



DEPARTMENT OF VETERANS AFFAIRS
Veterans Benefits Administration
Washington, D.C. 20420

May 12, 2014

Director (00/21)
All VBA Regional Offices and Centers

In Reply Refer To: 211D
Fast Letter 14-03

SUBJ: Final Rule: RIN 2900-AO31, "Eligibility of Disabled Veterans and Members of the Armed Forces With Severe Burn Injuries for Financial Assistance in the Purchase of an Automobile or Other Conveyance and Adaptive Equipment."

Purpose

This Fast Letter provides information regarding how the Department of Veterans Affairs (VA) will evaluate applications for financial assistance in the purchase of an automobile or other conveyance and adaptive equipment based on severe burn injuries that are service connected.

Regulatory Change

On September 19, 2013, VA published a final rule in the Federal Register amending 38 C.F.R. § 3.808(b)(4). See 78 FR 57486. This regulatory amendment implements section 803 of Public Law 111-275, the Veterans' Benefits Act of 2010. Section 803 added "severe burn injury" as one of the disabilities that VA will consider when making a determination of eligibility for financial assistance in the purchase of an automobile or other conveyance and adaptive equipment. The final rule defines the term "severe burn injury" as disability resulting from "[d]eep partial thickness or full thickness burns resulting in scar formation that causes contractures and limits motion of one or more extremities or the trunk and precludes effective operation of an automobile." You may access a copy of the published rule at <http://www.gpo.gov/fdsys/pkg/FR-2013-09-19/pdf/2013-22764.pdf>.

Claims Processing

This final rule applies to automobile allowance claims pending or received by VA on or after October 1, 2011. VA Central Office is working to identify beneficiaries rated under diagnostic codes 7801, 7804, and 7805, who previously applied for an automobile allowance but were denied. VA will coordinate with Hines to invite claims through an automated outreach letter.

VA is also in the process of completing necessary system updates. In the interim, please use the language in Attachment 1 for "What the Evidence Must Show (WTEMS)," follow the procedures for MAP-D and VBMS in Attachment 2, and follow the guidance for use of VBMS-R/RBA2000 in Attachment 3.

Scars Resulting From Deep Partial Thickness and Full Thickness Burns

Skin that has experienced deep partial thickness and full-thickness burns is never restored to normal. In a deep partial thickness burn, there is complete destruction of the epidermis and severe damage to the dermal layer. By contrast, in a full-thickness burn there is complete destruction of the epidermis and dermis and there may be damage to the underlying subcutaneous fat layer. Scar tissue from these types of burns is thin, fragile, and often leads to disfigurement, but the most frequent cause of disability is contracture of the burn scar. Contractures prohibit movement of a joint in its normal range of motion and not only influence the underlying joint but adjacent joints as well. Burn scar contractures can also occur as a result of burns to the trunk and often result in postural impairment.

Severity of burn injury, as defined by full or partial thickness, is not always the predictor of disability. Disability is determined by limitation of motion. Although full-thickness burns are generally more disabling than deep partial thickness burns, deep partial thickness burns can result in more scarring, which causes more motion-limiting contracture, and, therefore, more disability than a full-thickness burn. For example, deep partial thickness burns may limit motion of important joints crucial to operating an automobile, such as the thumb, hand, or elbow. Additionally, scars affect individuals differently. For example, one individual with a deep partial thickness burn may be more significantly disabled due to scar-related contracture than another individual with a well-treated, full-thickness burn.

When evaluating a claim for automobile and/or adaptive equipment involving a severe burn injury, Rating Veterans Service Representatives (RVSRs) and Decision Review Officers (DROs) must review the evidence to determine if there are “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.” Such evidence may include statements provided to VA and/or made to an examiner by the individual that he or she is unable to effectively operate a vehicle due to his or her scar.

To determine the type of scar, the limitation of motion (or function) of a joint, and the amount of limitation:

1. Review the Scars/Disfigurement Disability Benefits Questionnaire paying close attention to Section II, Scars of the Trunk and Extremities.
2. Look for any full thickness or deep partial thickness scars that cause contracture and limit motion of an extremity or the trunk.
3. If the extent of the limitation is not clear, request clarification or request an examination for the joint or joints affected to clarify the extent of the disability.
4. Review the evidence of record, to include medical and lay statements. If there is evidence the Veteran’s scar(s) meet the above requirements and preclude effective operation of an automobile, certify eligibility for financial assistance in obtaining an automobile allowance and adaptive equipment as appropriate. For more information on considering subordinate issues and ancillary benefits, see M21-1 MR III.iv.6.B.3.

