

A PRIMER ON VA DISABILITY ISSUES-PROCESS, STRATEGIES, AND RELATIONSHIP TO SOCIAL SECURITY DISABILITY CLAIMS

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- ▶ Basic Explanation of a VA Claim
- ▶ How VA Claims compare to Social Security Claims

OVERVIEW

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1. Veteran Status
2. Current Disability
3. Causal Relation Service
4. Rating
5. Effective Date

5 PARTS OF VA CLAIM

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- ▶ Under condition other than dishonorable
- ▶ Active service
- ▶ Line of duty determination
- ▶ Willful misconduct

VETERAN STATUS

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- ▶ Need physical or mental condition that limits you

CURRENT DISABILITY

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- ▶ Directly from service
- ▶ Secondary to service related condition
- ▶ Presumptive condition

CAUSAL RELATION TO SERVICE

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- ▶ VA Diagnostic Rating Codes 38 CFR Book C
- ▶ Case Law
- ▶ Other CFRs

RATING

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General Rating Formula for Mental Disorders

Rating

Total occupational and social impairment, due to such symptoms as: gross impairment in thought processes or communication; persistent delusions or hallucinations; grossly inappropriate behavior; persistent danger of hurting self or others; intermittent inability to perform activities of daily living (including maintenance of minimal personal hygiene); disorientation to time or place; memory loss for names of close relatives, own occupation, or own name. 100

Occupational and social impairment, with deficiencies in most areas, such as work, school, family relations, judgment, thinking, or mood, due to such symptoms as: suicidal ideation; obsessional rituals which interfere with routine activities; speech intermittently illogical, obscure, or irrelevant; near-continuous panic or depression affecting the ability to function independently, appropriately and effectively; impaired impulse control (such as unprovoked irritability with periods of violence); spatial disorientation; neglect of personal appearance and hygiene; difficulty in adapting to stressful circumstances (including work or a worklike setting); inability to establish and maintain effective relationships. 70

Occupational and social impairment with reduced reliability and productivity due to such symptoms as: flattened affect; circumstantial, circumlocutory, or stereotyped speech; panic attacks more than once a week; difficulty in understanding complex commands; impairment of short- and long-term memory (e.g., retention of only highly learned material, forgetting to complete tasks); impaired judgment; impaired abstract thinking; disturbances of motivation and mood; difficulty in establishing and maintaining effective work and social relationships. 50

Occupational and social impairment with occasional decrease in work efficiency and intermittent periods of inability to perform occupational tasks (although generally functioning satisfactorily, with routine behavior, self-care, and conversation normal), due to such symptoms as: depressed mood, anxiety, suspiciousness, panic attacks (weekly or less often), chronic sleep impairment, mild memory loss (such as forgetting names, directions, recent events). 30

Occupational and social impairment due to mild or transient symptoms which decrease work efficiency and ability to perform occupational tasks only during periods of significant stress, or symptoms controlled by continuous medication. 10

A mental condition has been formally diagnosed, but symptoms are not severe enough either to interfere with occupational and social functioning or to require continuous medication. 0

RATING EXAMPLE

Table I-Combined Ratings Table
[10 combined with 10 is 19]

	10	20	30	40	50	60	70	80	90
19	27	35	43	51	60	68	76	84	92
20	28	36	44	52	60	68	76	84	92
21	29	37	45	53	61	68	76	84	92
22	30	38	45	53	61	69	77	84	92
23	31	38	46	54	62	69	77	85	92
24	32	39	47	54	62	70	77	85	92
25	33	40	48	55	63	70	78	85	93
26	33	41	48	56	63	70	78	85	93
27	34	42	49	56	64	71	78	85	93
28	35	42	50	57	64	71	78	86	93
29	36	43	50	57	65	72	79	86	93
30	37	44	51	58	65	72	79	86	93
31	38	45	52	59	66	72	79	86	93
32	39	46	52	59	66	73	80	86	93
33	40	46	53	60	67	73	80	87	93
34	41	47	54	60	67	74	80	87	93
35	42	48	55	61	68	74	81	87	94
36	42	49	55	62	68	74	81	87	94
37	43	50	56	62	69	75	81	87	94
38	44	50	57	63	69	75	81	88	94
39	45	51	57	63	70	76	82	88	94
40	46	52	58	64	70	76	82	88	94
41	47	53	59	65	71	76	82	88	94
42	48	54	59	65	71	77	83	88	94
43	49	54	60	66	72	77	83	89	94
44	50	55	61	66	72	78	83	89	94
45	51	56	62	67	73	78	84	89	95
46	51	57	62	68	73	78	84	89	95
47	52	58	63	68	74	79	84	89	95
48	53	58	64	69	74	79	84	90	95
49	54	59	64	69	75	80	85	90	95
50	55	60	65	70	75	80	85	90	95
51	56	61	66	71	76	80	85	90	95
52	57	62	66	71	76	81	86	90	95
53	58	62	67	72	77	81	86	91	95
54	59	63	68	72	77	82	86	91	95
55	60	64	69	73	78	82	87	91	96
56	60	65	69	74	78	82	87	91	96
57	61	66	70	74	79	83	87	91	96
58	62	66	71	75	79	83	87	92	96
59	63	67	71	75	80	84	88	92	96
60	64	68	72	76	80	84	88	92	96
61	65	69	73	77	81	84	88	92	96
62	66	70	73	77	81	85	89	92	96

