

**RATING ISSUES INVOLVING AUTOMOBILE & ADAPTIVE
EQUIPMENT ALLOWANCE, SPECIAL ADAPTED HOUSING &
SPECIAL HOUSING ADAPTATION, AND VETERAN'S CIVIL
SERVICE PREFERENCE**

STUDENT HANDOUT

Objectives

Topic objectives:

The RVSR will be able to:

- Know where to locate the references for this topic
- Be familiar with the schedular requirements for eligibility

References

- 38 CFR 3.808
- M21-1MR IX.i.2
- 38 USC Chapter 39
- September 2013 C&P Bulletin
- VAOPGCPREC 60-09
- 38 CFR 3.809
- 38 CFR 3.809a
- M21-1MR IX.i.3
- 38 USC Chapter 21
- PL 112-154 (2012)
- December 2013 C&P Bulletin Addendum
- FL 13-05
- FL14-01
- 38 CFR 3.357
- M21-1MR IX.ii.2.7.a-d

Topic 1: Automobile and Adaptive Equipment Allowance

Veterans or servicepersons with certain service-connected disabilities may be entitled to financial assistance in purchasing a new or used automobile (or other conveyance). Review the basic eligibility criteria for the **automobile grant**.

- loss, or permanent loss of use, of one or both feet
- loss, or permanent loss of use, of one or both hands, or
- permanent impairment of vision in both eyes with a
 - central visual acuity of 20/200 or less in the better eye with corrective glasses, or
 - central visual acuity of more than 20/200 if there is a field defect in which the peripheral field has contracted to such an extent that the widest diameter of visual field has an angular distance no greater than 20 degrees in the better eye.
- Severe burn injury as deep partial thickness or full thickness burns resulting in scar formation that cause contractures and limit motion of one or more extremities or the trunk and preclude effective operation of an automobile.
- Amyotrophic lateral sclerosis (ALS)

Review the basic eligibility criteria for **adaptive equipment only** with trainees:

1. Ankylosis of one or both knees, or;
2. Ankylosis of one or both hips.
3. Qualifying disabilities must be incurred/aggravated by service **or** be entitled to compensation under 38 USC 1151;
4. “Paired organs/extremities” under 38 CFR 3.383

Provide some examples of adaptive equipment (e.g., power steering, power brakes, special equipment necessary to assist the eligible person into and out of the automobile or other conveyance).

Discuss the fact that the law only permits the automobile grant **ONCE** in the veteran’s lifetime, but there is no limit on the adaptive equipment.

“**Paired organs/extremities**” under 38 CFR 3.383 do **NOT** establish eligibility if the impairment of vision in one eye is due to a nonservice-connected disease or injury. However, entitlement to the automobile an adaptive equipment allowance may be based on disability of

paired extremities under 38 CFR 3.383 because eligibility under 38 U.S.C. Chapter 39 requires the SC loss, or loss of use, of only one hand or one foot.

**VAOPGCPREC 60-09 which indicates eligibility for an automobile grant may be based on functional as well as organic loss of use of an extremity or blindness. Example: A conversion reaction may cause functional, as opposed to organic, blindness.

Note that a veteran or serviceperson who qualifies for the automobile allowance also qualifies for adaptive equipment

When is a Rating Required?

A rating decision must be prepared if a claim for automobile or adaptive equipment is received and the issue has not been previously considered. Explain that the issue of eligibility for automobile or adaptive equipment is also inferred from a disability rating that fulfills the applicable disability criteria.

Stress that, rating decisions finding eligibility to adaptive equipment *only* must be clear that it does **NOT** include the automobile allowance.

Topic 2: Specially Adapted Housing/Special Home Adaptation Grant

SPECIALLY ADAPTED HOUSING

Explain that veterans or servicepersons with certain service-connected disabilities may be entitled to a grant to help build a new specially adapted home or buy one and modify it to meet their disability-related requirements. Review the basic eligibility requirements for **Specially Adapted Housing (SAH)** with the trainees:

- amyotrophic lateral sclerosis (ALS)
- loss or loss of use of
 - both lower extremities
 - one lower extremity and one upper extremity affecting balance or propulsion, or
 - one lower extremity plus residuals of organic disease or injury affecting balance or propulsion such as to preclude locomotion without the aid of braces, crutches, canes, or a wheelchair;

- loss or loss or use of both upper extremities precluding use of the arms at or above the elbow;
- blindness in both eyes, having light perception only, and the loss or loss of use of one lower extremity; or,
- a severe burn injury
 - full thickness or subdermal burns that have resulted in contractures with limitation of motion of
 - two or more extremities, or
 - at least one extremity and the trunk.

