**Rating Reductions (RVSR IWT)**

**References**

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| 38 CFR [3.103](http://www.ecfr.gov/cgi-bin/text-idx?SID=22d6d1c5b67ceacb47c6a5bb64354fb2&mc=true&node=se38.1.3_1103&rgn=div8)  Procedural due process & appellate rights  38 CFR [3.105](http://www.ecfr.gov/cgi-bin/retrieveECFR?gp=&SID=22d6d1c5b67ceacb47c6a5bb64354fb2&mc=true&r=SECTION&n=se38.1.3_1105)  Revision of decisions |
| 38 CFR [3.327](https://www.ecfr.gov/cgi-bin/text-idx?SID=ad275643432556b9dda942343fb89296&mc=true&node=pt38.1.3&rgn=div58#se38.1.3_1327)  Reexaminations |
| 38 CFR [3.344](http://www.ecfr.gov/cgi-bin/text-idx?SID=22d6d1c5b67ceacb47c6a5bb64354fb2&mc=true&node=se38.1.3_1344&rgn=div8)  Stabilization of disability evaluations  38 CFR [3.400](https://www.ecfr.gov/cgi-bin/retrieveECFR?gp=&SID=4d51e254201ddaae5c86de032e4486a5&mc=true&n=pt38.1.3&r=PART&ty=HTML#se38.1.3_1400) Effective dates |
| 38 CFR [3.500](http://www.ecfr.gov/cgi-bin/text-idx?SID=22d6d1c5b67ceacb47c6a5bb64354fb2&mc=true&node=se38.1.3_1500&rgn=div8)  Reductions and discontinuances – General |
| 38 CFR [3.501](http://www.ecfr.gov/cgi-bin/retrieveECFR?gp=&SID=22d6d1c5b67ceacb47c6a5bb64354fb2&mc=true&r=SECTION&n=se38.1.3_1501)  Reductions and discontinuances – Veterans |
| 38 CFR [3.655](http://www.ecfr.gov/cgi-bin/text-idx?SID=22d6d1c5b67ceacb47c6a5bb64354fb2&mc=true&node=se38.1.3_1655&rgn=div8)  Failure to report for DVA examination |
| 38 CFR [3.951](http://www.ecfr.gov/cgi-bin/text-idx?SID=22d6d1c5b67ceacb47c6a5bb64354fb2&mc=true&node=se38.1.3_1951&rgn=div8)  Preservation of disability ratings |
| 38 CFR [3.952](http://www.ecfr.gov/cgi-bin/retrieveECFR?gp=&SID=22d6d1c5b67ceacb47c6a5bb64354fb2&mc=true&r=SECTION&n=se38.1.3_1952)  Protected ratings |
| 38 CFR [3.957](http://www.ecfr.gov/cgi-bin/retrieveECFR?gp=&SID=22d6d1c5b67ceacb47c6a5bb64354fb2&mc=true&r=SECTION&n=se38.1.3_1957)  Service connection |
| [M21-1 I.2](https://vaww.vrm.km.va.gov/system/templates/selfservice/va_kanew/help/agent/locale/en-US/portal/554400000001034/topic/554400000003064/Chapter-2-Due-Processhttps:/vaww.vrm.km.va.gov/system/templates/selfservice/va_kanew/help/agent/locale/en-US/portal/554400000001034/topic/554400000003064/Chapter-2-Due-Process)Due Process  [M21-1 I.6](https://vaww.vrm.km.va.gov/system/templates/selfservice/va_kanew/help/agent/locale/en-US/portal/554400000001034/content/554400000100824/M21-1-Part-I-Chapter-6-Higher-Level-Reviews-HLRs?query=higher%20level%20review) Higher Level Reviews  [M21-1 III.ii.3.E](https://vaww.vrm.km.va.gov/system/templates/selfservice/va_kanew/help/agent/locale/en-US/portal/554400000001034/content/554400000033133/M21-1,-Part-III,-Subpart-ii,-Chapter-3,-Section-E---Establishing-an-Appellate-Record#1ehttps://vaww.vrm.km.va.gov/system/templates/selfservice/va_kanew/help/agent/locale/en-US/portal/554400000001034/content/554400000033133/M21-1,-Part-III,-Subpart-ii,-Chapter-3,-Section-E---Establishing-an-Appellate-Record) Establishing an Appellate Record  [M21-1 III.iv.2.B](https://vaww.vrm.km.va.gov/system/templates/selfservice/va_kanew/help/agent/locale/en-US/portal/554400000001034/content/554400000015808/M21-1-Part-III-Subpart-iv-Chapter-2-Section-B-Revision-of-Decisions) Revision of Decisions |
| [M21-1 III.iv.8](https://vaww.vrm.km.va.gov/system/templates/selfservice/va_kanew/help/agent/locale/en-US/portal/554400000001034/topic/554400000003100/Chapter-08-Competency-Due-Process-and-Protected-Ratings) Competency, Due Process and Protected Ratings |
| [M21-1 IV.ii.2.F](https://vaww.vrm.km.va.gov/system/templates/selfservice/va_kanew/help/agent/locale/en-US/portal/554400000001034/content/554400000014564/M21-1-Part-IV-Subpart-ii-Chapter-2-Section-F-Compensation-Based-on-Individual-Unemployability-IUhttps:/vaww.vrm.km.va.gov/system/templates/selfservice/va_kanew/help/agent/locale/en-US/portal/554400000001034/content/554400000014564/M21-1-Part-IV-Subpart-ii-Chapter-2-Section-F-Compensation-Based-on-Individual-Unemployability-IU) Special Considerations in IU Claims  [M21-1 IV.ii.3.A](https://vaww.vrm.km.va.gov/system/templates/selfservice/va_kanew/help/agent/locale/en-US/portal/554400000001034/content/554400000014588/M21-1,-Part-IV,-Subpart-ii,-Chapter-3,-Section-A---General-Authorization-and-Claimant-Notification-Issues#3) Reductions in Disability Evaluations Under 38 CFR 3.105(e) |
| [M21-1 IV.ii.3.B](https://vaww.vrm.km.va.gov/system/templates/selfservice/va_kanew/help/agent/locale/en-US/portal/554400000001034/content/554400000014592/M21-1-Part-IV-Subpart-ii-Chapter-3-Section-B-Failure-to-Report-for-Review-Examinationhttps:/vaww.vrm.km.va.gov/system/templates/selfservice/va_kanew/help/agent/locale/en-US/portal/554400000001034/content/554400000014592/M21-1-Part-IV-Subpart-ii-Chapter-3-Section-B-Failure-to-Report-for-Review-Examination) Rating Activity Action After a Veteran Fails to Report for a Scheduled Reexamination  [RVSR Assistant – RVSR Effective Dates](http://epss.vba.va.gov/rvsr_assistant/RVSR_Effective_Dates/index.htmlhttp:/epss.vba.va.gov/rvsr_assistant/RVSR_Effective_Dates/index.html) |

