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“VA Proposed Updates: Mental Health, Sleep Apnea, and Tinnitus”

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11.0—Veterans' claims

The VA Schedule for Rating Disabilities (VASRD)³ explains how disabilities will be rated for purposes of receiving VA disability compensation.

On February 15, 2022, Veterans Affairs proposed changes⁴ to the way it rates some disabilities, including respiratory, auditory, and mental health conditions. The changes will have a significant impact on some of the most common VA claims, such as sleep apnea and mental health conditions.

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³ 38 C.F.R. Part 4.

⁴ Department of Veterans Affairs, *VA proposes updates to rating schedule for respiratory, auditory and mental disorders* (February 15, 2022), <https://news.va.gov/press-room/va-proposes-updates-to-rating-schedule-for-respiratory-auditory-and-mental-disorders/>.

The implementation date remains unclear, but with the end of the federal government's 2025 regulatory freeze, the potential exists that the changes will finally take effect.

This article will review the proposed rating schedule changes.

Summary of the Proposed Updates

- Changes to the evaluative rating criteria for sleep apnea to include responsiveness to medical treatment.
- No longer rating tinnitus as its own condition, but rather evaluating tinnitus as a *symptom* of the underlying disease that causes it.
- Changes to the way mental health conditions are evaluated by analyzing the condition overall (or more holistically) to focus on how the condition impacts cognition, interpersonal relationships, task completion, life activities, and self-care.
- Establishing a 10 percent minimum evaluation for having one or more service-connected mental health conditions, as well as no longer requiring that the veteran experience "total occupational and social impairment" to be rated at 100 percent.

VA suggests that these proposed changes would "enable VA to incorporate modern medical data and terminology" into its rating criteria and, in theory, make it easier for veterans to establish service connection and reach rating criteria eligibility.

What Is VASRD?

VASRD contains the disabilities for which veterans can be rated, divided into different categories depending on the bodily system to which the disability pertains. For example, there are separate categories for the digestive system, respiratory system, and the musculoskeletal system.

Each bodily system then lists diagnoses that can occur within that system with its corresponding diagnostic code, a four-digit code that corresponds to the disability.

Sleep Apnea Rating Changes

The number of veterans receiving compensation for sleep apnea, or interrupted breathing during sleep, has risen sharply in recent years. In a recent Annual Benefits Report⁵ released by VA, sleep apnea was the most prevalent respiratory condition in all service-connected veterans.

Under the current rating schedule, VA issues ratings at 0, 30, 50, 100 percent for sleep apnea even if treatments are effective at dealing with the condition.

Currently, if a veteran uses a CPAP machine, they will receive a 50 percent rating. If the proposed changes were to take effect, this would no longer be the case.

With the proposed changes, veterans could receive a 0 percent rating for asymptomatic sleep apnea, even if symptoms are fully treated by a CPAP machine or other treatment, for the first time.

Ratings would then increase based upon how symptomatic the condition remains after treatment

Veterans would receive ratings of 10 percent or higher “only when treatment is either ineffective or the veteran is unable to use the prescribed treatment due to comorbid conditions.”

This would allow VA to formally acknowledge a veteran’s condition without requiring any compensation if the condition is easily managed with treatment.

⁵ Department of Veterans Affairs, *Veterans Benefits Administration Reports* (February 14, 2024), <https://www.benefits.va.gov/REPORTS/abr/>.

Tinnitus Rating Changes

Similarly, veterans diagnosed with tinnitus would need to meet a higher standard in order to receive higher levels of disability compensation.

Currently, if a veteran has service-connected tinnitus, they will receive a 10 percent rating.

Under the VA proposed updates, tinnitus would need to be related to non-compensable hearing loss or another service-connected disability (e.g., TBI) in order to get a rating.

More than 1.5 million veterans are currently receiving disability benefits for tinnitus, which is a high-pitched ringing caused by damage to the ears.

VA officials noted that these changes would likely reduce the number of veterans qualifying for disability ratings of 10 percent or more.

However, VA also stated that the number of veterans who have the condition entered into their case files for future reference would not change.

Mental Health Rating Changes

VA studies have estimated that as many as 23 percent of veterans using VA care may suffer from PTSD.⁶ But outside experts have said the requirements for proving impairment under the current system remain difficult.

Under the new rules, conditions like anxiety, depression or PTSD would be evaluated based on how they affect veteran's ability to perform

⁶ "One study found that among Veterans using VA care, 23 out of every 100 (or 23%) had PTSD at some point in their lives, compared to 7 out of every 100 (or 7%) of Veterans who do not use VA for health care. An annual report from VA also offers information about PTSD in Veterans using VA care. Of the 5.8 million Veterans served in fiscal year 2024, about 14 out of every 100 men (or 14%) and 24 out of every 100 women (or 24%) were diagnosed with PTSD." Department of Veterans Affairs, *How Common is PTSD in Veterans?* (January 10, 2025), https://www.ptsd.va.gov/understand/common/common_veterans.asp.

everyday functions, with even mild impairment available for compensation.

The proposed rules for mental health conditions would increase the minimum disability rating from 0 to 10 percent. The rule would also get rid of a dated part of VASRD that prevents a veteran from getting a 100 percent rating for a mental health condition if they are able to work.

In addition, rather than assigning an evaluation based on the number and type of symptoms present, VA would implement new criteria to evaluate mental disorders based on how impactful the disability is across five domains of impairment: cognition, interpersonal interactions and relationships, task completion, life activities and navigating environments, and self-care.

The goal of these changes is to better recognize the impact of mental health on individuals' well-being "by placing greater emphasis on a disabled veteran's ability to function in the work setting, rather than focusing on symptoms alone."⁷

How Could These Updates Help Veterans?

According to VA, incorporating modern medical data into the rating criteria can help provide a more accurate assessment of disabilities and how they can impact earning capacity. This, in turn, would allow for more accurate compensation for service-connected disabilities.

How Will These Changes Impact Veterans' Monthly Compensation?

Proposed changes to the VA disability ratings system could mean lower payouts for veterans with sleep apnea and tinnitus in the future, but

⁷ Department of Veterans Affairs, *Schedule for Rating Disabilities: Mental Disorders* (February 15, 2022), <https://www.federalregister.gov/documents/2022/02/15/2022-02051/schedule-for-rating-disabilities-mental-disorders>.

higher payouts for veterans facing mental health challenges like post-traumatic stress disorder and depression.

Importantly, for veterans currently receiving disability benefits for one of these conditions, the changes will not take away any existing benefits or lower their disability rating.

In some cases, veterans might even see their ratings increased based on the changes, if the new rules end up more advantageous to their health situation.

On the other hand, veterans who apply for benefits in the future will see a different set of standards applied to their cases which could result in significant financial ramifications.

When Will These Changes Be Implemented?

As of now, VA officials do not have a planned implementation date for the ratings changes.

There was significant speculation that the changes would finally arrive at the end of 2024 or early 2025, but the new administration placed a regulatory freeze that may have led to a temporary hold on those plans.

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