

INTRODUCTION TO SMC HANDOUT

**PREREQUISITE
TRAINING**

Prior to this training, you must have completed the RVSR lessons on References, Claims Recognition, General Policy in Rating, Effective Dates, and Rating Analysis and all lessons on the body systems.

**PURPOSE OF
LESSON**

The purpose of this lesson is to introduce you to the concept of Special Monthly Compensation (SMC), and to introduce you to the three most common levels of SMC and the schedular requirements for entitlement.

This lesson will present the following material:

- The concept of SMC
- SMC (K), (L), and (S)

OBJECTIVES

In order to accomplish the purpose of this lesson, the RVSR will be required to accomplish the following lesson objectives.

The RVSR will be able to:

- Demonstrate an understanding of the basis for SMC and how it fits into the process of determining disability evaluations.
- Know the reference for the topics of SMC K, L, S
- Be familiar with the schedular requirements for eligibility

TIME REQUIRED

2.5 hours

**INSTRUCTIONAL
METHOD**

Participatory discussion and practical exercise

**MATERIALS/
TRAINING AIDS**

Classroom or private area where a discussion may be held. Chairs and writing surfaces are required.

Large writing surface such as - easel pad, chalkboard, dry erase board, overhead projector, etc., with appropriate markers, or computer with projection equipment and PowerPoint software.

- Handout with Review Exercise
- PowerPoint Presentation

TABLE OF CONTENTS

References3
The Concept of Special Monthly Compensation4
SMC “K”4
SMC “L”5
SMC “S”6
Review Exercise9

REFERENCES

- 38 USC 1114
- 38 USC 1521(e)
- 38 CFR 3.350
- 38 CFR 3.351(d)
- 38 CFR 3.352
- 38 CFR 3.951
- 38 CFR 4.63
- 38 CFR 4.64
- M21-1 IV.ii.2.H
- M21-1 IV.ii.2.I
- *Bradley v Peake*
- *Guerra v Shinseki*
- FAQ “Scheduler Housebound under 1114(s)”

The Concept of Special Monthly Compensation (SMC)

As the concept of rating disabilities has evolved over the past century, it was realized that, for certain types of disabilities, the rate of payment in effect at that time was not sufficient for the level of disability present when compared to other disabilities whose rate of payment was the same. Therefore, “Special Monthly Compensation” came about to recognize the severity of certain disabilities or combinations of disabilities by adding an additional compensation to the basic rate. Generally speaking, these SMC’s are granted for disabilities where (in order of increasing severity) the disability picture involves:

1. Loss or loss of use (LOU) of specific organs, sensory functions, or extremities;
2. Disabilities that confine the Veteran to his/her residence;
3. Disabilities that render the Veteran permanently bedridden or in need of aid and attendance (A&A);
4. Combinations of severe disabilities that significantly affect locomotion;
5. Existence of multiple, independent disabilities each rated at 50% or 100%;
6. Existence of multiple disabilities which, in total, render the Veteran in need of such a degree of special skilled assistance that, without same, would be permanently confined to a skilled-care nursing home.

This lesson, however, will confine itself to only the first three examples; later lessons will deal with the other, more complex levels of SMC levels.

SMC is paid *in addition to* schedular disability compensation, as with SMC K, or is a rate paid in lieu of schedular compensation rates. SMC levels are evaluations, not disabilities. Thus, they accrue protection under 38 CFR 3.951.

They are referred to in VA vernacular or acronym by the letter of the subparagraph of 38 USC 1114 that establishes the rate of payment. For example, SMC “K” refers to 38 USC 1114(k) that establishes the rate. Thus, that SMC is referred to as a “K”.

The SMC entitlements are shown on the rating decision in the “coded conclusion” section, after all coded disabilities are listed. If multiple SMC levels are granted, they are listed in order of increasing significance; the least severe first, in the SMC paragraph section of the rating code sheet. The text for each SMC will show the level of SMC, (e.g., 1114(k)), the reason for entitlement (e.g., “loss of use of a creative organ”), and the effective date of entitlement (e.g., “from 1/1/02”).

SMC “K”

Entitlement to SMC “K” requires:

- Anatomical loss or LOU of one hand;
- Anatomical loss or LOU of one foot;
- Loss or LOU of both buttocks;
- Loss or LOU of one or more creative organ(s);
- Blindness of one eye; LPO or greater
- Deafness of both ears;

- Complete organic aphonia; or,
- in the case of a women Veteran, loss of breast tissue or following receipt of radiation treatment of breast tissue.