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Note: Do not request a medical opinion as to whether the functional limitation of the severe burn scar prevents effective operation of an automobile. This is a legal, rather than a medical, determination.

Examples

Example 1: Veteran A is service connected for a partial thickness burn scar of the upper right hand and forearm with deep burn scars near the wrist and fingers. Veteran A has applied for the automobile allowance because of the scarring and submitted a written statement that his burn scars prevent effective operation of an automobile. While reviewing the medical evidence of record, including electronic treatment records, and the Veteran's statement, the RVSR notes that the forearm is severely contracted and the range of motion is severely limited in the wrist and fingers, both due to burn scars. Based upon this evidence, the RVSR must certify eligibility for the automobile allowance and adaptive equipment as inability to effectively operate an automobile that is caused by severe burn injury.

Example 2: While evaluating Veteran B for full thickness burn scars of the trunk with deep burn scars near the waist, the examiner notes that the scars and related trunk contractures severely restrict the Veteran's left and right lateral rotation and impair her posture. VA outpatient treatment records show that Veteran B complains about being unable to twist to look for traffic to the left and right and states that she is uncomfortable with the risks taken when backing her car from the driveway because of this restricted movement. Based on the severity of the service-connected disability and her statements regarding the effect on her ability to effectively operate an automobile, the RVSR must also certify eligibility for the automobile allowance and adaptive equipment.

Example 3: Veteran C is service connected for partial thickness burn scars of the left leg with deep burn scars beginning near the knee joint and extending up the left thigh and waist. The left leg is severely contracted and range of motion at the hip is severely limited. Veteran C states in his claim that he is unable to effectively operate an automobile. Treatment reports show Veteran C has difficulty standing or walking due to the burn scars and that an application for adaptive equipment has been submitted through the Veterans Health Administration's Prosthetics & Sensory Aids Service because he cannot use standard gas and brake pedals. Because there is evidence that Veteran C's service-connected burn scars cause contractures and limit motion of the left leg so as to preclude effective operation of an automobile, the RVSR should certify eligibility for the automobile allowance and adaptive equipment.

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Forms

VA will revise VA Form 21-4502, *Application for Automobile or Other Conveyance and Adaptive Equipment (under 38 U.S.C. 3901-3904)*, to include severe burn injuries as qualifying disabilities. Additionally, VA is revising pertinent text on VA Form 21-526EZ, *Application for Disability Compensation and Related Compensation Benefits*. In the interim, claimants may continue to use the current VA Forms 21-4502 and 21-526/526EZ.

National Call Centers

The Benefits Assistance Service will provide National Call Center agents with information regarding the provisions of this final rule.

Questions

For questions concerning this Fast Letter, please email VAVBAWAS/CO/21Q&A. For questions concerning establishment and promulgation of auto allowance claims, please email VAVBAWAS/CO/212A.

/S/

Thomas J. Murphy
Director
Compensation Service

Attachments

Attachment 1

What the Evidence Must Show for Auto Allowance and Adaptive Equipment; Updated Language

To support your claim for an automobile allowance and adaptive equipment the evidence must show that you have a service-connected disability resulting in:

(1) the loss, or permanent loss of use, of at least one foot or hand.

OR

(2) permanent impairment of vision of both eyes, resulting in:

(a) vision of 20/200 or less in the better eye, with corrective glasses,

OR

(b) vision of 20/200 or better, if there is a severe defect in your peripheral vision.

OR

(3) 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.

You may be entitled to *only* adaptive equipment if you have ankylosis ("freezing") of at least one knee or one hip due to service-connected disability. Medical evidence, including a VA examination, will show these things. VA will provide an examination if it determines that one is necessary.

Attachment 2

Interim Procedures for MAP-D and VBMS

This language will be implemented into VBMS shortly. Please use the following procedure until such time as the language is available in the system.

For MAP-D:

1. Generate the Auto Allowance 5103 Notice, including the Auto Allowance WTEMS.
2. Prior to Final Print, launch the Word document and replace the current Auto Allowance WTEMS with the updated language in Attachment 1.