**Rating Reductions (RVSR IWT)**

**Practical Exercise**

1. A rating decision dated March 5, 2018, proposes to find the Veteran incompetent, and the Veteran is notified of the decision on the same date. You review the file on May 20, 2018 and discover that the Veteran requested a hearing in a statement dated March 20, 2018. What action is appropriate?

1. A Veteran has been in receipt of individual unemployability benefits since June 19, 2014. The latest SSA wage data match indicates earned income over the poverty line and the Veteran is notified with due process to propose to discontinue entitlement to IU and sent a VA Form 21-4140 on March 1, 2018. You receive the file on May 5, 2018 and discover the form has not been returned. How should you proceed?

1. A Veteran has been service-connected for a lumbar strain, evaluated as 20-percent disabling, since July 17, 2016. The exam results on which the 20-percent evaluation was based showed limitation of lumbar flexion to a measure of 55 degrees. Also service-connected are the Veteran’s obstructive sleep apnea (50%) and his migraine headaches (30%). He claims an increase in the evaluation of the lumbar strain on September 1, 2018. Current examination results dated September 26, 2018 show flexion of 80 degrees, with a combined range of motion of 225 degrees. There are no findings consistent with muscle spasm, guarding, or intervertebral disc syndrome, nor were additional medical records identified or acquired in support of the contention. How should this claim be handled?

1. An evaluation has been in effect more than 5 years. We receive a review exam which shows improvement. Veteran will be 55 years old in one year. What is the appropriate next action? Should we or shouldn’t we schedule another examination in 18/24/30 months? Or should we just let the improvement go without action since the Veteran will be 55 by time we get another exam?

1. As an RVSR/DRO, you review VBMS evidence that includes an initial RFE that was requested prematurely (before the 3 years standard) and the examination shows improvement. Should a reduction still be adjudicated even though the RFE was requested too soon?