It is possible to be entitled to multiple “K’s” as long as the qualifying disabilities involve separate and unrelated body functions, and each is considered only once. For example, “K” for loss of use of a creative organ, and “K” for loss of use of right hand.

Loss of use of a hand or foot can be conceded when the effective remaining function would be equally well served by an amputation with the use of a suitable prosthetic appliance. This is not to say that an amputation is warranted; only that the remaining function would be equally served with a prosthesis.

Loss of use of both buttocks shall be deemed to exist when there is severe damage by disease or injury to muscle group XVII, bilateral, (DC 5317) and additional disability making it impossible for the disabled person, without assistance, to rise from a seated position and from a stooped position and to maintain postural stability.

Loss of a creative organ or loss of ability to procreate naturally warrants a “K”. In males, this includes erectile dysfunction, whether or not it is overcome by medication. Loss of use of creative organ will be conceded following a radical prostatectomy. Loss or loss of use traceable to an elective operation will not establish entitlement to the benefit.

Loss of use or blindness in one eye, having only light perception, will be conceded when there is inability to recognize test letters at one foot and perception of objects, hand movements, or counting fingers cannot be accomplished at three feet.

Deafness of both ears, having absence of air and bone conduction, warrants SMC “K”. Complete organic aphonia is the inability of communication by voice or whisper through the normal organs of speech. The use of other organs of the body or prosthetic devices to provide voice sounds will not preclude entitlement to “K”.

Loss of 25% or more of tissue from a single breast or both breasts in combination (including loss by mastectomy or partial mastectomy) warrants assignment of “K” in *female* Veterans. “K” is also warranted following receipt of radiation treatment of breast tissue in female Veterans.

SMC “L”

Entitlement to SMC “L” requires:

- Anatomical loss or LOU of both feet;
- Anatomical loss or LOU of one hand and one foot;
- Blindness in both eyes with bilateral visual acuity of 5/200 or less;
- Being permanently bedridden; or
- In need of A&A.

“Loss of use” of a hand or foot for consideration of “L” is defined as it was for “K”; i.e., equally served with a prosthesis.

Note that the criteria for blindness in both eyes (“L”) contain better visual acuity than for blindness in one eye for entitlement to “K”. This is because total blindness in one eye is far less disabling than bilateral visual acuity of 5/200 or less. Concentric contraction of the field of vision beyond 5 degrees in both eyes is the equivalent of 5/200 visual acuity.

“Permanently bedridden” is not the same as A&A. For entitlement to SMC “L” on account of being permanently bedridden, it must only be shown that the Veteran is permanently bedridden on account of S/C disability. Generally, a single 100% disability is required.

The criteria for determining entitlement to A&A requires that the Veteran be so helpless as to require the aid and attendance of another person to perform the personal functions necessary for daily living. Generally, a single 100% disability is required for entitlement to SMC “L” for A&A.

***Always consider SMC when rating disabilities involving loss or loss of use. A common error is made when considering loss of use of both feet. RVSR’s often view it as two disabilities (LOU of left foot, LOU of right foot), assign a 40% evaluation to each, combining to 70% either with or without consideration of “K” when, in fact, it is a single disability warranting 100% evaluation (under DC 5110) plus SMC “L”.*

***While entitlement to multiple SMC’s is possible, remember that the disability can only be considered once. Consider the following scenario: Veteran has LOU of one foot, and properly assigned 40% plus “K”. Subsequently, Veteran sustains LOU of the other foot. Entitlement to “L” in this instance removes entitlement to the “K”, because you cannot use the same disability twice.*

SMC “S”

Entitlement to SMC “S” requires a single 100% service-connected disability, and:

- additional service-connected disability or disabilities independently ratable at 60 percent, or
- be factually housebound due to S/C disability.

Unlike other SMC’s, “S” can be temporary rather than permanent. A situation known as “statutory housebound” is often encountered when a Veteran with a 60% service-connected disability is awarded a temporary 100% evaluation for another service-connected disability. This meets the “single 100% with an additional 60% rule” even though the 100% is temporary, and the Veteran is not, in fact, confined to his residence.

In order to be considered factually housebound, the Veteran must be substantially confined to his/her dwelling and the immediate premises solely because of service-connected disability, and it must be reasonably certain that the disability (ies) and resultant confinement will continue throughout his/her lifetime.