In VBMS:

1. Under Associated Development Actions, click on Add.
2. Under Choose Category, select What the Evidence Must Show.
3. Select Custom Development Action.
4. Under Select a Section, select Important Information.
5. In Enter Custom Title field, type in WTEMS – Auto Allowance.
6. In Enter Custom Text field, copy and paste in the entire set of WTEMS updated language in Attachment 1.
7. Update Days Suspended to 0.

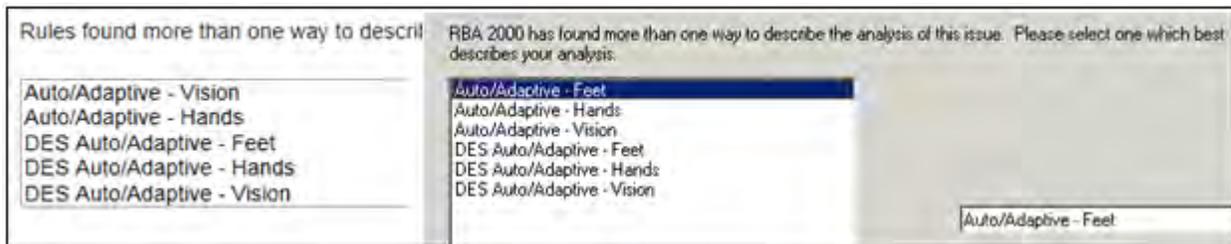
Attachment 3

Interim VBMS-R/RBA2000 Guidance

VA will update VBMS-R and RBA2000 to include “Auto/Adaptive - Severe Burn Injury” as quickly as possible. In the meantime, RVSRs and DROs must use the following procedures.

Entitled to Automobile and Adaptive Equipment

When selecting “Entitlement to Automobile and Adaptive Equipment” choose any one of the Auto/Adaptive options available:



Once chosen, when granting this benefit on the basis of a Severe Burn Injury, *replace* the Reasons for Decision text with the following:

“A certificate of eligibility for financial assistance in the purchase of one automobile or other conveyance and of basic entitlement to necessary adaptive equipment will be made when the Veteran has 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, which is the result of injury or disease incurred or aggravated during active military service. Entitlement to automobile and adaptive equipment is established based on this level of impairment.”

Entitled to Adaptive Equipment Only

When the Veteran is only entitled to adaptive equipment, *replace* the Reasons for Decision text with the following:

“A certificate of eligibility for financial assistance in the purchase of one automobile or other conveyance and of basic entitlement to necessary adaptive equipment will be made when the Veteran has one of the following conditions that is the result of injury or disease incurred or aggravated during active military service: (1) loss or permanent loss of use of one or both feet; (2) loss or permanent loss of use of one or both hands; (3) permanent impairment of vision of both eyes with 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 subtends an angular distance no greater than 20 degrees in the better eye; (4) deep partial thickness or full-thickness burn, resulting in scar formation that cause contractures and limit motion of one or more

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extremities or the trunk and preclude effective operation of an automobile; or (5) for adaptive equipment eligibility only, ankylosis of one or both knees or one or both hips.

Entitlement to only adaptive equipment is established because the veteran has ankylosis of one or both knees or one or both hips resulting from an injury or disease incurred in or aggravated by military service. The Veteran is not entitled to an automobile allowance or other conveyance because he does not meet the criteria listed above. {38 CFR 3.808}"

Not Entitled to Automobile or Adaptive Equipment

When the Veteran is not entitled to either the automobile allowance or adaptive equipment, replace the Reasons for Decision text with the following:

"A certificate of eligibility for financial assistance in the purchase of one automobile or other conveyance and of basic entitlement to necessary adaptive equipment will be made when the Veteran has one of the following conditions that is the result of injury or disease incurred or aggravated during active military service: (1) loss or permanent loss of use of one or both feet; (2) loss or permanent loss of use of one or both hands; (3) permanent impairment of vision of both eyes with 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 subtends an angular distance no greater than 20 degrees in the better eye; (4) deep partial thickness or full-thickness burn, 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; or (5) for adaptive equipment eligibility only, ankylosis of one or both knees or one or both hips. Entitlement to automobile or adaptive equipment is not established because the Veteran does not meet these requirements. {38 CFR 3.808}"