Table I-Combined Ratings Table
[10 combined with 10 is 19]

	10	20	30	40	50	60	70	80	90
63	67	70	74	78	82	85	89	93	96
64	68	71	75	78	82	86	89	93	96
65	69	72	76	79	83	86	90	93	97
66	69	73	76	80	83	86	90	93	97
67	70	74	77	80	84	87	90	93	97
68	71	74	78	81	84	87	90	94	97
69	72	75	78	81	85	88	91	94	97
70	73	76	79	82	85	88	91	94	97
71	74	77	80	83	86	88	91	94	97
72	75	78	80	83	86	89	92	94	97
73	76	78	81	84	87	89	92	95	97
74	77	79	82	84	87	90	92	95	97
75	78	80	83	85	88	90	93	95	98
76	78	81	83	86	88	90	93	95	98
77	79	82	84	86	89	91	93	95	98
78	80	82	85	87	89	91	93	96	98
79	81	83	85	87	90	92	94	96	98
80	82	84	86	88	90	92	94	96	98
81	83	85	87	89	91	92	94	96	98
82	84	86	87	89	91	93	95	96	98
83	85	86	88	90	92	93	95	97	98
84	86	87	89	90	92	94	95	97	98
85	87	88	90	91	93	94	96	97	99
86	87	89	90	92	93	94	96	97	99
87	88	90	91	92	94	95	96	97	99
88	89	90	92	93	94	95	96	98	99
89	90	91	92	93	95	96	97	98	99
90	91	92	93	94	95	96	97	98	99
91	92	93	94	95	96	96	97	98	99
92	93	94	94	95	96	97	98	98	99
93	94	94	95	96	97	97	98	99	99
94	95	95	96	96	97	98	98	99	99

CUMULATIVE TABLE

<https://www.va.gov/VA-combined-ratings-table-2019.pdf>

Disability Rating	Monthly Payment
10%	\$152.64
20%	\$301.74
30%	\$467.39
40%	\$673.28
50%	\$958.44
60%	\$1214.03
70%	\$1529.95
80%	\$1778.43
90%	\$1998.52
100%	\$3332.06

COMPENSATION RATING FOR SINGLE VETERAN

- ▶ Scheduler
- ▶ Extra scheduler

TOTAL DISABILITY INDIVIDUAL
UNEMPLOYABILITY

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- ▶ “ shall not be earlier than the close of receipt of application” 38 U.S.C. 5110 (a) (i)
- ▶ “date of the filing of the initial application of benefits if the claim is continuously pursued” 38 U.S.C. §5110 (a) (2)
- ▶ “date of receipt of the claim or the date entitlement arose, whichever is later” 38 C.F.R. § 3.400

(About 20 exceptions to those)

EFFECTIVE DATES (GENERALLY)

- ▶ Multidimensional
- ▶ Legacy v. AMA (February 19, 2019)
- ▶ Active Growing Area of Law
- ▶ Dealing with client
- ▶ Dealing with VA

SIMPLE RIGHT?

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VA Claim

- ▶ TDIU service connected conditions
- ▶ \$3,332.06 (maximum in most cases)
- ▶ Just service related conditions
- ▶ Treatment at VA

Social Security Claim

- ▶ All medical conditions
- ▶ Depends FICA taxes
- ▶ All conditions
- ▶ Medicare or Medicaid

VA CLAIM VS. SOCIAL SECURITY CLAIM

Pension

- ▶ \$1,229.41/month
- ▶ Annual worth \$138,489
- ▶ Limited VA medical
- ▶ Offset all income
- ▶ Offset SC money

Supplemental Security Income

- ▶ \$841.00/month
- ▶ Less than \$2000 in bank
- ▶ Medicaid
- ▶ Offset all income
- ▶ Offset SC money

PENSION VS. SUPPLEMENTAL SECURITY
INCOME



Questions?