Bradley v Peake: SMC HB

The court determined the provisions of 38 CFR 4.16 do not apply when considering what constitutes a single total disability for the purpose of granting entitlement to SMC s Housebound. As such, the total disability for SMC S Housebound grants cannot be a combination of disabilities , noted under 38 CFR 4.16(a) which are used to determine single disabilities of the purpose of granting entitlement to individual unemployability.

The court also decided that if IU was granted based on a single disability (rated between 60 and 90%), then it could count as a single "total" (100%) disability.

Therefore, if the Veteran has separate disabilities that are NOT the cause of IU and combine to 60% disabling or greater, entitlement to statutory housebound benefits may be granted.

The Federal Circuit stated 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 (3.350(i) is only payable if the Veteran has a single disability that is rated 100 percent. (Guerra v Shinseki).

Special Monthly Pension and Housebound

In Pension claims, the single 100-percent disability and the disability that causes the Veteran to be housebound *must* be permanent.

A finding of Housebound in this manner is sometimes referred to as "statutory housebound" because it is required by [38 U.S.C. 1521\(e\)](#).

Veterans eligible for pension qualify for Housebound status if they have a single **permanent** disability rated 100 percent under a schedular evaluation, and have other disabilities independently ratable at 60 percent or more, or are permanently housebound by reason of their disabilities, per [38 CFR 3.351\(d\)](#)

Common SMC S Errors

During the most recent OIG review, the following were noted as the most cited SMC S errors:

- Failure to grant SMC S when the criterion has been met. Remember to refer to 38 CFR 3.350(i) and 38 U.S.C. 1114(s) to ensure SMC S is properly considered and/or applied to claims when rating. Additionally note that SMC S may be granted on a temporary basis (ex. when the criterion is met with the granting of temporary 100% evaluation).

- Failure to close out SMC S on the date it should be discontinued. Please note that an additional line must be added to the SMC section of the code sheet to close out and indicate the date the benefit has been discontinued.

SMC Code Box:

Effective Date	Basic	Hosp	LOU Code	Anat Code	Other Loss Code	SMC Code
01-01-2010	48	48	00	00	0	S
05-01-2010	00	00	00	00	0	No SMC

- Improper grant of SMC S due to:
 - misapplication of Bradley v Peake
 - (a) provisions of 38 CFR 4.16 do not apply when considering what constitutes a single total disability for the purpose of granting entitlement to SMC S Housebound
 - (b) When IU is granted based on a single disability (rated between 60 and 90%), then it could count as a single "total" (100%) disability.
Therefore, if the Veteran has separate disabilities, apart from the single IU disability, that are NOT the cause of IU and combine to 60% disabling or greater, entitlement to statutory housebound benefits may be granted.
 - granting when the criterion has not been met. Remember to refer to 38 CFR 3.350(i) and 38 U.S.C. 1114(s) to ensure proper consideration and/or application when rating claims.
- Improper coding of SMC. When completing the SMC coding for the code sheet, it is very important the proper numbers are entered into VBMS-R from the SMC Calculator print out.
Note: A listing of all SMC codes can be located on the "codes" tab of the SMC Calculator.

REVIEW EXERCISE

1. A Veteran is totally deaf in one ear from S/C causes. Is there entitlement to SMC? If so, what level of entitlement is warranted?
2. A Veteran lost the sight of one eye from S/C causes. Is there entitlement to SMC? If so, what level of entitlement is warranted?
3. A Veteran has mumps in service and, as a result, suffers complete atrophy of both testes. Is there entitlement to SMC? If so, what level of entitlement is warranted?
4. Is it possible for a Veteran to be properly granted entitlement to three SMC "K" 's?
5. Is it possible for a Veteran to be properly granted entitlement to SMC "L" and SMC "K"?
6. "Permanently bedridden" is the same thing as A&A. True/False
7. A female Veteran is diagnosed with breast cancer of both breasts in service, treated successfully with radiation only. Is there eligibility to SMC? If so, what level of entitlement is warranted?
8. A Veteran with a temporary single 100% disability is found to be temporarily confined to his residence while recuperating from surgery. Is there eligibility to SMC? If so, what level of entitlement is warranted?
9. A Veteran has a 60% evaluation for a back condition and 10% for hypertension. He suffers a heart attack, warranting a temporary 100% evaluation for the heart. Is there eligibility to SMC? If so, what level of entitlement is warranted?
10. A Veteran has a single 100% disability of the respiratory system with no future examinations scheduled. Evidence is received showing that his condition is so severe that he cannot leave his house because of it. Is there eligibility to SMC? If so, what level of entitlement is warranted?