For Veterans who served on or after 9/11/2001, and the injury was incurred on or after 9/11/2001, the loss or loss of use of one lower extremity which so affects balance or propulsion so as to preclude ambulating without the aid of braces, crutches, canes, or a wheelchair. (Effective 10/1/2012, Sunset provision 9/30/2014)

This provision is only available to Global War on Terror (GWOT) Veterans and differs from prior SAH benefits in the following ways:

- There must be loss or loss of use (LOU) of a minimum of one leg, rather than both.
 - The loss or LOU must be permanent but need not be totally disabling.
 - The loss or LOU must prevent ambulation (walking) without the use of braces, crutches, canes or a wheelchair. Former SAH provisions provided that the disability must preclude locomotion, which may be interpreted as precluding movement rather than specifically precluding walking/ambulation. As a result, if a competent medical opinion shows that due to the loss or LOU of at least one lower extremity, the GWOT Veteran cannot walk without the use of braces, crutches, canes or a wheelchair, which are used for the purpose of balance or propulsion, award the SAH benefit to the Veteran.
1. Qualifying disabilities must be considered permanent (M21-1 MR IX.i.3.1.a);
 2. Qualifying disabilities must be incurred/aggravated by service **or** be entitled to compensation under 38 USC 1151;
 3. “Paired organs/extremities” under 38 CFR 3.383 do **NOT** establish eligibility.
 4. ALS rated totally disabling

Explain to trainees that “preclude locomotion” as defined by 38 CFR 3.809(d) permits occasional locomotion by other means so long as the use of aids is the *normal* means of locomotion. In other words, the veteran can *occasionally* walk unassisted and still meet the eligibility requirements of the law as long as the use of the described aids was the *usual* method of locomotion.

Note the **exception** that servicepersons may *not* qualify for benefits based on the loss, or loss of use of, both upper extremities.

A rating decision is required upon receipt of a specific claim (i.e., VA Form 21-4555), even if a prior rating decision established S/C for the qualifying disabilities (but did not address the ancillary benefit). A decision is also required if a report of examination or hospitalization and VA Form 10-4555b, *Certificate of Medical Feasibility*, are received.

Rating decisions initially establishing S/C for the qualifying disabilities should also address any appropriate ancillary benefit as an inferred issue. In either case, a copy of the rating decision should be referred to Loan Guaranty or the Regional Loan Processing Center as appropriate. Only in cases where prior ratings specifically established eligibility to the ancillary benefit at issue would a new rating decision not be required.

SPECIAL HOME ADAPTATION GRANT

Veterans or servicepersons with certain service-connected disabilities may be entitled to a grant for necessary adaptations to their residence or to help with the acquisition of a residence already adapted with special features for their disability. Review the basic eligibility requirements for **Special Home Adaptation (SHA) grant** with the trainees:

1. Blindness in both eyes with visual acuity of 20/200 (corrected) or less in the better eye
 - A. 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;
2. Anatomical loss or LOU of both hands, and;
3. Permanent and total injury due to severe burn injury, which includes the following:
 - A. Deep partial thickness burns, resulting in contractures with limitation of motion of
 - i. Two or more extremities, or;
 - ii. At least one extremity and the trunk
 - B. Full thickness or subdermal burns that have resulted in contracture(s) with limitation of motion of one or more extremities OR the trunk (effective 10/1/2012), or;

4. Residuals of an inhalation injury (including, but not limited to, pulmonary fibrosis, asthma, and chronic obstructive pulmonary disease)

Qualifying disabilities must be considered permanent (M21-1 MR IX.i.3.1.a)** (*It is indicated that disabilities must be considered permanent; however, with change to visual acuity requirement for SHA to 20/200 the requirement that visual impairment be permanently and totally disabling has been removed FL 13-05/ PL 112-154*)

Qualifying disabilities must be incurred/aggravated by service **or** entitled to compensation under 38 USC 1151.

“Paired organs/extremities” under 38 CFR 3.383 do **NOT** establish eligibility.

Note that prior payments of SHA do not preclude SAH payments.

Discuss that similar to SAH, ratings addressing SHA are required if a specific claim is received or if the issue is inferred from a disability rating that fulfills the applicable disability criteria.

