiple nerve branches of the same upper extremity
* Assigning separate evaluations for radiculopathy when the evaluation for IVDS is based on limitation of motion
1. What regulation prohibits the evaluation of the same disability under various diagnoses?
* 38 CFR 4.14
* 38 CFR 4.56
* 38 CFR 4.96
* 38 CFR 4.114
1. Which of the following would not be considered pyramiding?
* A 30% evaluation for Parkinson disease under DC 8004 and a 50% evaluation for complete paralysis of the fifth cranial nerve due to Parkinson’s disease under DC 8205
* A 10% evaluation under DC 8520 and an evaluation under DC 8528 in the same extremity
* A 10% evaluation under DC 5260 for limitation of flexion in the right knee and a 10% evaluation for painful extension of the right knee under 38 CFR 4.59
* A 30% evaluation for nephropathy under DC 7541 and a 10% evaluation for hypertension under DC 7101
1. Which manual reference assures avoidance of pyramiding when evaluating painful motion?
* M21-1, Part III, Subpart iv.6.B.2
* M21-1, Part III, Subpart iv.4.A.1
* M21-1, Part III, Subpart iv.4.G.2
* M21-1, Part III, Subpart iv.4.A.3
1. Which manual reference assures avoidance of pyramiding when evaluating intervertebral disc syndrome (IVDS) with radiculopathy of the lower extremities?
* M21-1 Part III, Subpart iv.4.A.5.a
* M21-1 Part III, Subpart iv.4.A.3
* M21-1 Part III, Subpart iv.6.B.2
* M21-1 Part III, Subpart iv.4.A.7
1. Which regulation assures avoidance of pyramiding when evaluating Traumatic Brain Injury (TBI) cases?
* 38 CFR 4.71a
* 38 CFR 4.130
* 38 CFR 4.124a
* 38 CFR 4.20
1. Which regulation assures avoidance of pyramiding when evaluating respiratory cases?
* 38 CFR 4.71a
* 38 CFR 4.150
* 38 CFR 4.96
* 38 CFR 4.117
1. Which regulation assures avoidance of pyramiding when evaluating digestive cases?
* 38 CFR 3.400
* 38 CFR 4.88a
* 38 CFR 4.14
* 38 CFR 4.113
* 38 CFR 4.115
1. Can the RVSR grant service connection to a Veteran for Sleep Apnea and Asthma?
* Yes
* No
1. Can you assign an evaluation for dermatitis based on percentage of involvement of the entire body and a separate evaluation based on the residual scarring?
* Yes
* No

If you replied yes what manual reference supports this decision?\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

If you replied no what manual reference supports this decision?\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**Rater Disability Evaluations and Pyramiding (Overview)**

**Tms #**

You have completed the instructional part of training on Rater Disability Evaluations and Pyramiding. You must log in to TMS and enter ID# to complete the online assessment and survey to receive credit for this training. The assessment requires a score of 80% to pass. Any available resource can be utilized to complete the assessment. This includes but not limited to lesson handout, internet/intranet web sites, job aides, PowerPoint and any applicable reference materials. You will have unlimited attempts to pass this assessment.