Topic 3: Veteran’s Civil Service Preference

Federal agency hiring practices as administered by the Office of Personnel Management (OPM) and title 5 USC provide a 5 or 10 point increase on examination or rating scores if the applicant meets certain specific criteria. This is known generally as the “veterans preference”. This can prove to be of significant value for those veterans seeking federal employment.

Basic eligibility for civil service preference requires an honorable or under honorable conditions (general) discharge from active military service. Active duty for training or service in the National Guard or Reserve components is NOT qualifying service, even if S/C has been established for a disability incurred/aggravated by such service. However, if the Guard or Reserve unit to which the veteran was assigned was ordered to active duty under title 10 USC, it becomes qualifying service.

For the purpose of certifying civil service disability preference, a S/C disability may be assigned an evaluation of "*less than ten percent*" for any directly or presumptively S/C disease or injury that exhibits some extent of actual impairment.

Review Exercises

1. Prior rating decision established S/C for loss of use of left leg (40%) and other disabilities combining to 60%. Veteran now files a claim for automobile allowance which he has never requested to date. Is veteran eligible for automobile/adaptive equipment? Is a rating decision required to complete this claim? Why or why not?
2. Veteran has severe service-connected disabilities of the cardiovascular and respiratory systems, combining to 100% with SMC "L" based on need for aid and attendance. He files a claim for automobile/adaptive equipment. Is he eligible? Is a rating decision required to complete this claim? Why or why not?
3. Veteran has a 30% S/C disability of the left knee, files a claim for automobile/adaptive equipment, stating that his knee precludes him from properly using the brake pedal. Vet's last rating was more than 2 years ago. Is veteran eligible for automobile/adaptive equipment? What is proper action required by RVSR to complete this claim? Is a rating decision required to complete this claim? Why or why not?
4. Veteran files claim for S/C, claims LOU of lower extremities secondary to motor vehicle accident in service, in which he was a passenger. Medical evidence confirms LOU, however veteran states that he "hates to use his crutches, and can't use wheelchair since house is too small, so [he] sometimes just holds on to things and pulls himself along." If disabilities are S/C, is vet eligible for SAH since his disabilities "preclude locomotion without aid of braces, crutches, canes, or a wheelchair"? Should rating decision specifically address issue of entitlement to SAH even though veteran did not claim it?
5. Veteran previously found eligible for SAH while living in another state. Vet has now relocated and files another claim. Is a rating decision required in order to complete this claim? Why or why not?

6. Veteran requests Civil Service Preference based on disability. Assume veteran meets service requirements. Only SCD is a 0% evaluation for healed, non-displaced fracture of left little finger. Rating that established S/C noted no scars or loss of function. Is veteran eligible for the 10-point preference? Is a rating decision required? Why or why not?

7. Veteran requests Civil Service Preference based on disability. Assume veteran meets service requirements. Only SCD is a 0% for residuals of prostate cancer, but has SMC "K" for loss of use of creative organ. Is veteran eligible for the 10-point preference? Is a rating decision required? Why or why not?

8. True or False. For a veteran to be entitled to Special Adapted Housing or Special Home Adaptation grant, the qualifying disabilities must be permanent in nature.

9. Which of the following statements are true? Select all that apply.

- A. Servicepersons are not eligible for automobile/adaptive equipment allowance or SAH/SHA grant.
- B. A veteran who is entitled to compensation under 38 CFR 3.383 is not eligible for automobile/adaptive equipment allowance or SAH/SHA grant.
- C. A veteran who has ALS that is totally disabling qualifies for Specially Adapted Housing.
- D. Anatomical loss, or loss of use of, both upper extremities does not qualify a service- person for SAH benefits only a veteran.

10. Veteran is receiving 100% compensation for loss of use of both legs under 38 USC 1151. The veteran files a claim for automobile/adaptive equipment on that basis. He has no service-connected disabilities. Is the veteran eligible to the automobile/adaptive equipment? Is a rating decision required to complete this claim? Why or why not?

11. The veteran is receiving 100% compensation for anatomical loss of the left leg and loss of use of the right leg under 38 USC 1151, and requires a wheelchair for locomotion. The rating decision establishing compensation did not address any ancillary issues. The veteran does not have any service-connected disabilities. A claim for Special Home Adaptation grant has been received. Is the veteran eligible? Is a rating decision needed? Why or why not?